

# TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

## SECTION 1.0 PURPOSE AND AUTHORITY

### 1.1 PURPOSE.

These regulations are enacted to promote the general welfare of the Town of Dedham, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### 1.2 AUTHORITY.

This Zoning By-Law is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.

### 1.3 SCOPE.

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

### 1.4 APPLICABILITY.

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

### 1.5 AMENDMENTS.

This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

### 1.6 SEPARABILITY.

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

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**1.7 PLANNING BOARD ASSOCIATE MEMBER.**

The Planning Board may designate one Associate Member who may sit on the Planning Board for purposes 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 Planning Board, in accordance with the provisions of M.G.L. Chapter 40A, Section 9. Such Associate Member shall be appointed annually by a majority vote of the Planning Board.

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**SECTION 2.0 ESTABLISHMENT OF DISTRICTS**

**2.1 TYPES OF DISTRICTS**

**2.1.1 General.**

For the purposes of this by-law, the Town of Dedham is divided into following types of zoning districts:

**Residential Districts:**

Single Residence A	SRA
Single Residence B	SRB
General Residence	GR
Senior Campus	SC

**Nonresidential Districts:**

Administrative and Professional	AP
Limited Manufacturing	LMA
Limited Manufacturing Type B	LMB
Research, Development & Office	RDO
General Business	GB
Highway Business	HB
Central Business	CB
Local Business	LB

**2.1.2 Overlay Districts.**

There are also established the following overlay districts:

1. **Flood Plain Overlay District (FPOD)** superimposed over other zoning districts or parts thereof so that the provisions of this By-Law pertaining to such underlying districts remain in effect, except where FPOD regulations impose different or additional, greater or more restrictive requirements. A use which falls within the Flood Plain Overlay District must comply with the requirements of Section 8.1.
2. **Aquifer Protection Overlay District (APOD)** superimposed over the other districts or parts thereof so that the provisions of this By-Law pertaining to such underlying districts remain in effect, except where APOD regulations impose different or additional, greater or more restrictive requirements. A use which falls within the Aquifer Protection District must comply with the requirements of Section 8.2.

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3. **Wireless Communications Services Overlay District (WCSOD)** superimposed over the other districts or part thereof so that the provisions of this By-Law pertaining to such underlying districts remain in effect, except where WCSOD regulations impose different or additional, greater or more restrictive requirements.
4. **Adult Uses Overlay District (AUOD)** superimposed over the other districts or parts thereof so that the provisions of this By-Law pertaining to such underlying districts remain in effect, except where AUOD regulations impose different or additional, greater or more restrictive requirements.

### 2.1.3 Location of Districts.

Said districts herein before referred to are located as shown on a map of the Town of Dedham Mass., 1997, Scale 1" = 800', prepared for the Dedham Planning Board, signed by the Planning Board and filed in the office of the Town Clerk which map, together with detailed sketches, Appendix A, and all notations thereon, is hereby incorporated in and made a part of this By-Law. A vote of the Town adding or deleting zoning districts or changing their boundaries made in the form of a verbal description shall be incorporated in this By-Law in graphic form by addition to or alteration of the Zoning Map, but any delay or error in the revision of the Zoning Map shall not postpone or otherwise affect the effectiveness of an amendment. The Planning Board may from time to time add new streets and other geographical features to the Zoning Map to keep it reasonably current and to facilitate orientation, but no changes shall be made of the zoning districts, except pursuant to a vote of the Town.

### 2.1.4 Location of Boundaries.

The location of the boundary lines of the districts shown upon the aforesaid zoning map shall be determined as follows:

1. Where a boundary line is shown approximately on the location of a property or lot line and the exact location of the boundary line is not indicated by means of a figure or otherwise, then the property or lot line shall be the boundary line.
2. Where a boundary line is shown outside of the lines of a street and approximately parallel thereto, it shall be deemed parallel to the nearest exterior line thereof; and a figure placed upon the zoning map between such boundary line and such exterior line indicates the distance in feet between the two lines, measured at right angles to the exterior street line unless otherwise indicated.
3. Where a zoning district boundary divides a lot, the entire lot area may be counted to meet the area requirements of the district in which the principal use of the lot is located. The active use, including buildings, access ways, parking, and storage, where permitted, may extend not more than 10 feet into the district in which such use is not permitted, provided that a special permit shall be required to extend such uses into any part of the lot located in a residence district SRA, SRB, or GR.

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4. In any case not covered by the other provisions of this paragraph, the location of a boundary shall be determined by the distance in feet, if given from other lines upon the zoning map, or, if distances are not given, then by the scale of the map.

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**SECTION 3.0 USE REGULATIONS**

**3.1 PRINCIPAL USES**

**3.1.1 General.**

No new building or structure shall be constructed or used, in whole or in part and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the uses specifically permitted herein.

**3.1.2 Exempt Agricultural Uses; State Building Code.**

Nothing in these use regulations shall be construed to prohibit agricultural, horticultural, and floricultural uses or the expansion or reconstruction of existing structures on parcels which are more than five acres in area and further provided that no section of this by-law shall be construed to restrict or regulate the use of materials or methods of construction specifically regulated by the State Building Code.

**3.1.3 Use Regulation Table.**

See Table 1. In the Use Regulation Table, the headings on each page shall denote the various zoning districts, and the symbols employed opposite each use listed shall have the following meanings:

<b>YES</b>	<b>Use permitted as of right</b>
<b>NO</b>	<b>Use prohibited</b>
<b>SP</b>	<b>Use permitted only upon issuance of a Special Permit by the Board of Appeals</b>
<b>PB</b>	<b>Use permitted only upon issuance of a Special Permit by the Planning Board</b>

**3.1.4 Classification.**

Where any activity or use may be classified under more than one use designation in the Use Regulation Table, the more specific designation shall determine permissibility, if equally specific, the more restrictive shall govern. Additional restrictions on use may apply if located in a Flood Plain Overlay District or an Aquifer Protection Overlay District and a use shown as permitted in the Use Regulation Table is not exempt thereby from compliance with all other applicable provisions of the Zoning By-Law and with other laws, by-laws, regulations, and permitting or licensing requirements.

**3.1.5. Major Nonresidential Project.**

Where the Use Regulation Table indicates that a Major Nonresidential Project (MNP) may be authorized by the issuance of a Special Permit, the Planning Board shall be the special permit granting authority. Where a use is not otherwise allowed as of right or by Special Permit in the district, such use shall not be allowed as a MNP in the district.

**Town of Dedham, Massachusetts  
Principal Use Regulations  
Table 1**

PRINCIPAL USE – See Footnote explanations, Section 3.1.6	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>A. Residential Uses</b>												
1. Single family detached house.	YES	YES	YES	NO	SP	NO	NO	NO	NO	YES	YES	NO
2. Alteration and use of existing single-family house as a dwelling for not more than two -families. See Section 8.1	SP	YES	YES	NO	NO	NO	NO	NO	NO	SP	YES	SP
3. Two-family or semi-detached house consisting of two single family dwelling units separated by a party wall.	NO	YES	YES	NO	NO	NO	NO	NO	NO	SP	YES	SP
4. Buildings containing dwelling units in combination with stores or other permitted uses	NO	NO	NO	SP	NO	NO	SP <sup>6</sup>	SP <sup>6</sup>	NO	YES <sup>6</sup>	YES <sup>6</sup>	YES <sup>6</sup>
5. Subsidiary apartments (See Section 7.4)	NO	NO	NO	SP	NO	NO	NO	NO	SP	NO	YES	YES
6. Assisted Living Residence (See Section 7.5)	SP	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
7. Multi-Family Residential (See Section 7.3)	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
PRINCIPAL USE	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>B. Exempt and Institutional Uses</b>												
1. Use of land or structures for religious purposes	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
2. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
3. Child care facility 3	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4. Governmental administration building, fire or police station; use of the land for recreational water supply by a public agency	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
5. Any municipal facility or governmental use not specifically listed; Essential services <sup>4</sup>	SP	SP	YES	SP	SP	SP	YES	YES	SP	SP	SP	YES
6. Hospital, nursing, or convalescent home, outpatient facility, charitable or philanthropic institution, or cemetery (but not including a place of detention or a correctional institution)	SP	SP	NO	NO	SP	NO	YES	YES	YES	SP	SP	YES
7. Public renewable and/or alternative energy generating facilities on municipal property <sup>27, 28</sup>	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
PRINCIPAL USE	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>C. Agricultural and Open Land Uses</b>												
1. Orchard, truck garden, nursery, or similar open use of land on a parcel with less than five acres for agriculture, silviculture, viticulture, or horticulture, except the raising of swine, poultry, or fur animals, and not including any salesroom or roadside stand.	YES	YES	YES	NO	NO	YES	YES	YES	NO	YES	YES	YES
2. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area. <sup>1</sup>	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
3. Facility for the sale of produce, wine, and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located. <sup>11</sup>	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
4. Other nonexempt salesroom or stand for the display and sales of agriculture and horticultural products, the major portion of which are grown on the premises <sup>11</sup>	SP	SP	NO	SP	NO	NO	SP	SP	NO	NO	NO	NO
5. Private recreational country or tennis club, when not conducted for profit.	YES	YES	YES	YES	NO	YES	YES	YES	NO	YES	YES	NO
6. Boat launching site, tennis court, riding academy, outdoor skating rink, ski ground, or golf course <sup>2</sup> (but not a miniature golf course or a driving range).	SP	SP	YES	YES	SP	NO	YES	YES	YES	YES	YES	NO
PRINCIPAL USE	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>D. Office Uses</b>												
1. Medical Office	NO	SP <sup>8</sup>	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES
2. Business or professional office	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES	YES
3. Banks or financial institution	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES <sup>9</sup>	YES	YES
4. Freestanding automatic teller machines, not accessory to use of the property for a bank	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP	SP	SP
5. Major Nonresidential Project	NO	NO	NO	PB	PB	PB	PB	PB	PB	PB	PB	PB

See Footnote explanations in Section 3.1.6

**Town of Dedham, Massachusetts  
Principal Use Regulations  
Table 1**

PRINCIPAL USE – See Footnote explanations, Section 3.1.6	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>E. Commercial Uses</b>												
1. Small retail business	NO	NO	NO	YES	NO <sup>22</sup>	NO	SP	SP	YES	YES <sup>10</sup>	YES	YES
2. Salesroom for automobiles, automotive sales	NO	NO	NO	YES	NO <sup>23</sup>	NO	SP	SP	SP	NO	NO	NO
3. Retail Business	NO	NO	NO	YES	NO <sup>22</sup>	NO	SP	SP	YES	SP <sup>12</sup>	YES	YES
4. Personal service establishment	NO	NO	NO	YES	SP <sup>20,23</sup>	NO	YES	YES	YES	YES	YES	YES
5. General service establishment	NO	NO	NO	SP	NO <sup>23</sup>	NO	YES	YES	YES	NO	YES	YES
6. Trade shop	NO	NO	NO	NO	NO <sup>23</sup>	NO	YES	YES	SP	NO	YES <sup>13</sup>	SP
7. Reserved												
8. Any use requiring a common victualler license, but not an inn holder license, under section 2 of Chapter 140 of the General Laws	NO	NO	NO	SP	NO <sup>22</sup>	NO	SP	SP	SP	SP <sup>15</sup>	SP <sup>16</sup>	SP <sup>16</sup>
9. Animal or veterinary hospital	NO	NO	NO	NO	NO <sup>23</sup>	NO	YES	YES	SP	SP	SP	NO
10. Hotel or motel	NO	NO	NO	YES	SP	NO	YES	YES	SP	NO	NO	SP
11. Convention or conference center, trade exhibit facility, theater, or motion picture theater	NO	NO	NO	YES	SP	NO	SP	SP	SP	NO	SP	SP
12. Commercial boat rental or limousine livery	NO	NO	NO	YES	SP	NO	YES	YES	YES	NO	YES	NO
13. Kennel	NO	NO	NO	NO	NO <sup>23</sup>	NO	YES	YES	SP	NO	NO	NO
14. Drive-through facilities	NO	NO	NO	SP	SP	NO	NO	NO	SP	SP	SP	SP
15. Major Nonresidential Project	NO	NO	NO	PB	PB	PB	PB	PB	PB	PB	PB	PB
<b>PRINCIPAL USE</b>												
<b>DISTRICTS</b>												
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>F. Wholesale, Storage and Showrooms</b>												
1. Wholesale office or showroom	NO	NO	NO	YES	YES	NO	YES	YES	YES	NO	YES	SP
2. Commercial storage	NO	NO	NO	SP	SP	NO	YES	YES	NO	NO	NO	NO
3. Warehouse	NO	NO	NO	NO	SP <sup>26</sup>	NO	NO <sup>23</sup>	YES	SP	NO	NO	NO
4. Major Nonresidential Project	NO	NO	NO	PB	PB	PB	PB	PB	PB	PB	PB	PB
<b>PRINCIPAL USE</b>												
<b>DISTRICTS</b>												
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>G. Vehicular and Automotive Services &amp; Uses</b>												
1. Full-service, self-service, or split island gasoline service stations with automotive repair bays but not performing body work <sup>24</sup>	NO	NO	NO	NO	NO	NO	YES	YES	SP <sup>17</sup>	NO	SP <sup>17</sup>	SP <sup>17</sup>
2. Garage for servicing trucks and trailers	NO	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO
3. Auto body and paint shop, soldering or welding shop, and automotive repair garages	NO	NO	NO	NO	SP	NO	YES	YES	YES	NO	SP	NO
4. Parking lot, as defined in Section I-4, as a principal use, which is approved pursuant to Section VIII of this by-law	NO	NO	NO	NO	SP	NO	YES	YES	YES	NO	SP	YES
5. Major Nonresidential Project	NO	NO	NO	PB	PB	PB	PB	PB	PB	PB	PB	PB
<b>PRINCIPAL USE</b>												
<b>DISTRICTS</b>												
	SRA SRB	GR	PR	PC <sup>19</sup>	RDO	AP	LMA	LMB	HB	LB <sup>18</sup>	GB	CB
<b>H. Manufacturing and Processing Uses</b>												
1. Manufacturing	NO	NO	NO	NO	NO	NO	SP	YES	NO	NO	NO	NO
2. Limited manufacturing	NO	NO	NO	SP	SP	NO	SP	YES	SP	NO	NO	NO
3. Research, experimental, or testing laboratory	NO	NO	NO	YES	YES	NO	YES	YES	SP	NO	SP	SP
4. Printing or publishing establishment with not more than 5,000 sq. ft. of floor area used for production	NO	NO	NO	SP	YES	NO	YES	YES	YES	NO	NO	NO
5. Bottling works for beverages and liquids of every kind (excluding alcoholic beverages)	NO	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO
6. Major Nonresidential Project	NO	NO	NO	PB	PB	NO	PB	PB	PB	NO	PB	PB
7. Renewable and alternative energy manufacturing facilities <sup>27</sup>	NO	NO	NO	NO	NO	NO	NO	YES	NO	NO	NO	NO
8. Renewable and alternative energy research and development facilities	NO	NO	NO	NO	YES	NO	YES	YES	NO	NO	NO	NO

See Footnote explanations in Section 3.1.6

**ACCESSORY USE TABLE**

I. Accessory Use Table – Residential	DISTRICTS											
	SRA SRB	GR	PR	PC <sup>23</sup>	RDO	AP	LMA	LMB	HB	LB <sup>20</sup>	GB	CB
1. Private garage for more than three (3) automobiles, or for more than one commercial vehicle, or for a commercial vehicle exceeding 2.5 tons in gross weight, provided that such garage is accessory to a permitted use and is not less than fifty (50) feet from side and rear lot lines.	SP	SP	YES	YES	YES	SP	YES	YES	YES	SP	YES	YES
2. Private garage for not more than three (3) automobiles, one of which may be a commercial vehicle if not exceeding 2.5 tons in gross weight. The keeping of an unregistered automobile outside of an enclosed garage shall not be regarded as an accessory use in any residential district, nor after a period of three months except in accordance with a permit therefor by the Board of Appeals based on a finding that the further keeping of the automobile upon the premises complies with the requirements of this By-Law and specifying a fixed term and such conditions as the Board of Appeals deem necessary to assure such compliance.	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

3. Private greenhouses, stable, tool shed playhouse, tennis court, boat house, or other similar building for domestic storage or use.	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
4. The keeping of animals, livestock or poultry for personal enjoyment or household use.	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
5. The regular renting of rooms or the furnishing of table board in a dwelling by the owner-occupant	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
6. Accessory dwelling unit (See Section 7.7)												
7. Such industry or light manufacturing (including processing, assembling and repairs) as is usual in connection with permitted principal use, provided that: a) Such accessory use does not occupy an area exceeding twenty-five percent of the total floor area occupied by the principal use, and b) The major portion of any products manufactured are sold at retail on the premises, and c) Not more than five (5) operatives are regularly employed in such accessory use.	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES
8. Preparation and service of take-out food as an accessory use incidental to the operation of a grocery store.	NO	NO	NO	NO	NO	NO	NO	NO	YES	YES	YES	YES
9A. Family or adult day care, small	YES	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO
9B. Family or adult day care, large	SP	SP	SP	NO	NO	NO	NO	NO	NO	NO	NO	NO
10. Home occupation	YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

II. Table of Accessory Uses - Nonresidential	DISTRICTS											
	SRA SBA	GR	PR	PC <sup>23</sup>	RDO	AP	LMA	LMB	BE	LB <sup>20</sup>	GB	CB
1. Parking of motor vehicles incidental to the permitted principal use and subject to requirements of this By-Law.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
2. Outdoor dining area accessory to a permitted restaurant, but not including drive-in area for food consumption in automobiles.	NO	NO	NO	YES	YES	NO	NO	NO	YES	YES	YES	YES
3. Dwelling accessory to the principal permitted use (such as the residence of a watchman, caretaker, or operator of a business or manufacturing establishment), if the dwelling conforms to the requirements applicable if it were located in a General Residence (GR) district.	NO	NO	NO	YES	YES	NO	YES	YES	YES	YES	YES	YES
4. Other accessory uses identified in this bylaw or customarily incidental and necessary to principal permitted use.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
5. Dining facility accessory to and serving solely the residents of a planned residential development.	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO

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### 3.1.6 Footnotes to Use Regulation Table.

In the Use Regulation Table, the footnotes refer to the following requirements:

1. Any greenhouse, heating plant accessory thereto, and any building or structure in which poultry, livestock, or horses are housed, and any storage or use of odor or dust producing material shall be located not less than 100 feet from side and rear lot lines.
2. Any building, structure, or ground area used therefor is located not less than 50 feet from side and rear lot lines, and further provided that any lot used as a riding academy shall have an area of not less than three (3) acres.
3. For facilities with more than six (6) children, any outdoor activity area located within 50 feet of side and rear lot lines shall be separated therefrom by a solid fence or dense evergreen planting at least five (5) feet in height.
4. The public use may include public utilities or communications uses and is necessary for service to the neighborhood or require a location in that vicinity for reasons of space or function.
5. Reserved for future use.
6. In Local Business, General Business, or Central Business districts, not more than two dwelling units may be located in a nonresidential building.
7. Reserved for future use.
8. If the physician or dentist is not a resident of the premises, the floor area so used on one lot or several lots used as one establishment shall not exceed 2,000 square feet.
9. Provided that not more than five persons are regularly employed therein.
10. Must be of a size no greater than needed to serve the neighborhood in which the store is located, shall not have more than 1,500 square feet of selling and public use space, except by Special Permit from the Board of Appeals.
11. Provided that any display, whether open or enclosed, is not less than 50 feet from side and rear lot lines, and not nearer the exterior line of any street than the front yard depth required for a building in the district in which said display is located.
12. Provided that the store is similar to those listed in E. 1 in general character, hours of business, numbers of persons or cars attracted, and the effect on adjacent property and improvements, and that its stock in trade does not consist primarily of large bulky objects not subject to being carried away by the customers on their person or in their cars.

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13. The floor area of the establishment used for work and storage shall not exceed 2,500 square feet.
14. The stock in trade shall not consist primarily of bulky objects which are not likely to be carried away on the person or in the cars of customers.
15. Provided that the area used by the public does not exceed 1,500 square feet and that no dancing, live, or mechanical entertainment is regularly provided, and subject to such other conditions as the Board of Appeals may impose regarding hours of operation, traffic, take-out service, etc.
16. Provided that the area used by the public does not exceed 2,000 square feet and that no dancing, live, or mechanical entertainment is regularly provided and subject to such other conditions as the Board of Appeals may impose regarding hours of operation, traffic, take-out service, etc.
17. Provided that this use does not interfere with the safety and convenience of pedestrian and vehicular movement in the area and in relation to adjacent streets, properties, and improvements.
18. In a Local Business District, it is the intent of this by-law that all structures and permitted uses be of a size that is no greater than is needed to serve the neighborhood in which it is located. Large supermarkets and similar businesses which will draw or create heavy volumes of traffic shall be avoided. Retail establishments and restaurants shall not have more than 1,500 square feet of selling and/or public use space except by special permit from the Board of Appeals.
19. PC -Planned Commercial development may be allowed on a lot or lots consisting of a minimum of 5 acres, located in the LMA, LMB, HB, GB, CB, or RDO Districts in accordance with Section 6.0, upon approval of a Major Nonresidential Project Special Permit.
20. Such establishments are secondary uses in RDO districts. They shall be located within the primary use buildings and are intended to service the occupants of such buildings and other non-residential buildings in the immediate vicinity. There shall be no exterior signs visible from abutting streets.
21. Including research, experimental and testing activities, which may include the development of prototypes and demonstration models, but not mass production.
22. Except SP if located on a lot having frontage on a major highway, that lot either having been established by plan or deed prior to the effective date of this By-Law (April 8, 1996) or, if newer, lying entirely within five hundred (500) feet of a major highway, and further provided that development on the lot will include direct access onto a major highway and

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that projected traffic generation by all uses on the lot during the afternoon peak hour does not exceed 3.5 trip ends per 1,000 square feet of lot area, excluding pass-by trips but not diverted trips, based upon current trip generation materials from the ITE or other source acceptable to the Zoning Board of Appeals.

23. Except subject to the following if located on a lot having frontage on an existing or planned access directly onto a major highway, that lot either having been established by plan or deed prior to the effective date of this By-Law (April 8, 1996) or, if newer, lying entirely within five hundred (500) feet of a major highway: alteration to a use in this category, if legally existing on the lot as of the effective date of this By-Law (April 8, 1996), is allowed by right, not requiring a Special Permit, but requiring at least site plan (and Design Review Advisory Board) review if increasing the number of parking spaces on the lot, altering the location or configuration of driveway entrances, regardless of whether the applicability thresholds of Section 9.5 have been exceeded. Establishment of a new use in this category is allowed by Special Permit; and development in this category is not subject to note 20.
24. No second principal use is allowed on any lot containing a gasoline service station. Gasoline service stations shall not contain more than 100 square feet of interior retail sales and display area for non-automotive products as an accessory use except by Special Permit from the Zoning Board of Appeals.
25. See Section 7.6.
26. Provided that such use may be allowed only in a building in existence as of the effective date of this By-Law containing a minimum of 40,000 square feet and located on a lot with a land area of not less than five (5) acres within the RDO District, and subject to such other conditions as the Board of Appeals may impose under Section 9.3.2 of the Zoning By-Law. Any Special Permit so granted shall be for a specified tenant or occupant and shall otherwise be non-transferable.
27. Renewable energy shall include solar (photovoltaic or PV and thermal), low impact hydroelectric and kinetic, geothermal, landfill gas, and renewable energy fuel cells, while alternative energy consists of combined heat and power facilities, electric and hydrogen powered vehicle and associated technologies including advanced batteries and recharging stations.
28. Any public facility with the purpose of generation power for public distribution shall be located on no less than three (3) acres (continuous integrated parcel of land) and be sited no closer than fifty (50) feet from any residential dwelling. This type of facility shall be

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limited to solar, geothermal, landfill gas, or low impact hydroelectric power generation. Such facility shall also be required to install reasonable screening and other environmental mitigation which shall, however, not interfere with the generation of power at the facility.

- 29 Provided, however, that such use may be allowed only in a building in existence as of the effective date of this By-Law containing a minimum floor area of 150,000 square feet.

## **3.2. SPECIAL ACCESSORY USES IN ALL DISTRICTS**

### **3.2.1 Trailers.**

The Board of Appeals may, upon application and after a duly authorized hearing under the General Laws, grant permits for trailers, whether on wheels or not hereafter placed on any land within the Town which shall be used or occupied as a dwelling or residence, or for business, or office purposes, or storage of material relating to the business, for a period not exceeding thirty (30) days in the aggregate, for any one year. The Board of Appeals may also grant permits for longer period of time by special exception to the terms of this section in harmony with the zoning regulations and statutes, or to do or act anything else in relation thereto. Except in accordance with a permit granted under this paragraph, no use of a trailer on the premises shall be regarded as an accessory use to any business for more than twenty-four (24) of any forty-eight (48) consecutive hours; provided, however, that trailers may be placed on a construction site with a building project for the duration of said project with a building permit issued by the Building Commissioner. The location of construction trailers on a lot shall conform to the setback requirements of the district unless authorized by the Board of Appeals.

### **3.2.2 Scientific Accessory Uses.**

Uses whether or not on the same parcel as activities permitted as a matter of right, which are accessory to activities permitted as a matter of right and which are necessary in connection with scientific research or scientific development or related production may be permitted upon the issuance of a special permit provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

## **3.3 NONCONFORMING USES AND STRUCTURES.**

### **3.3.1 Applicability.**

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

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### 3.3.2 Nonconforming Uses.

The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

### 3.3.3 Nonconforming Structures.

The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. Reconstructed, extended or structurally changed;
- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

### 3.3.4 Variance Required.

Except as provided in subsection 3.3.5, below, the reconstruction, extension, or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

### 3.3.5 Nonconforming Single and Two Family Residential Structures.

Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- a. alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements.
- b. alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.

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- c. alteration to a structure which encroaches upon one or more required yard setback areas, where the alteration will comply with all current setback, yard, building coverage, and building height requirements.
- d. In the event that the Building Inspector determines the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by Special Permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

### **3.3.6 Abandonment or Non-Use.**

A nonconforming use or structure which has been abandoned or not used for a period of two years shall lose its protected status and be subject to all of the provisions in this zoning by-law.

### **3.3.7 Reconstruction after Catastrophe or Voluntary Demolition.**

A nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:

- a. Reconstruction of said structure shall commence within two years after such catastrophe or demolition.
- b. Building(s) or structure(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in volume or area as the original nonconforming structure.
- c. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

### **3.3.8 Reversion to Nonconformity.**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

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### SECTION 4.0 DIMENSIONAL REQUIREMENTS

#### 4.1 TABLE OF DIMENSIONAL REQUIREMENTS

No building, structure, or part thereof shall be constructed, altered, moved, added, or reconstructed, except in accordance with the Table of Dimensional Requirements (see Table 2) or as exempt therefrom by other provisions of this By-Law, and no buildable or built-upon lot shall be subdivided, altered, or reduced, except by taking by eminent domain or conveyance for a public purpose for which a taking by eminent domain could have been made, so as to result in a violation of the requirements of said Table.

## TABLE OF DIMENSIONAL REQUIREMENTS

	SRA	SRB	GR	LMA/LMB	HB	LB	GB	CB
				RDO/AP <sub>4</sub>				
Minimum Frontage (ft.)	125 <sup>13</sup>	95	*1	150 <sup>4</sup>	200 <sup>4</sup>	N/A	N/A <sup>9</sup>	N/A <sup>9</sup>
Minimum Lot Area (sq. ft.)	40,000	12,500	*1	1 acre <sup>4</sup>	1 acre <sup>4</sup>	12,500	N/A <sup>9</sup>	N/A <sup>9</sup>
Minimum Lot Width as % required								
Minimum Frontage	70 <sup>12+13</sup>	70 <sup>12</sup>	*1 <sup>12</sup>	70	70	70	N/A <sup>9</sup>	N/A <sup>9</sup>
Minimum Front Yard (ft.)	25	25	20	30 <sup>11</sup>	30	20	*2	*2
Minimum Side Yard (ft.)	25 <sup>5</sup>	15 <sup>5</sup>	15 <sup>5</sup>	15 <sup>11</sup>	20	15 <sup>6</sup>	N/A	N/A
1-st. Det. Accessory Building	5	5	5	15	15	5	N/A	N/A
Minimum Rear Yard (ft.)	25 <sup>5</sup>	25 <sup>5</sup>	25 <sup>5</sup>	25 <sup>11</sup>	25	25	N/A	N/A
1-st. Det. Accessory Building	5	5	5	25	25	20 <sup>7</sup>	N/A	N/A
Maximum Lot Coverage <sup>8</sup> (%)	30	30	30	50	40	40	80	80
Maximum Floor Area Ratio	15 <sup>14</sup>	.5 <sup>14</sup>	0.9	.35 <sup>10</sup>	0.35	0.4	0.4	2.4
Space between Buildings (ft.) for buildings erected, moved, or added after January 22, 1990	10	10	10	15	15	10	15	N/A

- Dimensional requirements for each planned residential or commercial development to be specified in the Special Permit.
- If a semi-detached or multi-family dwelling occupies several lots in the same ownership, this Table of Dimensional Requirements shall apply as if such lots constituted a single lot.

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### FOOTNOTES TO TABLE OF DIMENSIONAL REQUIREMENTS

#### NOTES:

- \*1. (Applies to GR General Residence District): Frontage: 50 ft., except 90 ft. for a two-family home, and 30 ft. per dwelling unit in a row house; Lot Width at front and rear building lines: 90 ft., except 50 ft. for a single family use, and 30 ft. per dwelling unit in a row house; Lot Area: 11,000 sq. ft., except 7,500 sq. ft. for a single-family home, and 5,000 sq. ft. per dwelling unit in a row house.
- \*2. 10 ft. for any part of a building within 200 ft. of a residence district boundary abutting on the same street, measured parallel to said street, and 20 ft. from Ames St. north of Charles River, Washington St. north of Wigwam Brook, and Court St.
- \*3. If a semi-detached or multi-family dwelling occupies several lots in the same ownership, this Table of Dimensional Requirements shall apply as if such lots constituted a single lot.
- \*4. Minimum lot frontage and area shall not apply to any lot recorded by plan or deed in the Norfolk Registry of Deeds or filed with the Land Court prior to passage of Article 57 of the 1973 Town Meeting, if in an RDO district, or Article 40 of the 1963 Town Meeting, if in an LMA, LMB, RDO, or HB district.
- \*5. In SRA, SRB, and GR districts, the required minimum side yard shall be 10 ft. and the required minimum rear yard shall be 20 ft. for any lot established by a recorded plan or deed prior to adoption of Article 12 of the 1989 Annual Town Meeting.
- \*6. In LB districts, no side or rear yard shall be required for buildings on lots established by plan or deed before January 1, 1970.
- \*7. The minimum 20 ft. rear yard in LB districts applies to dwellings only.
- \*8. Lot coverage applies to buildings and structures, and not to paved ground level surfaces.
- \*9. GR dimensional regulations apply to one- and two-family dwellings located in CB and GB districts, including Note \*1, provided that the Board of Appeals may grant exceptions from such requirements by Special Permit, for lots established by plan or deed recorded before 1/1/95, if compliance would entail practical difficulties and the exception would have no adverse effect on nearby properties.
- \*10. In the RDO district, the Planning Board may, by Special Permit, grant an increase in Floor Area Ratio to 0.40 for projects which have frontage on a major highway and which will result in the consolidation of two or more lots, upon determination by the Board that the resulting development will better serve traffic safety and visual clarity than would development on the existing lots at the otherwise allowable floor area ratio.
- \*11. In addition, in the RDO district, no portion of a building for a use not allowed in a Single or General Residence district shall be closer to such district than forty (40) feet or, if greater, the height of that building.
- \*12. The minimum lot width for the required front yard in the SRA, SRB, and GR districts shall be equal to the minimum frontage requirement.
- \*13. 150 ft. in the SRA district for lots created after the adoption of Article 24, at the Town Meeting, April 10, 2000.
- \*14. These Floor Area Ratios apply only to one- and two-family residential dwellings.

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### **4.2 HEIGHT OF BUILDINGS AND STRUCTURES**

#### **4.2.1 Buildings Permitted in Residential Districts.**

Dwellings shall not exceed the height of 38 feet to the high point of a hip, gable, or gambrel roof, or 30 feet to the high point on a flat or mansard roof, measured from the average finished grade of the lot between the frontage street and the rear building line. Other buildings permitted as of right or by special permit in residence districts shall not exceed the height of 38 feet, measured in the same manner.

#### **4.2.2 Buildings Permitted in Nonresidential Districts.**

Buildings in Nonresidential districts CB, GB, HB, LB, LMA, LMB, RDO, and AP, other than single and two-family dwellings, shall not exceed the height of 40 feet, measured from the average finished grade of the lot within 20 feet of the outside walls of the building to the high point of the roof, provided that for buildings with sloping roofs the height shall be measured to the eave line if no portion of the building above the eave line is used for human occupancy. No building shall have more than five levels used for human occupancy, including any part of the building below the average finished grade so used.

#### **4.2.3 Projections and Structures.**

The foregoing height limits shall not apply to structures or parts of buildings customarily carried above the roof line and not used for human occupancy, such as chimneys, ventilators, skylights, solar panels, steeples, domes, towers, tanks, scenery lofts, church spires, and the like, provided they are located at least 50 feet from the centerline of any street, cover less than 25 percent of the footprint of the building, and do not exceed 85 feet in height, and provided further that antennas, whether on a building or freestanding, shall not exceed the height of 50 feet, measured from the average finished grade within 20 feet thereof.

#### **4.2.4 Special Permit.**

Where the topography of the land, location of the building, its architecture, or the purpose of a structure or projection make adherence to the above height limits impractical the Board of Appeals may by special permit allow such projections or structures to exceed the height of 85 feet, with the exception of antennas which shall not exceed the height of 50 feet, or allow the building height to be measured in a different manner, without changing the substance and intent of building height limits, and subject to appropriate conditions, safeguards, and limitations on location, size, use, construction, and appearance.

### **4.3 SPECIAL SET BACK AND YARD EXCEPTIONS**

#### **4.3.1 General.**

Notwithstanding the Table of Dimensional Requirements, no building in any district need be further from the exterior line of any street than the average distance from such line of the dwellings or other principal buildings located on the lots adjacent thereto on either side. In

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determining such average, a vacant side lot having a frontage of fifty (50) feet or more shall be considered as though occupied by a building having the required set back, and a lot separated from the lot in question only by a vacant lot having a frontage of less than fifty (50) feet shall be deemed an adjacent lot.

### **4.3.2 Special Permit.**

The side and rear yard requirements hereof may be varied by the Board of Appeals by Special Permit in the specific case of an irregular, narrow, or shallow lot or a lot unusual either in shape or topography, provided that in the opinion of the Board it is impossible or extremely difficult to adhere to such requirements. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen (18) inches in width or of uncovered steps, unroofed porches or window sills into any required yard or other open space.

### **4.3.3 Special Setback Requirements in Nonresidential Districts.**

In an Administrative and Professional, Local Business, General Business, and any Limited Manufacturing Districts, no open display or other open use including off-street parking, where permitted, and no sign or other structure, shall be located nearer to the exterior line of any street than either twenty (20) feet or the permitted setback distance for a building on the lot, whichever distance is the lesser, except the following:

1. Utility pole or mail box.
2. Plants growing in the soil, if not obstructing the view from the street of cars entering and leaving the premises.

## **4.4 GROUP HOUSING PROJECTS**

### **4.4.1 General.**

Where a row house and an apartment house are permitted, a group of two or more such houses may be located on a tract of land of at least three (3) acres not subdivided into individual lots provided that such use is authorized by the Board of Appeals in each specific case, and provided further that:

1. The area of the tract of land shall not be less than the total of the lot areas herein required if each such house were located on an individual lot; and
2. The open spaces surrounding each house shall conform to a standard at least as high as required by the provisions of this by-law applying to such a house if located on an individual lot.

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### 4.5 SPECIAL LOT SIZE EXCEPTIONS FOR DWELLINGS

#### 4.5.1 General.

Notwithstanding the foregoing provisions, a single family detached house or a single family dwelling unit of a semi-detached or row house may be constructed, where permitted by the use regulations of the district, on a lot having less than the required area and frontage, provided that all other provisions of this By-Law are complied with, and provided further that, prior to the effective date of the area and frontage requirements in question, said lot was:

1. Laid out by Plan or Deed duly recorded with the Norfolk Registry of Deeds or in the Norfolk Registry of the Land Court which were in conformity with lot size requirements, if any, that were applicable to the construction of a dwelling on said lot at the time of said recording and provided further that:
  - a. Said lot has an area of at least 5,000 sq. ft. and a frontage of 50 ft.
  - b. That at the time this amendment to the Zoning By-Law became effective, said lot was not in common ownership with abutting vacant lot or lots which can or could have been combined with said undersized lot to comply with or more nearly comply with the Zoning requirements in effect at the time this amendment was adopted.
2. Or laid out on a subdivision plan under the subdivision control law that has been duly recorded. The date of approval of said plan being less than eight (8) years prior to the application for a permit to use said lot for a dwelling.
3. For the purposes of this Section and notwithstanding any definition to the contrary and provided that all other conditions of this subsection have been met, individual abutting lots shown on a recorded plan will retain their separate identity and will not be considered merged even if as a result of registration such lots are described collectively in a deed or Certificate of Title as a parcel of land with a metes and bound description of a single area.

### 4.6 REDUCTION OF OCCUPIED LOTS

No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, coverage, set back, yard, or height provisions of this by-law applicable to the construction of said building on said lot. A lot already nonconforming to the above dimensional provisions shall not be further reduced or its boundaries revised so as to increase the extent of non-conformance or non-compliance with the requirements of this By-Law. If land is subdivided, conveyed, devised, or otherwise transferred so as to reduce any lot conveyed or retained in violation of this section, no lot resulting from such division, conveyance, or transfer, regardless of its dimensions, shall be deemed to be a building lot or entitled to a building or occupancy permit. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

**4.7 SEPARATE LOTS FOR DWELLINGS.**

Except for authorized group housing projects and for combined dwelling and business uses on lots in General and Local Business districts, there shall be provided for each residential structure containing one or more dwelling units, as allowed by the applicable district regulations, a separate lot of land meeting the requirements of this By-Law for the district in which the structure will be situated, or falling within the exemption for previously recorded lots. Nothing herein shall prohibit or restrict the continued use of lawfully established existing living quarters in buildings accessory to the principal residential or other permitted use. The provisions of this paragraph shall not prohibit or restrict the issuance of Special Permits for dwellings accessory to the principal non-residential use in Limited Manufacturing districts.

**4.8 IRREGULARLY SHAPED LOTS**

When the distance between any two points on lot lines is less than fifty (50) feet, measured in a straight line, the smaller portion of the lot which is bounded by such 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.

## SECTION 5.0 GENERAL REGULATIONS

### 5.1 OFF-STREET PARKING REQUIREMENTS

#### 5.1.1 Purpose.

It is the intention of this By-Law that all structures be provided with sufficient off-street parking 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 minimize 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 off-street loading space for all structures requiring the delivery of goods.

#### 5.1.2. Basic Requirement.

The parking plan shall meet the following requirements: layout and number of spaces shall be provided for any construction or additions to any structure which increase its usable space or parking demand; for any change to a use with increased parking requirements; for increases or changes in outdoor uses subject to parking requirements, such as outdoor sales or spectator sports; for the construction, alteration, or expansion of a parking lot or parking structure including changes to parking spaces, circulation aisles, driveway access, location of landscaped areas, or any other feature comprising a part of the parking plan. Any such increase or change since the adoption of Article 63 of the 1972 Annual Town Meeting not shown on a parking or site plan previously approved by the Planning Board shall be subject to the requirements of this section. Parking plans for lots requiring nine or few spaces shall be submitted to the Planning Director for review and report to the Planning Board.

#### 5.1.3. Change of Use/Increased Parking Demand.

When a building or use with an approved parking plan on file with the Planning Board undergoes a change which involves any increase in the number of dwelling units, gross floor area, seating capacity or other unit of measure used as a means of determining off-street parking, and when such change would result in a requirement for a greater number of parking spaces than exist on the plan filed with the Planning Board. The Planning Board may waive the preceding requirement to allow the following specific increases:

Approved Plan containing

- 10 spaces – 1 additional space
- 20 spaces - 2 additional spaces
- 30 spaces - 3 additional spaces
- 40 spaces - 4 additional spaces
- 50 spaces – 5 additional spaces

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The waiver may be allowed only once on any property regardless of the date of application or the owner of record and no increase shall exceed five (5) spaces. Any proposal for use of a building for which the building does not have a parking plan previously approved by the Planning Board, and which proposes to use any portion of an existing parking area, which parking has not been used for a continuous period of two years, shall be required to meet the current requirements of Section 5.1.

### 5.1.4. Special Conditions.

If prior to January 1, 1995, the floor area of a building has been enlarged, or the lot area reduced or the use changed after adoption of Article 63 of the 1972 ATM without approval of a parking or site plan by the Planning Board, and the site cannot meet the applicable requirements of this by-law, the Planning Board may approve a parking or site plan which does not meet the requirements of this subsection, as long as the Planning Board makes written findings of those conditions that render the applicant unable to comply with the terms of this subsection, the nature and purpose of the alternative measures proposed by the applicant and why and how such action is in the public interest and not inconsistent with the intent and purposes of this subsection. The use of mitigating measures such as carpools, shuttles from an off-site lot, assigned employee parking spaces with reduced dimensions, or the designation of compact car parking spaces with reduced dimensions, provided that stalls having reduced dimensions shall not be more than 25 percent of all stalls in a parking lot, may be made a condition of approval.

### 5.1.5. Exceptions.

The following uses and activities shall be exempt from the requirements of this section:

1. One and two family dwellings.
2. Maintenance work which does not alter or change the existing layout.
3. Modification of Existing Lots. Any parking area existing prior to the adoption of the parking provisions of the Zoning By-Law and/or any parking area maintained in accordance with an existing parking plan shall not be subject to the requirements of this subsection. However, any such parking areas shall not be enlarged, extended, modified, altered, or changed in any fashion whatsoever unless either:
  - a. the totality of such parking area (not merely that portion of the parking area that is enlarged, extended, modified, altered, or changed) conforms with the provisions of this subsection, or
  - b. in performing parking or site plan review, the Planning Board makes written findings of those conditions that render literal compliance with the provisions of this subsection impracticable or unfeasible for some or all existing areas, the specific nature of the alternative measures proposed by the applicant, and why and how approval is in the public interest and no inconsistent with the intent and purposes of this subsection. The use of mitigating measures, such as extra plantings, use of ornamental screening or topographic devices such as landscaped berms may be made a condition of approval.

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### 5.1.6 Procedure

#### 1. Application

The parking layout, which must be submitted for approval by the owner of the property on which the parking or major portion thereof is located, shall be shown on a parking plan in conformance with this section. The owner of the land including an existing parking lot may submit a revised parking plan for approval by the Planning Board.

#### 2. Submission

All parking plans submitted for Planning Board approval shall be accompanied by a completed application form, the required processing and consultant review fees (two separate checks made out to the Town of Dedham), and any necessary supporting materials, such as copies of Board of Appeals decision, irrevocable lease agreement or drainage calculations. One copy of the complete plan shall be submitted to the Building Department and 7 copies shall be submitted to the Planning Board.

#### 3. Review Fees

The cost of processing and professional consultant review, and all inspection and other costs arising out of the parking plan review and approval process, shall be borne by the applicant through the initial fees or subsequent billing, and no permit shall issue until such costs have been paid in full.

#### 4. Contents of the Plan

The plan shall be certified by a registered engineer and a registered land surveyor and shall show property lines and dimensions, abutting owners and streets, and the following items, identified as to dimensions and location, material or species where applicable, and whether existing or proposed buildings and structures, parking spaces and aisles or driveways, pavement and curbs, landscaping and vegetation, topography (grading), water and sewer lines, drainage in detail, wetlands, traffic signs, easements and right of way, access and curb cuts, safety provisions loading berths, dumpster, snow storage area, utilities, electrical service, pedestrian ways, polar diagram showing the direction and intensity of outdoor lighting, and zoning district boundaries. Information required to determine compliance with parking requirements shall be shown on the plan in a tabular form, including lot area, floor area ratio (FAR), and the existing and the proposed total floor area and floor areas dedicated to various uses, the parking spaces required for each principal use, the numbers of existing and proposed parking spaces, and the maximum legal occupancy, where required. The number of parking spaces with reduced stall dimensions may not exceed 25 per cent of all stalls in the parking lot. Other information needed or helpful for verifying compliance with the applicable parking requirements, and any waivers requested shall be noted on the parking plan.

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### 5.1.7 Requirements for Existing Non-Conforming Uses and Buildings.

The existing non-conforming uses and buildings, and the parking serving them, if lawfully installed prior to adoption of Article 63 of the 1972 Town Meeting, are not subject to these parking requirements, and only changes and additions require Planning Board approval. However, the information required to be shown on the parking plan shall include the entire premises and all parking, structures, and buildings, so that the Planning Board may properly evaluate the effect of any proposed changes and additions.

### 5.1.8 Board of Appeals Special Permit.

The approval by the Board of Appeals of a Special Permit, or the finding that the proposed change in a non-conforming use is not substantially more detrimental, shall not relieve the owner and/or lessee of the requirement for parking plan approval by the Planning Board. A Board of Appeals variance shall apply to specific dimensional requirements of parking only to the extent expressly stated in the variance. Use variances for parking or for other purposes are not permitted.

### 5.1.9 Parking Lot Design Standards.

1. Parking Spaces and Aisles: For parking at right angles to a building, lot line, or aisle, the width of a parking space shall be not less than 9 feet, the length shall be 19 feet, of which 2 feet may overhang a curb or barrier, but shall not extend across a street or lot line, provided that for parking lots used for long term (four hours or longer) parking by the same group of drivers, such as all-day employee parking, parking space width may be reduced to not less than 8.5 feet and parking space depth may be reduced to not less than 16 feet. For parking at other angles, the depth shall be such as to accommodate a 9 ft. by 19 ft. parking space with 1.5 ft. maximum overhang.

2.	<u>Parking Angle</u>	<u>Aisle Width</u>
	Parallel	12.0
	30	12.0
	45	14.0
	60	18.0
	70	19.0
	80	24.0
	90	24.0

These requirements are for aisles providing access to parking stalls for one-way use only. For two-way use, the minimum shall be 20 feet or the aisle width required above, whichever is greater.

3. Parking parallel to curb or building shall require 22 feet long parking spaces, 9 feet wide. Parking spaces for persons with disabilities shall conform to the applicable federal and state standards as to number and dimensions, and shall be located near building entrances and wheelchair ramps. No parking space shall obstruct the exit path from any other space or be located so as to require backing out into or from a street. For driveway curves, the smaller radius shall be not less than 12 feet, and the width of a driveway, where it is not used for maneuvering in or out of parking spaces,

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

shall be not less than 10 and not more than 15 ft. for one-way and not less than 20 and not more than 30 ft. for two-way traffic, except that for parking lots with a capacity of 10 or fewer parking spaces and for garages, driveway entrances and exits may be reduced with Planning Board approval to not less than 12 feet for two-way traffic. Lots for 200 or more parking spaces shall have more than one two-way access, located so as to serve different parts of the parking lot. Parking lots designed to include parking for trucks, buses, or other large vehicles shall have designated parking spaces, driveways, and access ways large enough to accommodate such vehicles. In order to screen parking to the greatest extent, wherever and whenever possible, parking shall be located to the rear and sides of buildings.

### **5.1.10 Construction Standards.**

All areas to be used for parking, driveways or aisles, access ways to streets open to public travel, pedestrian walks, and safety islands shall have a pavement, designed and maintained, to provide a firm surface, safe traction, and clean walking conditions in wet, freezing, or other inclement weather. Except for lots designed to serve five or fewer cars, for which compacted water bound macadam may be used, pavement shall consist of bituminous concrete, 3.5 inches deep after rolling, or of an equivalent cement, concrete, brick, masonry, or other permanent all-weather material laid on a well-rolled and compacted granular base and a firm gravel sub-base from which all organic and unstable materials have been removed. Paved areas shall be graded so as to avoid ponding and to channel surface water to catch basins or to landscaped unpaved areas and to avoid excessive surface drainage to the streets. Parking and maneuvering spaces shall have grades between 1 and 4 per cent whenever possible. Parking spaces and driveways shall be marked by white striping, and pedestrian paths, fire lanes, and safety zones shall be marked by yellow striping, 4 inches wide, and/or by curbing, barriers, and retaining walls. Large parking lots designed for 200 cars or more or for customer, employee, and fleet vehicles parking shall be laid out in several areas separated by landscaping, fencing, or space buffers. Pavement markings and directional signs shall be used for circulation guidance and safety. Whenever a new parking plan or a revision to an existing parking plan depicts an increase in the total impervious surface on the lot, the same shall be submitted to the Conservation Commission for review, and the provisions for drainage on said parking plan shall be in accordance with a duly issued Order of Conditions or Stormwater Management Permit, whichever is applicable. All artificial lighting shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or other property. All parking facilities which are used at night shall be lighted as evenly and fully as possible within the maximum wattage limits established by the State Building Code.

### **5.1.11 Location of Parking Area.**

Parking required by this section shall be located within 600 ft. of any proposed or new building to be served by such parking, and otherwise so that the nearest part of such parking area is within 500 ft. of the use it is to serve and on the same lot as such use, or on a contiguous lot in the same ownership, or on a lot in a different ownership, provided that an instrument constituting an irrevocable easement, lease, or covenant in a form satisfactory to the Planning Board and recorded in the Norfolk Registry of Deeds assures the exclusive availability of such parking for as long as the use served thereby shall continue. Said written instrument shall be submitted to the Planning Board at the time of the submission of the parking plan or site plan required by this subsection.

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

### 5.1.12 Zoning District Requirements: Residential Districts.

1. **Parking Decks.** Parking decks shall be prohibited above or below ground in residential districts unless allowed by a Special Permit from the Zoning Board of Appeals.

### 5.1.13 Zoning District Requirements: RDO Districts.

1. **Access.**

Driveways service uses located in the RDO district shall be located as follows, unless an alternative egress configuration is authorized by the Planning Board in performing Site Plan Approval under Section 9.5, upon the Board's determination that the alternative more effectively reduces traffic hazard and disturbance to residential environs.

- a. Where feasible, driveways shall be shared with adjacent uses so as to reduce the number of points of entry onto streets.
- b. Driveway access shall be only onto a street zoned non-residentially. If that is not feasible, then access shall be onto that abutting street (if two or more exist) where traffic will disturb the smaller number of dwellings.

2. **Buffer Area.**

In the RDO district, no portion of any parking lot of twenty (20) or more spaces serving a use not allowed in an abutting Single or General Residence district shall be located within forty (40) feet of the boundary of such district, except that on lots established by plan or deed prior to the effective date of this By-Law (April 8, 1996), that buffer space may be reduced to no more than 15% of the depth of the lot measured perpendicular to the district boundary, if in performing Site Plan Approval under Section 9.5, the Planning Board determines that sufficient landscaping beyond that required at Section 5.2 will be provided to achieve visual separation and amenity equivalent to that under the basic separation and landscaping requirements.

### 5.1.14. Construction Delay.

If, in the sole and exclusive discretion of the Planning Board, the construction or paving of the entire parking lot shown on the approved site plan shall not be needed initially, the Planning Board may grant an authorization for a specified delay of up to two years in paving portions of the parking lot, not exceeding 40 percent thereof, which shall be identified on the plan and shall remain vacant, landscaped, and available for parking. The authorization for such a stay may be extended by the Planning Board for additional periods not to exceed twelve (12) months each upon an express finding by the Planning Board that such further extension is in the public interest and consistent with the intent of this subsection. Nothing herein shall be construed to allow any reduction in the horizontal area for parking required by this section or its use for any other purpose.

**5.1.15 Required Parking Spaces.**

The number of parking spaces to be provided shall be based on the net floor area of a building or on its rated capacity as set forth in Table 3; for uses not listed in Table 3 the Planning Board shall utilize the requirements for the use most similar in terms of activity and parking demand; where it is not certain which of several possible uses will be the ultimate use, the higher of several requirements shall be used, fractional numbers of parking spaces shall be rounded up to the next higher whole number. Where several separate uses share the same parking lot, the number of parking spaces provided shall be not less than the total number of spaces required in the maximum use period, allowing for a reasonable number of extra spaces for the cars arriving before the preceding users leave.

1. In the Central Business (CB) zoning district, off-street parking existing on January 1, 1995, shall be deemed to satisfy the requirements of this subsection. However, any revision of the parking layout, building renovation or alteration changing the footprint or the floor area of a building, or change of use to one with different parking requirements shall require the submittal of a parking plan and its approval by the Planning Board to ensure safety and efficiency of the parking layout. New building construction shall require the approval of a parking plan which complies with the requirements of Section 5.1; however, the Planning Board may waive literal compliance based on written findings that compliance is impractical or unfeasible and that approval of the parking plan is in the public interest and not inconsistent with the intent of this section.

**Dedham Parking Table**  
**Table 3**

Principal Use	Number of Parking Spaces
<b>RESIDENTIAL AND RESIDENTIAL CARE USES</b>	
a. One, two, or multi-family residence:	1.5 parking spaces per dwelling unit (2 spaces minimum), except that publicly-supported housing for the elderly shall require 1 space per dwelling unit
b. Rooming and lodging houses, rental of rooms, bed-and-breakfast accommodations, hotels and motels (exclusive of restaurants, dining rooms, or public assembly facilities open to the general public and requiring additional parking), trailer camps, and seasonal camping facilities for adults or families:	1.25 parking spaces per guest room, or per two persons rated capacity or sleeping accommodations for two persons (a double bed shall be considered sleeping accommodations for two persons), provided that, for trailer or mobile home camps one space shall be located next to each site.
c. Hospitals, nursing, or convalescent homes, living care, and other quasi-medical and institutional facilities providing residential care, including prisons, boarding schools for persons 16 years or age or older, and group homes:	1 parking space per two persons rated or design capacity.
d. Assisted Living Residence:	0.3 parking spaces per dwelling unit; plus 1 parking space per employee on the largest work shift.
<b>COMMERCIAL, BUSINESS, AND OFFICE USES:</b>	
a. Retail sales and services not specifically identified below and including the floor area devoted to uses accessory to the principal retail use:	1 parking space per 200 square feet floor area of a fraction thereof, provided that
1. Where goods or items for sale are produced or processed on site, such as a bakery, coping or printing shop, or a custom art studio, the area devoted to the production or storage of items to be sold shall be counted as part of the retail floor area.	
2. Where display, sale, or related activities customarily take place outdoors, one-half the outdoor area devoted or available for such activities shall be added to the floor area.	
3. Where retail sales or services are conducted in a dwelling as a permitted home occupation or as a non-conforming use, parking for such sales or services shall be in addition to the off-street parking required for the residential use.	
4. In an enclosed shopping mall, the areas used as a public concourse and not used for storage, display, or sales of goods shall not be counted as floor area of calculating parking demand. Parking for eating places, entertainment, athletic, and other facilities identified herein separately in categories other than retail sales shall be added to the retail parking required; the Planning Board may authorize paving or constructing 80 percent of the aggregate required parking spaces, provided that landscaped vacant space remains available for the construction of additional parking, if needed in the future.	
b. Professional, business, governmental, and similar offices and banks, including real estate offices and mail order or wholesale offices involving no on-site storage or distribution of goods or commodities:	1 parking space per 200 square feet floor area on the ground or street floor, and 1 parking space per 300 square feet floor area on floors above the ground floor. Parking for offices located on residential premises shall be in addition to the required residential parking. Parking for freestanding automatic teller machines shall be provided at the rate of four parking spaces per terminal.
c. Physicians and dentists, medical centers, clinics, and other practicing health professionals, including veterinarians and accessory uses, but not room and board:	5 parking spaces for each practicing professional plus one additional space per 500 square feet floor area. If the health professional has an office on residential premises, service parking shall be in addition to the required residential parking.
d. Restaurant, cafeteria, lunch counter, or dining room open to the public, including those in a hotel, retail store, or another facility not intended or used for public assembly:	2 parking spaces per five seats design or rated capacity, in addition to off-street parking required for the hotel or other uses. Drive-in or take-out service shall provide 1 additional parking space per 250 square feet of floor area of such eating establishment. The Special Permit required for an eating establishment may include modifications of these requirements based on the specifics of each case.
e. Testing or research laboratory or research facility not open to general public and not included in or accessory to manufacturing or production:	1 parking space per 300 square feet floor area.

**Dedham Parking Table  
Table 3**

f. Funeral homes:	2 parking spaces per five persons or seats of rated capacity of all rooms available for funeral services and related public functions, but not less than 12 parking spaces.
g. Club, recreational, amusement, athletic, sports, or exercise facility with participatory activities shall provide parking spaces equal to the sum of the following:	
1. One-half the number of participants, players, members, exercise equipment users, etc., at full use of the facilities design capacity, courts, or equipment.	
2. Where space for spectators is provided: one-third the spectator design or actual seating capacity, indoors and outdoors. Where the seating is not fixed and comprises folding chairs or similar accommodations, and there is no maximum occupancy figure, the capacity shall be assumed at one seat per 20 square feet of floor or outdoor area available for viewer or spectator seating.	
3. If the club or other facility includes one or more dining rooms or other eating establishments, additional parking shall be provided in accordance with paragraph d. above, except that combined spectator and restaurant seats shall be counted to satisfy both requirements simultaneously.	
h. Self-storage facilities:	8 parking spaces plus 2 additional spaces for each 10,000 square feet floor area or fraction thereof over the first 20,000 square feet.
i. Theater, motion picture theater, public assembly hall, auditorium, or function hall for large public gatherings, whether as a separate facility or as part of an institution:	1 parking space per three seats design or actual seating capacity, and, in the absence of permanent seating or permitted occupancy capacity, one parking space per 20 sq. ft. floor area for public gatherings. Provided, however, that if the Planning Board makes a finding that sufficient parking has otherwise been provided at a hotel complex, the Planning Board may reduce the requirements under this subsection for such areas within said hotel complex to not less than 1 parking space per six seats design or actual seating capacity or permitted occupancy capacity. The Planning Board shall make detailed written findings supporting any such reduction under this subsection.
j. Bowling Alleys:	5 parking spaces per lane.
k. Home Occupation:	1 parking space for each person providing paid services who is not a resident of the premises.
<b>INSTITUTIONAL USES:</b>	
a. Day Care Center:	1 space for every teacher and employee, 1 space for visitors, plus 1 space for every six children based on the largest enrollment on site at any given time; the Planning Board may allow a reduction in the number of required parking spaces for the purpose of improving site utilization, but not to increase permitted enrollment if the number of spaces provided is adequate to provide one space for every teacher and employee, and to support, without detriment to the neighborhood, drop-off and pick-up areas for the maximum number of children arriving and departing the facility at any one time in accordance with a parking and traffic management plan approved by the Planning Board.
b. Elementary and Middle Schools, and other educational institutions for children under 16 years of age:	1 parking space per 16 children design or licensed capacity, but not less than 5 spaces.
c. High Schools, colleges, vocational schools, and other educational institutions for persons over 16 years of age	1 parking space per two students design or licensed capacity, provided that, if it can be shown that the students are trainees shall not or cannot drive and will require no parking, now or in the future, the standards of paragraph n. above shall apply.
d. Civic and veterans organizations, libraries, museums, public utilities buildings, religious and social organizations:	1 parking space per 400 sq. ft. floor area, except that for meeting rooms, auditoriums, places of worship, assembly halls, and the like, parking spaces in accordance with paragraph 2.g. above shall be provided; and for restaurants or cafeterias, dining rooms, or other food service facilities, spaces shall be provided as called for respectively in paragraphs 2.d. and 1.c. above. Where the use of assembly, food service, or living facilities shall be limited exclusively to members, occupants, students and staff of such institutions and never leased or made available to outsiders or the general public, only the parking spaces needed to satisfy the requirements of the one use calling for the highest number of such spaces shall be provided.

**Dedham Parking Table**  
**Table 3**

<b>AUTOMOTIVE AND RELATED USES:</b>	
a. Service stations and repair garages, including self-service or split island filling stations, body and paint shops, and car washes:	5 parking spaces arranged so as not to interfere with access to pumps and service or repair facilities, plus 1 additional space per bay or garage door. Where the number of bays or repair/service facility entrances cannot be determined, 1 additional space per 250 sq. ft. floor area shall be provided instead.
b. Car, truck, trailer, tractor, or other vehicle on wheels or treads, including snow or all-terrain vehicles and construction machinery, or boat sales:	1 parking space per 500 sq. ft. area, indoors or outdoors, used, designed, or available for sales, offices, storage, servicing, or repair. No part of the designated indoor or outdoor parking area shall be used for the display or storage of vehicles to be sold, displayed, serviced, or repaired.
c. Transportation terminals, passenger stations, park-and-ride lots, and similar facilities designed for parking as the principal use:	The number of off-street parking spaces shall be based on long-range projection of expected demand. Any part of the parking lot not initially needed shall be landscaped, to be paved when parking demand requires it.
<b>INDUSTRIAL AND WAREHOUSE USES:</b>	
a. Manufacture, processing, assembly, testing, research and development, including the customary accessory uses, but no on-site sales:	1 parking space per 500 sq. ft. floor area, but at least 5 parking spaces.
b. Warehouse, storage, and distribution of transshipment as the principal use, which may include customary office and repackaging accessory uses, such as mail order or wholesale, but no on-site retail sales, servicing, or other uses listed in paragraph 5.a. above:	1 parking space per 1,000 sq. ft. floor area, but at least 5 spaces. Where outdoor storage is allowed, 1 additional parking space shall be provided for every 2,000 sq. ft. of outdoor storage area. Separate additional parking shall be provided for trucks, vans, and other fleet vehicles and material handling equipment based on site.
c. Contractors, yards, lumber yards, bulk sales of fuel (tank farms) or building materials, utility company or public utility materials and equipment storage, and similar uses requiring large spaces for indoor or outdoor storage of trucks, special purpose vehicles, equipment, and materials:	1 parking space per 500 sq. ft. floor area, plus 1 parking space per 500 sq. ft. of outdoor storage of materials and commodities, in addition to off-street screened parking for fleet trucks, vans, and special purpose vehicles or equipment based on site.
<b>LOADING AND UNLOADING REQUIREMENTS:</b>	
Where off-street parking is required by this Section, loading berths or bays generally at least 12 ft. wide and 55 ft. long plus adequate maneuvering space shall be provided for the loading and unloading of stock and other materials as follows:	
a. Retail Store and Service Establishments:	For each retail store or service establishment with gross floor area over 8,000 sq. ft., at least one berth. A second berth shall be provided for the floor area in excess of 8,000 and up to 80,000 sq. ft. Additional loading berths shall be provided at the rate of one berth for each additional 80,000 sq. ft. or a fraction thereof.
b. Office Buildings and Business Establishments other than Retail:	For each building with gross floor area of 15,000 sq. ft. at least one loading berth shall be provided. Additional loading berths may be required at the rate of one berth for each additional 80,000 sq. ft.
c. Manufacturing, Industrial, and similar Uses:	For manufacturing, processing, industrial, research and development, and similar plants and facilities with a gross floor area of 8,000 sq. ft. or more, at least one loading berth shall be provided. The Planning Board may require additional berths for increases in floor area by more than 50,000 sq. ft.

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

### 5.2 LANDSCAPING AND SCREENING

#### 5.2.1 Purpose.

The purpose of this subsection is to improve air quality; reduce flooding; enhance the quality of the environment; preserve and improve the visual character of Dedham, and, minimize through screening the adverse impacts on the neighborhood of glare, noise, smoke, smell, debris, and large areas of asphalt commonly incidental to commercial and industrial uses.

#### 5.2.2 Applicability.

The requirements of this subsection shall apply to any proposed outdoor parking lot for 10 or more parking spaces and to any alteration of an existing parking lot which will contain 10 or more spaces. However, a lot of any size abutting a parcel used for residential purposes shall provide a 5 foot landscaped buffer strip, or other type of screening as determined by the Board, along all property lines of such parking lot abutting the residential use parcel.

Parking plans for lots requiring nine or fewer spaces shall be submitted to the Planning Director for review and report to the Planning Board. Existing parking lots covered by subsection 5.1.4 may proportionally reduce the requirements of this subsection to the ratio of the existing unbuilt-upon space to the space needed to meet the requirements of this Section.

#### 5.2.3 Waiver of Spaces for Landscaping.

Should the addition of the landscaped space reduce the area available for parking such that the landowner could not comply with the number of parking spaces otherwise required, the Planning Board may grant a waiver of the number of parking spaces to be provided, but only to the extent of the number of parking spaces that could have been located in the required landscaped area. Where soil conditions, lot shape, topography, architectural or structural conditions make literal compliance with the terms of this subsection impracticable or unfeasible, the Planning Board may approve parking plans showing alternative means of complying with the objectives of this subsection and may allow the use of ground cover and ornamental screening or buffers, as long as such action is in the public interest and not inconsistent with the intent and purpose of this subsection. In these instances the Planning Board shall make detailed written findings of 1) those specific conditions that render literal compliance with the terms of this subsection impracticable or unfeasible, 2) the specific nature of alternative means of complying with the terms of this subsection and 3) why and how such action is in the public interest and not inconsistent with the intent and purposes of this subsection.

#### 5.2.4 Landscaped Areas.

1. **Frontage Strip:** Only landscaping shall be allowed in the landscaped buffer zone which extends across the entire frontage of the lot on a street or highway and for a depth of 20 feet in the Highway Business and Research Development and Office districts and five (5) feet in

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

The Local Business, General Business and Limited Manufacturing districts or of the required minimum front yard, whichever is less. Any commercial, industrial, institutional or other non-residential use located in a residential district shall provide a landscaped buffer zone of 20 feet in Single Residence A districts; 10 feet in Single Residence B districts; and five (5) feet in General Residence districts. Existing healthy trees and shrubs shall be preserved within this landscaped buffer zone and new trees planted five (5) feet in from either side of the landscaped buffer zone with an interval between trees of approximately 25 feet, except at driveway entrances. Shrubs shall be planted between each two trees.

2. **Building:** Unless structural or fire lane requirements dictate, shrubs or decorative ground cover as appropriate shall be planted along the foundation, except where a pedestrian walk or building entrance intervenes.
3. **Lot Interior:** Trees and shrubs shall also be preserved or planted in the interior of the parking area (defined as the space enclosing the parking spaces, maneuvering areas, and aisles) so that such landscaped space shall comprise not less than 15 percent of the paved parking area. The 15 percent interior landscaped area shall not include the landscaping provided in the frontage strip. Trees and shrubs shall be planted near the middle of rows of parking spaces extending more than 180 feet and to separate parts of the parking lot, and shrubs shall be planted in the landscaped rounding between the end of a row of parking and the curved wedge-shaped spaces or narrow strips not large enough for a tree. The interval between trees shall not be more than 25 feet; the distance from a tree to the paved area shall be at least 5 feet, and the distance from a shrub to a paved area shall be at least 2 feet. Other unpaved areas on the lot shall be suitably landscaped with grass, hedges, occasional trees, and flower beds or benches and ornamental structures.
4. **Perimeter:** Parking areas, except those associated with single and two-family residences, shall be set back at least five feet from the side and rear lot lines. This required setback shall consist entirely of landscaped open space.

### 5.2.5 Planting Requirements.

Screening by trees, especially evergreens, and shrubs shall be provided between parking lots and residential areas, highways or streets, and buildings on abutting lots, as specified herein. Trees to be planted shall have a minimum height of 12 feet and a minimum diameter of three inches at 4 ft. height at the time of planting, and shall be planted in one cubic yard of loam, wrapped and guyed to facilitate survival. They shall be of species characterized by rapid growth, hardiness, and suitable for New England climate. Shrubs to be planted shall be of at least five gallon size, and suitable for the purpose of visual screening.

### 5.2.6 Seasonal Planting Waiver.

Landscaping may be delayed due to seasonal changes with the approval of the zoning enforcement officer for up to six months from the date of issuance of a building permit. A temporary occupancy permit may be issued if the record owner of the property upon which the landscaping is to be completed posts a bond or other acceptable security with the Town

## **TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011**

Treasurer, such bond to be in the amount of one-and-a-half times the estimated cost of such delayed landscaping construction, as indicated on the approved parking or site plan. Upon completion of all landscaping, substantially in accordance with the approved plan, the zoning enforcement officer shall authorize in writing the release of said security and shall issue a permanent occupancy permit. The owner shall be responsible for the continued vitality of landscaped areas.

### **5.3 ENCLOSURE OF USES**

#### **5.3.1 General.**

All commercial uses permitted as of right, by special permit, or by a variance, and all related uses, except principal or accessory residential and agricultural uses, shall be conducted wholly within enclosed buildings, except the following:

1. Plants, landscaping, natural features of the land, minor ornamental or utility system structures requiring no building permit, pedestrian and vehicular ways, parking lots, fences and screening or ornamental walls, utility and light poles and wiring, signs and sign supports, structures and devices required by government for traffic control or other purposes.
2. Areas and facilities for outdoor sports, athletic, or recreational activities, and open air theaters, but only where such activities are permitted as of right or by special permit.
3. Outdoor eating areas of a restaurant, where permitted by the Board of Appeals or when shown on a site plan approved by the Planning Board.
4. The dispensing of fuel, lubricants, or fluids at a garage or service station, where otherwise permitted.
5. In all zoning districts, outdoor storage or display of goods, products, materials and equipment, including motor vehicles, boats, and construction materials handling equipment, where accessory to the principal use conducted in an enclosed building and otherwise permitted and subject to the requirements herein, is allowed, provided that such outdoor display or storage shall not exceed 20 percent of the square footage of such building. An automobile sales agency may use an area not exceeding 80 percent of the square footage of its building for outdoor display and storage of new vehicles.
6. Enclosure of uses by nonconforming buildings shall be governed by the provisions of Section 3.3.

## **TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011**

### **5.3.2 Special Permit.**

The Board of Appeals may grant special permits for other uses, activities, and structures to be located outside of enclosed buildings, provided that such outdoor location is customary, that it will have no adverse effect on adjacent buildings and uses, and that location indoors is not feasible or not practical.

## **5.4 SCREENING OF USES**

### **5.4.1 General.**

In any Limited Manufacturing District, all open storage of junk, junk cars, scrap metal, waste paper, concrete products, and similar used materials shall be completely screened from view at normal eye level from any street, or from any premises other than that on which located. Any other use conducted outside a completely enclosed building, except an open use permitted in General Business Districts, shall, if visible at normal eye level from any point within a residence district and less than two hundred (200) feet distant, be completely screened from such view, unless separated from said district by a railroad or by a street having a width of forty (40) feet or more. Notwithstanding the foregoing, any existing open use which, under the terms of Section 3.3 of this by-law, is exempted in whole or in part from the enclosure of use requirements in Section 5.3 shall be completely screened from view at normal eye level from any street or from any premises other than that on which it is located, if such open use, in the case of a new use, would be required under Section 5.3 to be conducted wholly within a completely enclosed building or occupies an area in excess of that which would be permitted for open use under Section 5.3. Screening required under this paragraph shall be by a dense evergreen planting, fence, or other suitable visual barrier.

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

### SECTION 6.0 SPECIAL REGULATIONS

#### 6.1 ADULT USES OVERLAY DISTRICT

##### 6.1.1 Purpose.

1. The purpose of this By-law is to address the well-documented secondary effects of Adult Uses, as defined herein. Such secondary effects of Adult Uses have been found to include increased levels of crime, blight resulting from the clustering and concentration of Adult Uses, adverse impacts on the business climate of municipalities, and adverse impacts on property values of residential and commercial properties. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This Section is enacted pursuant to G.L. c. 40A, s. 9A, with the purpose and intent of addressing and mitigating the secondary effects of Adult Uses that are adverse to the health, safety, and welfare of the Town and its inhabitants.
2. The provisions of this Section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matters or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitutions of the United States or of the Commonwealth of Massachusetts, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution, dissemination, or exhibition of obscene or other illegal matter or materials, as defined in G.L. c. 272, §31.

##### 6.1.2 Establishment of Adult Uses Overlay District, and Relationship to Underlying Districts.

1. The Adult Uses Overlay District ("AUOD") is established as a district that overlays the underlying districts, so that any parcel of land lying in the AUOD 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. Land and buildings in the AUOD may be used for any purpose permitted as of right or by special permit in the underlying district, and all requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.
2. The AUOD shall include assessor's map and block numbers 149-3B, 150-5, 150-7A, 150-7B, 162-1, 162-3, 162-44, and 162-45 in the Research, Development, and Office Zoning District, as depicted on the plan prepared by the Town of Dedham Department of Infrastructure Engineering titled 'Enterprise Drive Adult Use Overlay District,' which is incorporated herein by reference and which is on file with the Town Clerk.

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

### 6.1.3. Definitions.

1. **ADULT USES:** Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, or Adult Entertainment Establishment, as defined herein.
2. **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 on depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.
3. **ADULT MOTION PICTURE THEATER:** An establishment used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in G. L. c. 272. s. 31.
4. **ADULT PARAPHERNALIA STORE:** An establishment having as a substantial or significant portion of its stock in trade devices, objects, tools, or toys that are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.
5. **ADULT VIDEO STORE:** An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film materials that are distinguished or characterized by their emphasis on depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31.
6. **ADULT ENTERTAINMENT ESTABLISHMENT:** Any establishment which provides live entertainment for its patrons, a substantial or significant portion of which consists of entertainers engaging in sexual conduct or nudity as defined in G.L. c. 72, s. 31.
7. **SUBSTANTIAL OR SIGNIFICANT PORTION:** This term as used herein shall mean any of the following:
  - a. Twenty percent (20%) or more of the business inventory or stock or merchandise for sale, rental, distribution, or exhibition during any period of time; or,
  - b. Twenty percent (20%) or more of the annual number of gross sales, rentals, or other business transactions; or,
  - c. Twenty percent (20%) or more of the annual gross business revenue; or,
  - d. Twenty percent (20%) or more of the hours during which the establishment is open.

### 6.1.4 Scope of Permitting Authority.

1. Adult Uses, as defined in this Section, may be permitted in the AUOD upon the granting of a Special Permit by the Board of Appeals, subject to requirements, conditions, and limitations as specified in this Section. Adult Uses are not allowed in the Town, other than in the AUOD.

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2. Adult Uses shall not be considered accessory uses.
3. A Public Hearing shall be held on an application for a Special Permit for an Adult Use, and the Board of Appeals shall act on the application in accordance with the provisions of G.L. c. 40A, ss. 9, 9A, and 11; provided, however, that the hearing shall be closed no later than sixty (60) days after the opening of the hearing, and the Board of Appeals shall act on the application within thirty (30) days after the hearing is closed, unless the applicant consents in writing to an extension of such time periods.

### 6.1.5 Special Permit Submittal Requirements.

1. A completed application and form shall be submitted pursuant to the rules and regulations of the Board of Appeals. The completed application must also include all of the following:
  - a. Name, address, business address, and telephone numbers of the legal owner or owners of the proposed Adult Use;
  - b. Name, address, business address, and telephone number of the manager of the proposed Adult Use;
  - c. Name, address, business address, and telephone numbers of all persons having any equity, including beneficiaries or other interest in such Adult Use, including but not limited to security interest, liens, mortgages, or other interest. In the event that a corporation, partnership, trust, or other entity is listed, the name, address, business address, and telephone number of every person who is an officer, director, shareholder, or trustee of the entity must be listed, in order that the Board of Appeals may know who are the persons who actually own and control that Adult Use;
  - d. A sworn statement that neither the application, the manager, nor any person having any equity or other interest in the Adult Use has been convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28, or similar laws in other states;
  - e. The total number of employees;
  - f. Proposed revisions for security within and without the Adult Use;
  - g. The physical layout of the interior of the structure in which the Adult Use will be located; and,
  - h. A full description of the intended nature of the business.

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### Section 6.1.6 Special Permit Requirements and Conditions.

#### 1. GENERAL:

A Special Permit for an Adult Use shall be granted by the Board of Appeals upon its written determination that the requirements and conditions of this Section 6.1.6 have been satisfied. The Board of Appeals may impose such reasonable conditions on the operation of the Adult Use as the Board of Appeals deems appropriate for the protection of public health, safety, and welfare, including reasonable limits on the hours of operation. Section 9.3.2 of the By-Law shall not apply to the consideration of an application for a Special Permit for an Adult Use.

#### 2. LOCATION:

No Adult Use may be located less than 150 feet from a residential use or 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, any establishment licensed under the provisions of G.L. c. 138, s. 12, or another Adult Use. The distance specified above shall be measured by a straight line from the structure in which the Adult Use is to be located to the nearest boundary line of a residential zoning district, or the nearest property line of any of the designated uses set forth herein.

#### 3. DISPLAY:

No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items, or advertising depicting, describing, or relating to sexual content or sexual excitement as defined in G.L. c.272, s. 31 shall be displayed in the windows of, or on the building of, any Adult Use, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such Uses. No exterior display of product or services is allowed.

#### 4. SCREENING:

All building openings, entries, and windows shall be screened in such a manner as to prevent visual access by the public to the interior of the Adult Use. The Board of Appeals may impose conditions requiring that fencing or plantings be installed along rear and side lot lines to screen the premises from adjoining properties.

#### 5. BUILDING APPEARANCE:

The appearance of the building in which the Adult Use is to be located shall be consistent with the appearance of buildings in similar (but not specifically "adult") use in the Town, and shall not employ unusual colors or building design that would attract attention to the premises.

#### 6. INTERIOR BOOTHS:

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

### 7. MINORS:

No Adult Use shall be allowed to disseminate adult matter to minors, to cause Adult Use displays to be viewed by minors, or to allow minors to linger on the premises.

### 8. PARKING:

Adult Uses are subject to the requirements set forth in Section 5.1 of the Zoning By-Law.

### 9. LIGHTING:

No exterior lighting (or internal lighting visible from the exterior of the building) shall be flashing or intermittent in nature.

### 10. OWNERS AND MANAGERS:

A Special Permit for an Adult Use shall not be granted if the Adult Use is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c.272, s. 28, or similar laws in other states.

#### 6.1.7 Termination of Special Permit for Adult Uses.

1. A Special Permit for an Adult Use shall be issued to the owner of the Adult Use, and is not transferrable upon a sale, transfer, or assignment of the Adult Use, except with the approval of the Board of Appeals.
2. If there is a change in the identity of the manager of the Adult Use, the Building Commissioner and the Board of Selectmen shall be notified of such change. Failure to comply with this provision shall terminate the Special Permit.
3. A Special Permit for an Adult Use shall be terminated if the owner or manager of the Adult Use is found to have been convicted of violating G.L. c. 119, s. 63, or GL c. 272, s.28, or similar laws in other states.

#### 6.1.8 Severability.

1. If any provision of this Section is ruled invalid by a court of competent jurisdiction, such ruling shall not affect the validity of the remainder of the Section.

### 6.2 HOSPITALS AND RELATED FACILITIES

### 6.2.1 General.

A facility specified in Section B.6. of the Principal Use Regulations may be allowed by special permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board.

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### 6.2.2 Infrastructure.

1. **Water and Sewer.** The facility shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
2. **Roads.** All traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
3. **Refuse.** Collection and disposal of all refuse shall be provided privately.
4. **Utilities.** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
5. **Safety.** The facility shall have an integrated emergency call, security, telephone, and other communication system to provide monitoring for its residents and direct line connection to the Dedham Fire Department.
6. Bonding procedures and requirements for roadways, utilities, structures, and site amenities for a facility shall be the same as those established by the Planning Board for subdivisions in the Town of Dedham.

### 6.2.3 Dimensional Regulations.

The following dimensional regulations shall apply:

1. Minimum Lot Area: 4 acres
2. Minimum Lot Frontage: 125 feet
3. Maximum Lot Coverage: 15 percent
4. Minimum Yard: 100 feet
5. Proximity to Existing Residence: 100 feet (if an existing residence is within 25 feet of the lot line, an additional 25 foot distance is required)
6. Maximum Height: 40 feet or three (3) floors, whichever is less

### 6.2.4 Landscaping Requirements.

1. The side and rear lot lines shall be screened by a ten (10) foot width of dense natural growth.
2. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting residential properties by a visually impermeable six foot high landscape screen or fence.
3. All parking areas shall be screened from adjoining streets and abutting properties.

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### **6.2.5 Buffer Zone.**

The 50 feet closest to the abutting lot line shall be landscaped as follows:

1. **Materials.** Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section.
2. **Height.** Natural screening shall be at least 10 feet in height when planted. Height shall be measured from the finished grade.
3. **Maintenance.** All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.

## **6.3 PLANNED COMMERCIAL DEVELOPMENT STANDARDS**

### **6.3.1 General.**

A Planned Commercial (PC) Development is a special permit option for land in the LMA, LMB, HB, GB, CB, and RDO Districts. It is intended to provide flexibility for commercial or mixed-use development in accordance with a comprehensive site plan approved by the Planning Board as Major Nonresidential Project (MNP). In approving such site plan, the Planning Board may approve development standards unique to a particular location and not necessarily applicable to other locations, and shall monitor conformance to the site plan and any special permits. The uses allowed as of right or by special permit in the PC Development are as designated on the Use Regulation Table (see Table 1). All plans shall conform to the following standards:

### **6.3.2 Standards.**

1. The overall layout shall follow the accepted principles of correct land use patterns, good planning, and sound engineering, including ample landscaping and screening, spatial or visual separation of incompatible uses, adequate utilities and municipal services secured prior to plan approval, the creation, maintenance and preservation of natural or landscaped open space, and protection of wetlands and environmentally sensitive areas. Dimensional requirements including height, parking, landscaping, and density for each PC Development

shall be determined and specified in the MNP Special Permit.

2. Building and occupancy permits for each building shall be required in accordance with the applicable state and town regulations.

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3. Planned commercial development may be constructed in phases. The performance bond or other security shall ensure the integrity of the development layout and the restoration of the site by removing unfinished construction and unsightly appearance in the event the project is abandoned for any reason.
4. Conveyances and leases of properties within the planned commercial development tract shall refer to and be subject to terms and conditions of approval.
5. Specific impacts of planned commercial development on the streets, and service demands beyond the boundaries of the tract may be compensated for through impact fees as provided in the site plan review provisions of the Zoning By-Law.

### **6.4 TEMPORARY USES**

In any district, the Board of Appeals in the case of a declared emergency, a catastrophe, or the substantial destruction of an existing building and in no other circumstance, may authorize a temporary building, structure, or use not in conformity with the provisions of this by-law, provided that such use will not be detrimental or injurious to persons, property, or improvements in the vicinity over more than a total of three (3) years, whether or not consecutive. Said Board may require a bond or other security for compliance with the terms of its authorization. Under the provisions of this Section 6.4, the Board may authorize the removal of sod, loam, sand, gravel, or other earth products from a premise where such removal is not permitted as an accessory use. In such cases, the Board may impose conditions relative to the hours of operation, the routes for transporting the material through the Town, and requirements for regarding and planting the area to suitable cover when operations are completed.

### **6.5 EARTH REMOVAL AND RETAINING WALLS**

#### **6.5.1 Earth Removal.**

Removal of sod, loam, sand, gravel, or other earth products from the premises may be done when required for and incidental to:

1. Lawful construction of a building or other structure, or of a driveway, parking area, sidewalk, or path accessory to a permitted use, provided that the amount of such material removed shall not exceed that contained before construction in the particular space to be occupied by the foundation of such building or structure or by such driveway, parking area, sidewalk, or path.

2. Construction of any street or way, or the installation of utilities therein, in any subdivision in accordance with a definitive plan approved by the Planning Board and duly recorded with the Norfolk Registry of Deeds or the Norfolk Registry District of the Land Court.
3. Municipal or other public use of the parcel of land involved.

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4. Said removal of sod, loam, sand, gravel, or earth shall be permitted only during construction of a building or structure for which a permit has been granted.

#### **6.5.2 Retaining Walls.**

No retaining wall more than four (4) feet in height shall be erected or constructed without first obtaining a Special Permit from the Board of Appeals.

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### SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

#### 7.1 PLANNED RESIDENTIAL DEVELOPMENT STANDARDS

##### 7.1.1 General.

Planned Residential Development is intended to be a well-defined area of higher development density than other residential developments. It is intended to accommodate dwelling units for small households in a variety of dwelling types, all in a planned setting. In order to establish such a development, a comprehensive concept plan must be reviewed and recommended to Town Meeting by the Planning Board, including revisions recommended for approval by Town Meeting. Upon Town Meeting approval, the Planning Board will monitor conformance to the concept plan and Town approval.

All concept plans and the detailed development plans evolving therefrom shall conform to the following standards.

##### 7.1.2 Standards.

1. The overall density in dwelling units shall not exceed 1.5 times the number of dwelling units, which should be located within the boundaries of the planned residential development tract in accordance with the applicable conventional zoning, and at least twenty (20) percent of such tract shall be maintained as natural open space in which the existing vegetation and topography shall be preserved to the extent possible, subject only to additional planting and landscaping, but no paving, parking, or buildings.
2. A detailed site development plan conforming to the approved concept plan shall show and identify all changes and construction to the extent required for site plans, including all existing and proposed buildings and structures, and the plans, elevations, and use of all buildings other than one and two family dwellings. The procedure for the review and approval of the detailed development plans shall follow, so far as apt, the approval regulations and procedures for a definitive subdivision plan, including the requirement for a covenant or security to guarantee the performance of all work in accordance with the plan and the schedule approved by the Planning Board. Plan changes not increasing in number, floor area, or intensity or type of use of buildings, and not reducing the open space may be approved from time to time by the Planning Board; other changes shall require submittal of a new concept plan for Town Meeting approval and of a revised development plan. Building and occupancy permits for each building shall be required in accordance with the applicable state and town regulations.
3. The construction of a planned residential development may proceed in phases, provided that higher intensity or occupancy uses shall not exceed at any time the overall ratio of such uses to one-family dwellings in the entire planned development, and conveyances or leases of all or any part of a planned residential development shall be subject to and shall refer to the conditions of approval of such planned residential development.

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2. Performance bond or other security shall provide for the restoration so far as possible of the development or any part thereof not completed in accordance with the approved plan and schedule to pre-development condition.
3. Building facing residential lots conforming to conventional residential zoning across a street shall conform in type and spacing to the applicable conventional zoning standards or shall be located at least 100 feet from such conventional residential lots and be separated therefrom by a dense vegetation or other approved visual screen.

### 7.2 CONVERSION OF SINGLE FAMILY TO TWO FAMILY DWELLING

#### 7.2.1 General.

In the SRA and SRB Districts such conversion shall be subject to the following conditions:

1. Such house is located on a lot which has an area at least 50 percent larger than required for the construction of a single family home in that district.
2. No exterior enlargement is made which together with any changes made during the preceding five years increase the cubic content of the house by 20 percent or more.
3. No exterior change is made which, in the opinion of the Board of Appeals, alters the single family character of the dwelling.

### 7.3 MULTIFAMILY RESIDENTIAL COMPLEX

#### 7.3.1 General.

A Multifamily Residential Complex shall be allowed only in a Single Residence B (SRB) Zoning District and only by Special Permit issued by the Zoning Board of Appeals upon a determination that the following conditions and criteria have been satisfied:

1. **Conversion of Existing Buildings/Structures:** Except as provided in Paragraph 2 below, all dwelling units in a Multi-Family Residential Complex must be located within buildings or structures in existence as of the effective date of this By-Law (April 12, 1999). The floor area of such existing buildings or structures may be expanded provided that such expansion does not increase the floor area by more than 50% of such building or structure being so expanded and provided further that with respect to any abutting lots not included within the Multi-Family Residential Complex any such expansion shall conform to the minimum front, side or rear yard requirements for SRB Zoning District.
2. **New Construction:** Construction of a new building for a single dwelling unit may be allowed as part of a Multi-Family Residential Complex, provided that with respect to any abutting lots not included within the Multi-Family Residential Complex, such new building must satisfy the minimum front, side, and rear yard requirements for the SRB Zoning District.

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3. **Dimensional Regulations** Notwithstanding any other section of the Zoning By-law, the requirements set forth in Table 5 shall be applicable to a Multi-Family Residential Complex:

<b>Table 5 – Multi-Family Table</b>	
Minimum Lot Area	100,000 square feet
Minimum Lot Frontage	400 linear feet
Maximum Number of Dwelling Units	24 units
Distribution of Dwelling Units	75% of all dwelling units must be located within a single building or structure
Minimum Front, Side, and Rear Yard Requirements	None for existing buildings or structures; with respect to abutting lots not included within the Multi-family Residential Complex, additions to existing buildings or structures and any new buildings or structures shall comply with the requirements of the SRB Zoning District
Maximum Height	38 feet for any new buildings or structures; existing buildings or structures and any additions thereto shall not exceed the current height of such buildings or structures
Parking	At least 1.5 parking spaces per dwelling unit, which may include parking in enclosed structures

4. **Infrastructure:**

- a. **Water and Sewer:** The Multi-Family Residential Complex shall be connected to municipal water and sewer systems. All costs associated with the costs of these services shall be borne by the developer or applicant.
- b. **Roads:** All traveled ways within the Multi-Family Residential Complex shall not be considered streets or ways as defined in Section 10.0, and shall be privately maintained with respect to roadway upkeep and snow and ice removal. No such ways shall connect to two or more public streets or ways.
- c. **Refuse and Recycling:** Collection and disposal of all refuse and recycling material shall be provided privately.

5. **Landscape Requirements:**

- a. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence.

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- b. All outdoor parking areas shall be screened from adjoining streets and abutting properties by an opaque fence at least five feet high or by a densely planted landscaped buffer at least five feet wide.
6. **Open Space:** A contiguous area of not less than five (5%) per cent of the total land area of the Multi-Family Residential Complex shall be created and maintained as landscaped open space. Such landscaped open space shall be designed, developed, and maintained for the use and enjoyment of all residents in common, shall be restricted by deed and covenant to be used primarily for recreational, park, conservation or other open space uses, and shall be conveyed to the Town and accepted by it for park or open space use, or to a non-profit organization the principal purpose of which is the conservation of open space, or to a corporation or trust owned or to be owned by the owners of the dwelling units within the Multi-Family Residential complex. Notwithstanding the conveyance of such open space, the Multi-Family Residential complex shall continue to be responsible for the maintenance of such open space.

### 7.3.2 Site Plan Review:

Site Plan Review shall be applicable to a Multi-Family Residential Complex.

### 7.3.3 Accessory Uses.

1. Private garage for more than three automobiles.
2. Garages for the common use vehicles owned by the Multi-Family Residential Complex.
3. One single-story building to house snow removal, lawn, maintenance and recreational equipment.
4. Any and all other uses normal accessory, or incidental to a Multi-Family Residential Complex.

## 7.4 SUBSIDIARY APARTMENTS

### 7.4.1 General.

One subsidiary apartment may be located in a single family house located in a General Business or Central Business (GB or CB) district, and one or more subsidiary apartments may be located in a commercial building in a Planned Commercial, Highway Business, General Business, or Central Business (PC, HB, GB, or CB) district upon issuance of an occupancy permit by the Building Department and subject to compliance with the following requirements, provided that upon continued or repeated failure to comply, the Building Commissioner may revoke the occupancy permit and require that the apartment be vacated, in addition to any other penalties that may apply.

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### **7.4.2 Conditions.**

1. Subsidiary apartments shall be located above the ground floor, shall have a separate entrance, and not share stairs or hallways with commercial uses, except that a fire escape or exit used only in emergencies may be available at all times to both.
2. Each subsidiary apartment shall have a bathroom with a tub or shower and a complete set of sanitary facilities, and no subsidiary apartment shall have more than one kitchen, one bedroom, or room customarily used for sleeping. Apartments shall not be combined, used for occupancy by more than two adults, or share the use of living, cooling, storage, or sanitary facilities.
3. Living quarters above the third floor shall be served by an elevator.
4. Every subsidiary apartment shall have two separate exits, one of which may be an emergency fire exit available at all times.
5. All subsidiary apartments shall comply fully with the applicable safety, light, air, heat, and space requirements of the Building Code.
6. Subsidiary apartments in Planned Commercial, Highway Business, and General Business districts shall provide at least one parking space per apartment. In Central Business district, no additional parking shall be required, but any occupant or prospective occupant of a subsidiary apartment without owns or has the use of a motor vehicle shall prove to the satisfaction of the zoning enforcement official the permanent availability of legal off-street parking or garage space without the use of public parking facilities, other than by permit, and failure to comply or repeated parking illegally on street, or in a public parking facility shall be grounds for revocation of occupancy permit.
7. Subsidiary apartments in the Highway Business (HB) District shall only be allowed upon issuance of a Special Permit by the Board of Appeals. Projects in the HB District with a minimum of twelve (12) subsidiary apartments shall have a maximum lot coverage of 80% and a maximum floor area ratio of 1.0.

## **7.5 ASSISTED LIVING FACILITIES**

### **7.5.1 General.**

An Assisted Living Residence may be allowed by Special Permit from the Zoning Board of Appeals upon determination that all of the conditions set forth below have been met. The following conditions are the minimum which must be met for the approval of a Special Permit for an Assisted Living Residence. This list is not intended to exclude the imposition of any additional conditions by the Zoning Board of Appeals or the Planning Board under Site Plan Review.

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### 7.5.2 Conditions – Infrastructure

1. **Water and Sewer:** The Assisted Living Residence site shall be connected to municipal water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
2. **Roads:** All traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
3. **Refuse:** Collection and disposal of all refuse shall be provided privately.
4. **Utilities:** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
5. **Safety:** The Assisted Living Residence shall have an integrated emergency call, security, telephone and other communication system to provide monitoring for its residents and direct line connection to the Dedham Fire Department.

### 7.5.3 Dimensional Regulations: See Table 6.

Table 6 - Assisted Living Dimensional Requirements	
Minimum Lot Area	4 acres
Minimum Lot Area per Dwelling Unit	4,000 square feet
Minimum Lot Frontage	125 feet
Maximum Lot Coverage	15 percent
Maximum Number of Units in an ALR Facility	115 units
Minimum Yard	100 feet
Proximity to Existing Residence	100 feet (if an existing residence is within 25 feet of the ALR lot line, an additional 25 foot distance is required)
Maximum Height	40 feet or 3 floors, whichever is less

### 7.5.4 Landscaping Requirements.

The side and rear lot lines shall be screened by a 10 foot width of dense natural growth.

1. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot height landscape screen or fence and through the use of appropriate landscaping.
2. All parking areas shall be screened from adjoining streets and abutting properties.

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### 7.5.5 Buffer Zone.

The fifty (50) feet closest to the abutting lot line shall be landscaped as follows:

1. **Materials:** Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section.
2. **Height:** Natural screening shall be at least ten (10) feet in height when planted. Height shall be measured from the finished grade.
3. **Maintenance:** All required plant material shall be maintained by the owner in healthy condition and replaced with new plantings whenever necessary to insure continued compliance with screening requirements.

### 7.5.6 Accessory Uses.

1. Garages for common use vehicles owned by the operating entity.
2. One single-story building to house snow removal, lawn maintenance, and recreational equipment. Such building shall not exceed 3,000 square feet.
3. Outdoor swimming pools, tennis and other recreational courts, playing fields, putting greens, bocce courts, gardens, residential greenhouses of not more than two hundred and fifty (250) square feet, covered and uncovered sitting areas.
4. Any and all other uses normal accessory, or incidental to an ALR. Accessory uses shall comply with principal density, dimensional, and buffering requirements.

### 7.5.7 Non-Residential Uses.

The operator of an Assisted Living Residence may also provide optional services on the site including but not limited to local transportation, barber/beauty services, sundries for personal consumption, and other amenities, provided

1. Such uses serve the residents and employees of the ALR only;
2. Such uses are conducted within and may be entered only from within a principal building;
3. There is no external evidence of such uses visible beyond the development site; and
4. The appearance and character of the commercial uses are compatible with a residential development.

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### **7.6 Senior Campus District**

#### **7.6.1 Character and Purpose.**

The Senior Campus (SC) District is intended to promote the well-planned development of large parcels of land to serve the housing and health care needs of senior citizens, to serve the educational needs of children, and to foster intergenerational relationships and social interaction among different age groups in the SC District via shared or interconnected facilities and common areas, with emphasis upon (i) the continuum of care required as people age, (ii) the availability of supportive services to different types of senior housing and accommodations, (iii) the creation of an appropriate educational environment for children, (iv) the preservation of open space and natural features, and (v) the protection of any adjoining single-family residential areas by increased buffer zones and similar measures.

#### **7.6.2 Establishment.**

To be eligible for inclusion in the Senior Campus District (the SC District), a parcel or parcels of land must be (i) located in a Single Residence A District, and (ii) at the time that the land in question is included in or submitted to the SC District contain at least 100 acres of land which are either contiguous or separated only by public or private streets. A separate vote of Town Meeting shall be required to place such an area in the SC District.

#### **7.6.3 Applicability.**

The provisions of the SC District shall apply to all land within the SC District. Any matter not addressed herein shall be governed by the Single Residence A District provisions of the Dedham Zoning By-Law. To the extent of any inconsistency between the provisions of the SC District and any other provisions of the Dedham Zoning By- Law, the provision of the SC District shall govern. Uses allowed by right in the Single Residence A District shall also be allowed by right in the SC District.

#### **7.6.4 Use Regulations.**

1. Except as provided herein, all uses allowed by right in the Single Residence A District shall be allowed by right in the SC District and all uses allowed by special permit in the Single Residence A District shall be allowed by special permit in the SC District. Without limiting the foregoing, schools (owned or leased by a religious sect or denomination, or by a nonprofit educational corporation) and child care facilities shall be allowed by right in the SC District.
2. Senior Supportive Housing shall be allowed by special permit in the SC District in accordance with Section 9.3.
3. Where a use in the SC District requires a special permit, the Planning Board shall be the Special Permit Granting Authority.

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4. The following accessory uses shall be allowed in the SC District if the principal use is allowed by right or by Special Permit as applicable:
  - a. Garages for common use vehicles owned by the operating entity and related to campus uses.
  - b. Single-story building or buildings to house snow removal, lawn maintenance, and recreational equipment.
  - c. Fitness facilities including, without limitation, outdoor swimming pools, tennis and other recreational courts, playing fields, walking paths, putting greens, bocce courts, gardens, recreational greenhouses, covered and uncovered sitting areas, and similar facilities.
  - d. The operation of any facility permitted in the SC District may also provide optional and/or supportive services on the campus including, but not limited to, local transportation, food and meals, nursing care, personal care, home health care, barber-beauty services, banking services, coffee shop, cafeteria, medical services, sale of sundries for personal consumption and other similar amenities and supportive services, provided:
    - i. Such services are available primarily to the residents, students, faculty, users, and employees of the campus; and
    - ii. The appearance and character of any accessory uses are compatible with a senior campus and/or educational development.
  - e. Any and all uses reasonably accessory or incidental to the principal uses. Accessory uses shall comply with the density, dimensional, and buffering requirements applicable to the principal use.
5. Section 8.1 shall not be applicable if the work in the SC District is subject to an Order of Conditions issued by the Conservation Commission.
6. Section 6.5.2 shall not be applicable for any retaining walls in the SC District unless such retaining walls are located within the first one hundred (100) feet of the Buffer Zone, measured from the property line of an adjacent parcel outside the SC District.
7. The following infrastructure requirements shall apply to Senior Supportive Housing and to the Uses described in A.6 (Assisted Living Residence) and B.6 (e.g., hospital, nursing, or convalescent home) of the Use Regulation Table (Table 1), and shall supersede any contrary or inconsistent requirements in the Zoning By-law including, but not limited to, the requirements set forth in 6.2 and 7.5.

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- a. **Water and Sewer...:** The site shall be connected to municipal or Massachusetts Water Resources Authority water and sewer systems. All costs associated with the extension of these services shall be borne by the developer or applicant.
- b. **Roads:** Roads and all traveled ways shall be privately maintained with respect to roadway upkeep and snow and ice removal.
- c. **Refuse and Recycling:** Collection and disposal of all refuse shall be provided privately.
- d. **Utilities:** All utilities on the site shall be installed underground pursuant to approved methods of installation and construction.
- e. **Safety:** A nursing or convalescent home, non-acute chronic disease hospital or Assisted Living Residence (but not Senior Supportive Housing) each shall have a personal emergency response system. In addition, the campus shall be equipped with fire detection systems which shall be monitored in at least one central location.
- f. When required by the Department of Health regulations, building code, or local authorities, a direct line connection to the Dedham Fire Department shall be provided.

### 7.6.5 Dimensional and Related Controls.

The following dimensional and related controls shall govern within the SC District for the uses listed in the Table of Dimensional Requirements for the Senior Campus District. Within the SC District, these requirements shall supersede any contrary or inconsistent requirements in the Zoning By-Law including, but not limited to, the requirements set forth in Sections 4.0, 6.2 and 7.5, and Table 6 (Assisted Living Table). Except as set forth below, the dimensional controls set forth in the Table of Dimensional Requirements (Table 2) shall continue to apply to all other uses allowed in the SRA District.

**Table 7**  
**Table of Dimensional Requirements for the Senior Campus Housing District**

<b>USE</b>	<b>ASSISTED LIVING RESIDENCE</b>	<b>NURSING OR CONVALESCENT HOME/HOSPITAL</b>	<b>SENIOR SUPPORTIVE HOUSING</b>	<b>EDUCATIONAL OR RELIGIOUS INSTITUTIONAL USE/CHARITABLE OR PHILANTHROPIC INSTITUTIONAL USE/CHILD CARE FACILITY</b>
Minimum Frontage (ft)	50	50	50	50
Minimum Lot Area Acres/Square Feet	4 acres <sup>1</sup>	4 acres <sup>1</sup>	4 acres <sup>1</sup>	40,000 <sup>1</sup>
Minimum Lot Area Per Dwelling Unit (Square Feet)	4,000	0	4,000	0
Minimum Lot Width (feet)	50	50	50	50
Minimum Front Yard (feet)	0	0	0	0
Minimum Side Yard (feet) <i>See Footnote 2</i>	0	0	0	0
Detached Accessory Building	0	0	0	0
Minimum Rear Yard (feet)	0	0	0	0
Maximum Lot Coverage (%)	15	15	15	30
Space Between Buildings (feet)	0	0	0	0
Maximum Height (feet)	40 <sup>3</sup>	40 <sup>3</sup>	40 <sup>3</sup>	42 <sup>3</sup>
Proximity to Adjoining Residential District (feet)	200 <sup>4</sup>	200 <sup>4</sup>	200 <sup>4</sup>	200 <sup>4</sup>
Maximum Number of Units	N/A	N/A	N/A	N/A

See Footnote Explanations in Section 7.6.5

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### **Notes to Table:**

1. More than one principal building shall be allowed on the same lot, whether characterized as residential or non-residential.
2. Buildings may be connected across internal lot lines within the SC District.
3. Height shall be measured from the average finished grade around the building at the foundation to the high point of the eave line of a hip, pitched, gable or gambrel roof, or to the high point on a flat roof. There shall be no human occupancy above the eave line. The height of an exposed parking level beneath a building shall be deducted from the height of a building in determining the height of such building, but only if the exposed parking level is not visible from a single-family residence situated outside the SC District at the time the land in question is included in or submitted to the SC District. For purposes of this Section, buildings or sections of buildings divided by a firewall shall be considered separate buildings and the height shall be separately measured. Height may increase to 55 feet if the structure is either (a) situated more than 600 feet from a single family residence situated outside the SC District at the time the land in question is included in or submitted to the SC District, or (b) separated from such a single family residence by a river or a major highway at the time the land in question is included in or submitted to the SC District. The provisions of Section 4.2.3 shall apply to all buildings the SC District.
4. The 200-foot setback of principal structures shall be measured from the nearest property line of a parcel situated outside the SC District at the time the land in question is included in or submitted to the SC District, provided that there shall be no setback requirement if said parcel is separated from the SC District by a river or a major highway at the time the land in question is included in or submitted to the SC District. The first 100 feet of the 200-foot setback area shall be left in its natural state; if not already densely planted, the first 50 feet of the 200-foot setback area from the nearest property line of the parcel must be landscaped as described in Section 2 (Landscaping Requirements) below. The second 100 feet of the 200-foot setback area from the nearest property line of the parcel shall not contain any principal buildings; provided that such second 100 feet may contain accessory uses, driveways and surface parking.

### **7.6.6 Landscaping Requirements.**

1. All outdoor refuse collection and loading areas shall be screened from adjoining streets and abutting properties by a visually impermeable six foot high landscape screen or fence or through use of appropriate landscaping, unless enclosed by building walls.
2. All parking areas shall be screened from adjoining streets and abutting properties.
3. Buffer Zone: Unless already densely planted in its natural state, the 50 feet closes to the lot line of any residential district outside the SC District shall be landscaped as follows:

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- a. **Materials...** Plant materials characterized by dense growth which will form an effective year-round screen shall be planted to form the screen. Screening shall consist of natural materials. To the extent practical, existing trees and vegetation shall be retained and used to satisfy the provisions of this section.
- b. **Height...** Natural screening shall be at least ten (10) feet in height when planted. Height shall be measured from finished grade.
- c. **Maintenance...** All required plant material shall be maintained by the owners in healthy condition and replaced with new plantings whenever necessary to insure continual compliance with screening requirements.

### 7.6.7 Off-Street Parking and Related Requirements.

Within the SC District, development shall comply with the Off-Street Parking Requirements of Section 5.1 and the Landscaping and Screening Requirements of Section 5.2 of the Zoning By-law, subject to the following modifications and exceptions.

#### 1. General Regulations

There shall be no separate Parking Plan Review requirement. The adequacy of parking arrangements shall be reviewed by the Planning Board as part of Site Plan Review.

#### 2. Parking Lot Design

##### a. Design Standards

Lots for three hundred (300) or more parking spaces shall have more than one (1) two-way access, located so as to serve different parts of the parking lot.

##### b. Construction Standards

All areas to be used for parking, driveways, or aisles, access ways to streets open to public travel, pedestrian walks, and safety islands shall have a pavement, designed and maintained to provide a firm surface, safe traction, and clean walking conditions in wet, freezing, or other inclement weather. Except for lots designed to serve five or fewer cars, for which compacted water-bound macadam may be used, pavement shall consist of bituminous concrete, 2.5 inches deep after rolling, or of an equivalent cement, concrete brick, masonry, or other permanent all weather material laid on a well-rolled and compacted granular base and a firm gravel sub-base from which all organic and unstable materials have been removed. Paved areas shall be graded so as to avoid ponding and to channel surface water to catch basins or to landscaped unpaved areas and to avoid excessive surface drainage to the streets. Parking and maneuvering spaces shall have grades between 1 and 5 percent whenever possible. Parking spaces and driveways shall be marked by white striping, and pedestrian paths, fire lanes, and safety zones shall be marked by yellow striping, four (4) inches wide and/or by curbing, barriers, and retaining walls. Large parking lots designed for 300 cars or more shall be laid out in several areas separated by landscaping, fencing, or space buffers. Pavement markings and

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directional signs shall be used for circulation guidance and safety. Surface runoff shall not have to travel more than 150 ft. to reach a catch basin or landscaped area, and contaminated surface runoff shall not be discharged directly into a wetland or a water body, except with specific approval of the Conservation Commission. All artificial lighting shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or other property. All parking facilities which are used at night shall be lighted as evenly and fully as possible within the maximum wattage limits established by the State Building Code.

### c. **Location of Parking Area**

Parking serving any building in the SC District may be located anywhere within the SC District.

### d. **Parking Under Buildings**

In order to preserve open space and to decrease the amount of surface parking, parking under buildings shall be allowed in the SC District.

## 3. **Landscaping and Screening**

In order to encourage the preservation of existing vegetation and natural features within the SC District, large screening buffers between the SC District and Adjoining residential districts, and the clustering and compact development of buildings and parking facilities within the SC District, the following shall apply:

### a. **Landscaped Areas (Frontage Strip)**

Except for access driveways, only landscaping shall be allowed in the landscaped buffer zone which extends across the entire frontage of the lot on a street or highway and for a depth of 10 feet in the SC District.

### b. **Landscaped Areas (Lot Interior)**

Trees and shrubs shall be preserved or planted in the interior of the parking area (defined as the space enclosing the parking spaces, maneuvering areas, and aisles) so that such landscaped space shall comprise not less than five percent (5%) of the paved parking area. The five percent (5%) interior landscaped area shall not include the landscaping provided in the frontage strip. All other provisions of Section 5.2.4.3 shall apply.

### c. **Landscaped Areas (Perimeter)**

Subject to the setback requirement in Section 7.6.5.1, Footnote 4 above, there shall be no setback requirement from internal lot lines for parking areas within the SC District.

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**d. Planting Requirements**

Required trees shall have a minimum caliper size of 3 inches at the time of planting, as measured by the America Nursery and Landscape Association ANSI Z60.1 Standard (Nursery Stock). Shrubs to be planted shall be of at least 2 to 2.5 feet in height.

**4. Required Parking**

Within the SC District, the number of required parking spaces shall be as follows:

<b>Residential and Residential Care Uses</b>	
One, two, or multi-family residence	1.5 parking spaces per dwelling unit (2 spaces minimum)
Hospitals, nursing or convalescent homes, living care, or other quasi-medical and institutional facilities providing residential care, including group homes	1 parking space per two persons rated or design capacity
Assisted living Residence	0.3 parking spaces per dwelling unit; plus, 1 parking space per average number of employees on the largest work shift
Senior Supportive Housing	1.0 parking space per dwelling unit

<b>Institutional Uses</b>	
Child Care Facilities	One (1) space for every teacher and employee, one (1) space for visitors, plus one (1) space for every six children based on the largest enrollment on the site at any given time; the Planning Board may allow a reduction in the number of required spaces for the purposes of improving site utilization, but not to increase permitted enrollment if the number of spaces is adequate to provide one space for every teacher and employee, and to support, without detriment to the neighborhood, drop-off and pick-up areas for the maximum number of children arriving and departing the facility at any one time in accordance with a parking and traffic management plan

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	approved by the Planning Board. In the case of a parking and management plan, the Planning Board shall have the authority to monitor compliance and to amend the plan as necessary to achieve compliance with the standards set forth in the plan.
Elementary and middle schools, and other educational institutions for children under 16 years of age	1.0 parking space per 16 children design or licensed capacity, but not less than 5 spaces. The Planning Board may reduce the parking requirements to reflect the shared nature and off-peak usage of parking areas on the campus. There shall be no separate, additional parking spaces required as a result of or in connection with other uses, including, without limitation, a school gymnasium, auditorium, playing fields, or similar areas for large gatherings.

**5. Common Driveways**

Within the SC District, there shall be no limit on the number of lots meeting the street frontage requirement which may share an access driveway.

**7.6.8 Site Plan Review in SC District**

Within the SC District, the following requirements shall supersede any contrary or inconsistent requirements of the Zoning By-law, including, without limitation, the requirements set forth in Sections 5.1.2, 5.1.3, 9.4, and 9.5; further, a project within the SC District, or any component thereof, shall not be construed as a Major Non-Residential Project under Section 9.4 of the Zoning By-law.

**1. Purpose of Site Plan Review.**

For the purpose of insuring that there shall be no development in the SC District except in conformity with the provisions of this section, in the SC district, no structure shall be constructed, reconstructed, or used, and no improvements to any lot shall be made unless such development is in conformity with a site plan which has been reviewed by the Planning Board in accordance with the provisions hereof. The purpose of this review is to protect the health, safety, convenience, and general welfare of the Town by providing for a review of plans for uses and structures in the SC District which may have impacts on traffic, municipal and public services and utilities, environmental quality, community economics and community values in the Town. One or two family dwellings, farms on parcels of more than five (5) acres, and land or structures used for religious purposes or educational purposes and owned by or leased to the Commonwealth or any of its agencies, subdivisions, or bodies politic, or by a religious sect of denomination, or by a nonprofit

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educational corporation, or the use of land or structures for the primary, accessory, or incidental purpose of operating a child care facility shall not be subject to the provisions of this Section. The following site plan review includes and incorporates parking plan review.

### 2. Site Plan Requirements.

Site plans shall be prepared by a registered architect, surveyor, or professional engineer. Individual site plans may be prepared and amended from time to time for each lot in the SC District. Site plans shall show:

1. The boundaries of the parcel or parcels for which the applicant is seeking site plan review. Lot numbers, dimensions of lots in feet, size of lots in square feet, and the width of the abutting street and ways shall be shown. The plans shall include a scale (which may not be greater than one inch equals 50 feet), north arrow, legend, name of record owners of parcel or parcels for which approval is sought, and names of owners of all abutting land as appearing on the current tax assessor's list;
2. The location of existing wetlands, water bodies, wells, and 100-year flood plain elevations with the area subject to review;
3. The location of existing and proposed structures, as well as the distance between those structures and the lot lines and the distance between buildings on the same lot. Also, the percent of existing and proposed building lot coverage and the average finished grade of each proposed building the base of each such building;
4. All principal landscape features, such as fences, walks, walls, exterior lighting, and planting areas;
5. All easements within and abutting the parcel or parcels for which approval is being sought;
6. The location and number of all parking and loading spaces;
7. The location of all driveway openings and driveways, as well as the proposed traffic circulation patterns within the parcel or parcels for which approval is being sought;
8. Provision for and the location of all facilities for sewages, drainage, electric, and water service.
9. Topography indicating existing and proposed contours at intervals of not more than two (2) feet;
10. Location and intensity of outdoor lighting systems;
11. Location, type, and size of signs;

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12. A written statement by the applicant that shall disclose:
  - i. A description of the proposed uses to be located on the site;
  - ii. The total land area of the site, and the total floor area and ground coverage of each proposed building and structure;
  - iii. General summary of existing and proposed easements or other burdens now existing or to be placed on the property;
  - iv. Method of handling proposed solid waste disposal;
  - v. The applicant's calculation of requirements and evaluation of the availability and adequacy of off-site public facilities including sewer, water, drainage, and streets;
  - vi. A description of any problems of drainage or topography, or a representation that, in the opinion of the applicant, there are none;
  - vii. An estimate of the time period required for completion of the development shown on the site plan.
  
13. A traffic impact assessment, the purpose of which shall be to document the existing traffic volumes, capacities, controls, road condition, hazards, and level of service on the site and the streets adjacent to the site; to project changes due to the site development and to the background traffic growth or decline; to assess the projected impact of such changes; and to propose and to discuss management and structural improvements and mitigation measures, both on and off the site.
  
14. An environmental impact assessment, which shall include a substantiated assessment of the existing and expected post-development environmental conditions, including air and water quality, pollution of ground water and air, noise levels, harmful or noxious emissions, damage or threat to wetlands and flood plain, plants, and animals, and the visual environment. The potential for erosion or sedimentation and the proposed or existing control measures shall be discussed. Glare, smoke, odors, vibration, electromagnetic radiation, effects on groundwater supply, streams, water bodies, unique or valuable vista, symbiotic ecological relationships of animal and plant communities, and compatibility of the project with the existing and future natural and manmade environment shall be considered, and any expected changes and preventive or corrective actions shall be discussed. Waste disposal, snow removal, maintenance of landscaped and paved areas, off-site environmental impacts, and drainage shall be discussed, and pre- and post-development drainage calculations for 10 and 100 year storm shall be included. Such an assessment may include similar materials filed by the applicant with a Notice of Intent to the Conservation Commission or an Environmental Notification Form and/or an Environmental Impact Report under the Massachusetts Environmental Policy Act.

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15. A community and fiscal impact assessment, which shall consider the existing and projected demand for public or municipal services (such as schools and cultural institutions, fire and police, medical and social services, water and sewer, waste disposal, administrative and inspection services), historical and visual compatibility, revenues to the town, voluntary contributions and services, and the effects of the project failing, not living up to the projections, or having to modify structures and uses for economic reasons. The assessment shall also consider fiscal or economic impacts, and compatibility with the town Master Plan and other plans and development policies, and shall explain and evaluate any zoning changes or variances sought or obtained.

### 3. Procedure.

Any person desiring review of a site plan under this Section shall submit eight (8) copies of said plan to the Planning Board. Upon receipt of all required items, the Planning Board shall distribute copies thereof to the Conservation Commission, Chief of Police, Chief of Fire Department, Public Works Commissioner, Building Commissioner, Design Review Advisory Board, Board of Selectmen, and other boards or officials believed by the Planning Board to be affected. 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 on 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 that agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will have no adverse impact.

The Planning Board shall not render a decision on said application until it has received and considered all reports requested from Town departments and board, 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.

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, shall render its decision within 90 days of the close of said hearing, and shall file its decision in accordance with G.L. Chapter 40A, Section 9. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. Chapter 40A, Sections 9 and 11. All costs of the notice requirements shall be at the expense of the applicant. In the aspects not covered by this By-law, the procedure for review and approval of site plans shall be as provided in General Laws, Chapter 40A for Special Permits, with the Planning Board being the Special Permit Granting Authority. The application for Special Permit(s) and the application for site plan review may be one application, shall be submitted at the same time, and shall be reviewed by town boards, noticed and heard at the same public hearing following the

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procedures set forth herein. The Planning Board shall issue one written decision addressing compliance with both the Special Permit criteria in Section 9.3.2 and the criteria under Section 7.6.7(8) herein.

### 4. **Site Plan Fee.**

The Planning Board shall adopt and may from time to time revise by vote at a duly-posted meeting its processing, filing, and consultant review fees for site plan reviews in this District. The cost of consultant review and inspections shall be borne by the applicant, who shall be billed for costs in excess of the initial review fee, and shall be refunded any part of the fee not used, together with any interest accrued thereon. The schedule of Planning Board fees shall be available at the offices of the Town Clerk and the Planning Board.

### 5. **Approved Plan Prerequisite to Issuance of Building Permit.**

No building permit shall be issued under this Section until a final site plan, or amicable components thereof, have been approved or deemed to have been approved by the Planning Board.

### 6. **Expiration of Approval Prior to Commencement of Development.**

Any approval of a site plan which has been granted pursuant to this Section shall lapse if initial construction of a development which has been approved by the Planning Board has not commenced, except for good cause, within twenty-four (24) months from the date of approval of the site plan and, in such case, the approval shall be deemed expired and the building inspector shall forthwith take the necessary steps to enforce this Subsection; provided, however, the Planning Board may further extend the expiration of such approval by an additional twenty-four (24) months for good cause. If initial construction timely commences for a project, approval of the site plan for the entire project shall not thereafter lapse or be deemed expired and the building permits shall not be revoked, notwithstanding that the construction of the project is in phases or does not continue uninterrupted through completion.

### 7. **Modifications to Approved Site Plans.**

If an owner wishes to modify an approved site plan, he may submit a revised site plan to the Planning Board for review and approval, and the same standards and procedures applicable to the review of the original site plan shall apply to such revised site plan; provided, however, that the Planning Director may approve minor modifications to an approved site plan or determine that the change is so significant that review by the Planning Board is required.

### 8. **Standards and Criteria for Review and Final Action.**

In acting under this Section, the Planning Board shall review a site plan to ensure that the public health, safety, and welfare are best served in light of the following criteria:

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- a. The provisions for vehicular loading and unloading, parking, and for vehicular circulation on the site and onto adjacent public streets and ways will promote safety and safe traffic control and flow;
- b. The bulk, location, density, setback, and height of proposed buildings and structures, and paved areas and the proposed uses thereof are in conformity with the requirements of this Section 7.6 and of the Zoning By-law.
- c. The provisions for on-site landscaping will provide a visual buffer to neighboring properties;
- d. Provisions for pedestrian ways will provide safe and convenient access and egress (1) within the area of the site plan review, and (2) to the boundary of such area in light of existing or proposed pedestrian ways beyond such boundary;
- e. The site plan will provide for adequate and proper drainage, sewage disposal, solid waste disposal, and recycling, and water supply;
- f. The provisions for exterior lighting will promote safety to motorists traveling on adjacent public streets;
- g. The proposed development will provide adequate access to the site, or to the buildings on the site, for emergency vehicles;
- h. Other environmental impacts will be adequately mitigated; and
- i. Impacts upon municipal services will be adequately addressed.

### 9. Findings and Decisions.

All findings of the Planning Board shall be in writing, and its determination with respect to site plans shall either be (a) that the site plan conforms to the criteria set forth above, or (b) that the site plan does not conform and specifying with particularity how it does not conform and how it may be modified to conform. The foregoing procedure is intended to afford the Planning Board the opportunity to assure that the dimensional and other requirements of the Zoning By-law have been met and to impose reasonable conditions to mitigate anticipated impacts. It is presumed that a site plan submitted to the Planning Board which complies in all respects with the dimensional, use, and other requirements of this Section will be approved by the Planning Board or will be approved only with such reasonable and specific suggested modifications or conditions specified by the Planning Board which will cause the site plan to conform with the criteria set forth above. As part of this site plan review procedure, the Planning Board may modify the design, landscaping, and screening requirements for parking lots set forth in Section 5.1 and 5.2 of the Zoning By-law if deemed consistent with the objectives and overall appearance of the campus. The Planning Board may not modify the setback requirements from adjoining residential districts required by Section 7.6.5.1, Footnote 4 above.

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### 10. Appeal.

Any person aggrieved by any action of the Planning Board under this Section 7.6.7 (and under Section 9.3 if a Special Permit is being requested at the same time) shall be entitled to appeal therefrom to a court of competent jurisdiction within twenty (20) days following the Planning Board's filing of its decision with the Town Clerk pursuant to General Laws, Chapter 40A, Section 17.

### 7.7 Special Residential Regulations

An accessory dwelling unit may be created by Special Permit from the Board of Appeals in Single Residence A and Single Residence B upon the determination that all of the following conditions have been met:

- a. No more than one accessory dwelling unit shall be allowed per lot.
- b. The lot on which the dwelling unit is located contains at least ten percent greater land area than required by the dimensional regulations for its district.
- c. The proposed dwelling unit is accessory to the principal residence and either the proposed dwelling unit or the principal residence is occupied by the owner of the lot on which the dwelling unit is located.
- d. The proposed dwelling unit shall be designed for two persons and shall not be occupied by more than two persons.
- e. The building in which the proposed dwelling unit is to be located existed on the date of the adoption of this subsection of the By-law.
- f. The Special Permit, if granted, shall clearly state that it is not transferable to a purchaser of the lot, and shall require, as a condition of its validity, that a certified copy of the permit be filed with the Registry of Deeds by the applicant.
- g. Exterior alterations required to meet applicable building, fire, or health codes are permitted and must be designed to conform to the architectural integrity of the structure and the residential character of the neighborhood.
- h. The accessory dwelling unit created shall be a minimum of 350 square feet and a maximum of 1,000 square feet or 33 percent of the total building size in the dwelling structure, whichever is less.
- i. One parking space shall be provided and designated for each accessory apartment established in addition to the prior requirements for the property. Such parking space shall be created in conformance with all applicable dimensional requirements and screened appropriately from abutting properties.

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- j. Alterations to the building dwelling unit shall be designed to be compatible with the surrounding residential district, and shall not create a second entrance in the front of the building.
- k. The Board shall review and approve the septic system on site as part of the approval process.
- l. Any Special Permit granted pursuant to this section shall require that the applicant request certification of the permit every three years, and failure to request such certification shall cause the permit to lapse.

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### SECTION 8.0 OVERLAY DISTRICTS

#### 8.1 FLOOD PLAIN OVERLAY DISTRICT

##### 8.1.1 Purpose.

The purpose of the Flood Plain Overlay District (FPOD) is to preserve and maintain the ground water table to protect the public health and safety of persons and property against the hazards of flood or ground water inundation for the protection of the community against the cost which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods; and to conserve natural conditions, resources, wild life and open spaces for the education, recreation and general welfare of the public.

##### 8.1.2 Location.

1. The Flood Plain Overlay District is herein established as an overlay district. The District includes all special flood hazard areas designated in the Dedham Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated June 12, 2009, as Zone A, AE, AH, AO, AR, A99, V, VE, and X as depicted on map panels 0044E, 0182E, and 0184E, and the FEMA Flood Boundary and Floodway Map dated August 13, 1983, both maps which indicate the 100-year regulatory floodplain, and both which may be amended from time to time. 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 Flood Insurance study booklet dated September 6, 1974. The FIRM Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Department, and Conservation Commission.
2. For the purpose of work regulated under this By-Law the 100-year regulatory floodplain of the Neponset River is hereby set at elevation 47.0 USGS NGVD. This elevation is based on field observations during major rainfall events of 1998 and 1999, and is approximately 2.0 feet higher than the 100-year regulatory floodplain shown on the Dedham Flood Insurance Rate Map herein referenced in section 8.1.2.1. above. This section shall remain in effect until such time that a new floodplain study of the Neponset River can be completed and accepted by FEMA.

##### 8.1.3 Applicability.

The underlying zoning district's requirements governing permitted usage and setbacks apply to areas within the FPOD except as further restricted by this section.

##### 8.1.4 Reference to Existing Regulations.

The FPOD is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

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1. Section of the Massachusetts State Building code, which addresses floodplain and coastal high hazard areas (currently 780 CMR 2101.0, Flood Resistant Construction);
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetland Restriction, DEP (currently 302 CMR 6.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

### 8.1.5 Procedures.

Any work within a FPOD shall require a Special Permit issued by the Board of Appeals. Notice of each such Flood Plain building permit application shall be given to the Town Public Works Department, to the Town Administrator, the Board of Selectmen, the Board of Health, the Planning Board, and the Conservation Commission, as well as all other parties deemed necessary by the Board of Appeals.

1. The Board of Appeals, in hearing such application, shall consider, in addition to any other factors said Board deems pertinent, the following aspects with respect to flooding and FPOD zoning provisions; that any such building or structure shall be designed, placed, and constructed to offer a minimum obstruction of the flow of water; and that it shall be firmly anchored to prevent floating away.
2. If any land in the FPOD is proven to the satisfaction of the Board of Appeals after the question has been referred to the Planning Board, the Conservation Commission, the Board of Health, and the Board of Selectmen, and reported on by all three boards or the lapse of thirty (30) days from the date of referral without a report, as being in fact not subject to flooding or not unsuitable because of drainage conditions for any use which would otherwise be permitted if such land were not, by operation of this section, in the FPOD, and that the use of such land for any such use will not interfere with the general purposes for which FPOD have been established, and will not be detrimental to the public health, safety or welfare, the Board of Appeals may, after a public hearing with due notice, issue a permit for any such use.
3. If an applicant feels that he has sufficient evidence to prove that an area identified as floodplain by FEMA is not subject to flooding, there are formal procedures which allow FEMA to review such individual cases and, if appropriate, remove the area in question from the floodplain.

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### 8.1.6 Base Flood Elevation Data.

Base flood elevation data is required for subdivision proposals or other developments greater than 10 lots or 2.5 acres, whichever is lesser, within unnumbered A zones.

### 8.1.7 Watercourse Alteration and Relocation.

In cases where a project will alter or relocate a watercourse, the following must be notified:

1. Conservation Commissioner of the City of Boston  
Town of Canton  
Town of Westwood  
Town of Needham
2. NFIP State Coordinator  
Massachusetts Office of Water Resources  
100 First Avenue  
Charlestown, MA 02129-2043
3. NFIP Program Specialist  
FEMA Region 1, Rm. 462  
J. W. McCormack Post Office & Courthouse  
Boston, MA 02109

### 8.1.8 Review of all Project Proposals.

All projects shall be reviewed to assure the following:

1. Such proposals minimize flood damage.
2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage.
3. Adequate drainage is provided to reduce exposure to flood hazards.

### 8.1.9 Permitted Uses.

The following activities are permitted within the FPOD upon receipt of a building permit, where required:

1. Development for recreational purposes, including but not limited to: walking trails and bicycle paths, athletic fields, parks, beaches, and boat landings.

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2. Horticultural and Agricultural purposes, including those associated with commercial farming.
3. Construction of a structure provided that the following criteria are met:
  - a. Structure shall not be utilized for residential purposes.
  - b. The lowest habitable level of the structure shall be located at least one foot above the 100 year flood elevation for the site as noted on the FEMA map referenced above.
  - c. The structure shall not impede the flow of flood waters.
  - d. Volumetric flood compensation at a ratio of 2:1 for every cubic foot of fill, structure, or other obstructions placed within the Flood Plain District. Calculations prepared by a Professional Engineer licensed by the Commonwealth of Massachusetts shall be submitted to the Board of Appeals as part of the permit application.
  - e. Any structure shall have direct pedestrian access to uplands area located outside of the FPOD. Such access shall be reviewed and approved by the Dedham Fire and Police Departments.
4. Any public works projects, including but not limited to: drainage, sewerage, or flood control project, including any associated structures.

### 8.1.10 Prohibited Uses.

The following uses are prohibited within a FPOD:

1. No land fill or dumping in any part of the District without proper volumetric compensation at a ratio of 2:1 for every cubic foot filled. This includes fill utilized for landscaping purposes.
2. No damming or relocation of any water course except as part of an overall drainage basin plan proposed by a public authority.
3. No permanent outside storage of materials or equipment. This includes storage of materials for retail sale.
4. No land, building, or structure shall be used for sustained human occupancy except dwellings theretofore lawfully existing, or land, buildings, or structures which comply with the provisions of this By-law.
5. Storage of fertilizers, chemicals, or manure associated with agricultural uses.
6. Motor vehicle storage, sales, or maintenance facilities. This includes parking areas designated for temporary storage of vehicles awaiting repairs or unregistered vehicles, whether stored or for sale.

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7. Underground storage tanks other than storage or septic tanks associated with a subsurface disposal system or sewerage pumping station.
8. Storage of any chemical or material classified as hazardous by Local, State, or Federal statutes and regulations.

### 8.1.11 Portion of Parcel within FPOD.

The above prohibitions will only apply to the portion of a parcel which is located within a FPOD, and not the entire parcel.

### 8.1.12 Federal Flood Insurance Program.

1. The Federal Flood Insurance Rate Map (FIRM) shall be, for purposes of administration of and conformity with the requirements of the Federal Flood Insurance Program, placed on file with the Town Clerk and Building Inspector, and shall be considered an appendix to this By-Law.
2. Until such time as a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A and 1-30 on the FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community or along the regulated section of the waterway.
3. Where a specific area or parcel of land appears on the FIRM as being within the 100 year flood elevation and an applicant, having satisfied the intent of Section 8.1.12.2 above, wishes to seek relief from the placement of the area or parcel within a flood hazard zone, or a release from the mandatory purchase of flood insurance, said applicant shall follow the procedures contained in a Letter of Map Amendment, Part 1920, National Flood Insurance Program Regulations.

## 8.2 AQUIFER PROTECTION OVERLAY DISTRICT

### 8.2.1 Purpose.

The purpose of the Aquifer Protection Overlay District is to protect the town's water resources by preserving and maintaining the quality and volume of existing and potential groundwater supply and groundwater recharge areas within the town.

### 8.2.2 Definitions.

- **Aquifer:** Geologic formation composed of rock or sand and gravel that contains significant amounts of potential recoverable potable water.

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- **Disposal:** The deposit, injection, dumping, spilling, leaking, incineration or placing of any material into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
- **Groundwater:** All the water found beneath the surface of the ground, including, without limitation, the slowly moving subsurface water present in aquifers and recharge areas.
- **Hazardous Wastes:** A waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause, or significantly contribute to an increase in serious or incapacitating illness, or pose a substantial present or potential hazard to human health, safety, or welfare, or to the environment when improperly treated, stored, transported, used, or disposed of, or otherwise managed. These wastes shall include, but not be limited to, any wastes which fall within the definitions of hazardous waste under the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, the Water Resources Commission, and the Division of Water Pollution Control under the provisions of Sections 27(8), 52, 57, and 58 of Chapter 21 of the General Laws.
- **Impervious Surface:** Material or structures on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
- **Leachable Wastes:** Waste materials including, without limitation, solid waste sewage, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.
- **Mining of Land:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
- **Pollutant:** Any element, or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter which is or may be discharged, drained, or otherwise introduced into any surface or subsurface disposal or conveyance system, or water of the Commonwealth of Massachusetts
- **Process Liquids:** Liquids used in cooling, cleaning, or in manufacturing processes which contact raw materials, products wastes, or machinery, and which, because of that contact, may contain pollutants.
- **Radioactive Materials:** Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 90 (Standards for Protection Against Radiation), or any other applicable provisions of federal or state law or regulation.
- **Recharge Areas:** Areas composed of permeable stratified sand and gravel and certain wetlands that collect precipitation or surface water and carry it to aquifers.

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- **Solid Wastes:** Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, combustion residues, demolition debris, construction wastes, and landscape refuse.
- **Toxic and Hazardous Materials:** Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual, or potential hazard to water supplies, environmental quality, or to human health if such substance or mixture was discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, pathogenic or infectious wastes, solvents, thinners, and other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency under any of the following laws: (1) Toxic Substances Control Act 15 U.S.C. s.2601 et seq.; (2) Federal Insecticide, Fungicide and Rodenticide Act 7 U.S.C. s.136 et seq.; (3) Resource Conservation and Recovery Act of 1976 42 U.S.C. s.6901 et seq. (4) Comprehensive Environmental Response, Compensation and Liability Act of 1980 49 U.S.C. s.9601 et seq., and (5) Federal Water Pollution Control Act 33 U.S.C. s.1251 et seq.

### 8.2.3 Location.

The locations of the Aquifer Protection Overlay Districts shall be as shown on the maps entitled Bridge Street Wellfield, Aquifer Protection District/Zone II Boundary, Dedham Massachusetts, and Fowl Meadow Aquifer, Aquifer Protection District/Zone II Boundary, Dedham, Massachusetts, both prepared by Weston and Sampson Engineers, Inc., which maps shall be deemed to be part of the Zoning Map of the Town of Dedham.

### 8.2.4 Scope of Authority.

The Aquifer Protection Overlay District shall be considered to be superimposed as an overlay district over any other district established by this By-Law. Any requirement of this Section 8.2. shall be in addition to the requirements of other sections of this By-Law.

### 8.2.5 Permitted Uses.

The following uses are permitted as of right within the Aquifer Protection Overlay District provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained and further provided that no permit is required for said use pursuant to (a) the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. 1342, (b) the Surface Water Discharge Permit Program established pursuant to M.G.L. c.21, s.43, or (c) the Ground Water Discharge Permit Program established pursuant to M.G.L. c.21, s.43:

1. Residential development, if permitted in the underlying district, provided that no more than twenty-five (25) percent of a building lot (including the portion of any new street abutting the lot to the center line of such street) is rendered impervious. Larger parking areas, if required, must be constructed with permeable paving. All dwellings in the Aquifer Protection Overlay District constructed after the effective date of this Section shall be

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connected to the public sewer system. The foregoing requirement shall apply, to single family dwellings only if (a) if a sewer has been installed in any street on which the subject lot has a frontage, and (b) if the sewer in such street extends as far as the subject lot.

2. Conservation of soil, water, plants and wildlife.
3. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted.
4. Foot, bicycle and/or horse paths and bridges.
5. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control supply and conservation structures and devices.
6. Maintenance and repair of any existing structure provided there is no increase in impermeable pavement.
7. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, provided that fertilizers, herbicides, pesticides, manure, and other leachable materials are not stored outdoors. If these activities do involve the use of fertilizers, herbicides, or pesticides, the town may require the installation of test wells to monitor for contamination by herbicides, pesticides, or fertilizers.

### 8.2.6 Prohibited Uses.

The following uses are prohibited:

1. Sanitary landfills and open dumps, as defined in 310 CMR 19.006.
2. Land application and storage of sludge and septage, as defined in 310 CMR 32.05.
3. Automobile graveyards and junkyards, as defined in M.G.L. c. 140B, s.1.
4. Storage of liquid petroleum products of any kind, except those incidental to (1) normal household use and outdoor maintenance or the heating of a structure, (2) waste oil retention facilities required by M.G.L. c.21, s. 52A, or (3) emergency generators required by statute, rule, or regulation; provided that such storage is either in a free-standing container within a building or in a free-standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity.
5. Facilities that generate, treat, store, or dispose of hazardous waste which is subject to M.G.L. c.21C and 310 CMR 30.00, including, without limitation, solid wastes, hazardous wastes, leachable wastes, chemical wastes, radioactive wastes, and waste oil, except for waste oil retention facilities required by M.G.L. c.21, s. 52A, that meet the standard set forth in 310 CMR 22.22(2)(a)(4).

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6. Manufacture, use, storage, or disposal of toxic or hazardous wastes or materials excluding normal household activities or those permitted by Special Permit hereunder.
7. Industrial or commercial uses which discharge process liquids on-site.
8. Storage of sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for the removal of snow or ice on roads.
9. Stockpiling and disposal of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads which has been removed from highways and streets located outside of the Aquifer Protection Overlay District.
10. Storage of pesticides, as defined in M.G.L. c.132B, s.2, unless such storage is within a building or structure that pursuant to a Special Permit, the Board of Appeals finds is so designed as to prevent an accidental release onto or below the land surface.
11. Storage of commercial fertilizers and soil conditioners, as defined in M.G.L. c.128, s.64, except in a structure with an impermeable cover and liner which pursuant to a Special Permit, the Board of Appeals finds is so designed to prevent the generation of contaminated run-off or leachate.
12. Stockpiling of animal manures, except in a structure with an impermeable cover and liner which pursuant to a Special Permit, the Board of Appeals finds is so designed to prevent the generation of contaminated run-off or leachate.
13. Onsite sewage disposal systems subject to 310 CMR 15.00 except as permitted for single family dwellings under subsection 8.2.5.1.
14. Except for excavations for the construction of building foundations or the installation of utility works, the removal of soil, loam, sand, gravel, or any other mineral substances within four (4) feet of the historical high ground or surface water level (as determined from monitoring wells and historical water table fluctuation data compiled by the USGS), unless the substances removed are deposited on site to achieve a final grading greater than four (4) feet above the historical high ground or surface water mark within forty-five (45) days of removal.
15. Land uses which result in the rendering impervious of more than twenty-five (25) percent of any lot (including the portion of any new street abutting the lot to the centerline of such street) unless a system for artificial recharge of precipitation that will not result in groundwater pollution is provided, the design of which is approved by the Board of Appeals pursuant to a Special Permit.
16. Any other use not permitted as of right or by Special Permit.

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### 8.2.7. Uses Permissible by Special Permit.

The following uses are permitted, if authorized by the Board of Appeals by special permit in each specific case, subject to such conditions as the Board may impose to protect the aquifer:

1. The application of fertilizers for non-domestic or non-agricultural uses provided that such application shall be made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation.
2. Those commercial and industrial activities permitted in the underlying district with a Special Permit site plan review to prevent compaction and siltation, loss of recharge, exfiltration from sewer pipes, and contamination by oil, chemicals, nutrients, or any other adverse impact on the groundwater resources delineated within the Aquifer Protection Overlay District.
3. The use or storage of toxic or hazardous materials required for treatment of drinking water at public water treatment facilities, provided those materials are protected to prevent their release to the environment.
4. Any use that requires a permit under (a) the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. 1342, (b) the Surface Water Discharge Permit Program established pursuant to M.G.L. c.21, s.43, or (c) the Ground Water Discharge Permit Program established pursuant to M.G.L. c.21, s.43.
5. Residential uses permitted in the underlining district, the maintenance, repair, or alteration thereof and additions thereto, when the resulting impervious surface would exceed twenty-five (25) percent of lot area (including the area to the center line of any new street abutting the lot), provided that the Board of Appeals, in addition to the findings required under Section 8.2.8, makes the finding that there is no feasible alternative available and the design is such that no contamination or depletion of aquifer recharge will result.
6. Any use herein where explicit provision is made for a Special Permit.

### 8.2.8 Criteria for Approval by the Board of Appeals.

In addition to the notice otherwise required under this Zoning By-law, the Board shall give written notice of any Special Permit application within the Aquifer Protection Overlay District to the Dedham-Westwood Water District, the Board of Health, and the Conservation Commission, and request a report and recommendation from each of the same. After notice and public hearing in accordance with the procedures as prescribed by law, and after due consideration of the reports and recommendations of the Dedham-Westwood Water District, the Board of Health, and the Conservation Commission, the Board of Appeals may grant such a permit provided that it finds that the proposed use:

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1. Is in harmony with the purposes and intent of this By-law and will promote the purposes of the Aquifer Protection Overlay District;
2. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
3. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and
4. Will not adversely affect the quality or quantity of an existing or potential water supply.

### 8.2.9 Other Boards.

If the Board of Health, the Conservation Commission, or the Water District, within fourteen (14) days of the Board of Appeals' request for comments, opposes the grant of the Special Permit or recommends conditions and limitations on the grant, the Board of Appeals must either (a) follow such recommendations, or (b) state in writing as part of its findings the reasons for not following such recommendations.

### 8.2.10 Reimbursement of Costs.

It is contemplated that, in most cases, it will be necessary for the Board of Appeals to hire consultants (e.g. geologists, engineers, etc.) in connection with the review and evaluation of applications for Special Permits under this Section. The Board of Appeals will be reimbursed by the applicant for the reasonable fees and expenses of such consultants, and each application for a Special Permit hereunder shall contain an agreement by the applicant to that effect regardless of the decision on his appeal.

### 8.2.11 Design and Operations Guidelines.

Except for single family dwellings, each applicant for a Special Permit shall file as part of his application a report prepared by a geologist, earth scientist, other qualified specialist in the field of chemistry and land disposal, or registered professional engineer which shall describe how the proposed use and/or structures satisfy the following items:

1. **Safeguards.** Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

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2. **Location.** Where the premises are partially outside of an Aquifer Protection Overlay District, site design shall to the maximum degree possible locate such potential pollution sources as on-site disposal system outside of the District.
3. **Disposal.** For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with Ch. 21C, MGL.
4. **Drainage.** All runoff from impervious surfaces shall be recharged on the site and diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.
5. The Board of Appeals may also require the preparation and filing of Operations Plans for particular uses, which plans may be incorporated as conditions of a Special Permit.

### 8.2.12 Violations.

Written notice of any violation of this By-law shall be given by the Building Inspector to the responsible person within forty-eight (48) hours of detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice may be oral, if confirmed in writing within five (5) days. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations, preventive measures required for avoiding future violations, and a schedule of compliance. A copy of such notice shall be submitted to the Building Commissioner, the Water District, the Board of Health, and the Conservation Commission. The cost of containment, cleanup, or other action of compliance shall be borne by the owner and operator of the premises.

1. For situations that require immediate remedial action to prevent adverse impact to the groundwater resources within the Aquifer Protection Overlay District, the Town of Dedham, the Building Inspector, the Board of Health, and any of their agents or the Dedham/Westwood Water District may order the owner or operator of the premises to remedy the violation and, if said owner and/or operator does not immediately comply with said order, the Town of Dedham, the Building Inspector, the Board of Health, any of their agents or the Dedham-Westwood Water District, if authorized to enter upon such premises under the terms of a Special Permit or otherwise, may act to review the violation. For the purposes of this section, the term "immediately" shall mean within a 24-hour period. Remediation costs shall be the responsibility of the owner and operator of the premises. Any violation of this By-law shall result in the levying of a fine of \$300 on the owner of the property where the violation occurred, and on the operator or person causing the violation, with each day, during which a violation persists being considered a separate violation.

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### 8.3 WIRELESS COMMUNICATIONS SERVICES OVERLAY DISTRICT

#### 8.3.1 Purpose.

The purpose of this By-law is to accommodate within Dedham the necessary infrastructure for wireless communications services while protecting the general public from the impacts associated with wireless communications facilities.

#### 8.3.2 Establishment.

The Wireless Communications Services Overlay District includes all land located in the Research Development and Office (RDO) district; and all land located in Limited Manufacturing (LMA) districts LM-20, LM-21, LM-22, LM-23, and Limited Manufacturing Type B (LMB) district LMB-1, and all land located in the Highway Business district (HB-1). The Wireless Communications Services District shall be construed as an Overlay District with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically superseded herein.

#### 8.3.3 Applicability.

Other provisions of this Zoning By-law notwithstanding, the regulations set forth herein shall apply to the construction, erection and/or placement of Wireless Communications Links within the Town of Dedham. These provisions shall be effective as of April 14, 1997, provided that a Wireless Communication Link shall be exempt from the provisions of this Section and shall be governed by the rest of the By-law if application to the Building Commissioner or Zoning Board of Appeals for a building permit or zoning relief has been made prior to the first notice of hearing before the Planning Board for adoption of this Section, and either (a) no zoning relief is required, or (b) any required zoning relief is thereafter granted by the Zoning Board of Appeals; provided construction work under such building permit is commenced within six (6) months of the date of such permit and proceeds in good faith continuously so far as is reasonable practicable.

#### 8.3.4 Use Regulations.

In the Wireless Communications Services Overlay District the following Use Regulations will apply:

Indoor Wireless Communications Link	Allowed *
Accessory Wireless Communications Link	<b>Special Permit **</b>
Building Mounted Wireless Communications Link	<b>Special Permit **</b>
Wireless Communications Link mounted on Existing, Free-standing Structure	<b>Special Permit **</b>
Free-standing, Exterior Wireless Communications Link	<b>Special Permit **</b>

\* Allowed as of right subject to dimensional and performance requirements.  
Allowed within an existing structure in the Central Business District.

\*\* May be permitted by Special Permit from the Zoning Board of Appeals.

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### 8.3.5 Site Plan Review.

The construction, erection, installation, and/or placement of all listed communications devices and appurtenant structures, except Indoor Wireless devices, are subject to Site Plan Review. In review of applications, the Planning Board shall employ the following guidelines:

1. **Screening, Landscaping, and Preservation of Existing Vegetation:**

Whenever possible, devices shall be sited so as to minimize the visibility of such devices from adjacent property, and shall be suitably screened from abutters and residential neighborhoods. To the extent feasible, installation of free-standing devices shall minimize the removal of existing trees and other vegetation.

2. **Height:** A device shall be designed and installed at the minimum height necessary for the proper functioning of the telecommunications services to be provided by the device at that location. Free-standing devices shall not exceed 50 feet in height.
3. **Color:** Free-standing, wall-mounted, and roof-mounted devices shall be painted or otherwise colored or finished in a manner which aesthetically minimizes the visibility of the devices in the surrounding landscape or on the building or structure to which they are attached.
4. **Fencing:** Any fencing necessary to control access to devices shall be compatible with the character of the area.
5. **Signs:** There shall be no advertising permitted on or in the vicinity of the devices. There shall be a sign not exceeding four (4) square feet in area at each installation which shall display a phone number where the person responsible for the maintenance of the installation may be reached on a 24-hour basis. All other signage shall be consistent with the Sign Code.
6. **Lighting:** Night lighting of installations shall be prohibited except for such lighting as may be necessary for emergency repair purposes.
7. **Parking:** Free-standing device installations shall provide one (1) off-street parking space for service vehicles.
8. **Personal Safety:** When devices are mounted in locations above or in the vicinity of pedestrian areas or other areas open to the public, such installations shall be made in a manner that does not impede or restrict the movement of pedestrians nor pose a hazard to any person.
9. **Bond:** Any wireless communications company seeking to erect a free-standing wireless communications link shall provide to the Town of Dedham a bond in the amount of \$250,000 to guarantee any and all obligations regarding the installation, operation, and removal of such facility. Any wireless communications company seeking to erect a building-mounted communications link or co-locate on existing free-standing link shall provide to the Town of Dedham a bond in the amount of \$50,000 for the same purposes. The Board may reduce the

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amount of the bond required after one (1) year of operation upon request by the communications company. All bonds shall remain in full force and effect for the life of said operation.

### **8.3.6 Dimensional Requirements.**

In the Wireless Communications Services Overlay District, the following dimensional regulations will apply:

1. Building Mounted Wireless Communications Link - a maximum of 10 feet above the rooftop or structure as described in Section 4.0 of this by-law.
2. Wireless Communications Link mounted on Existing, Free-Standing Structure may be installed at any point upon such existing structure.
3. Free-standing, Exterior Wireless Communications Link - 50 feet above ground.
4. No free-standing communications facility shall be located within one mile of another such facility unless located: on a co-location site, or within the Route 128 median.
5. No free-standing communications facility shall be located within 500 feet of a residential dwelling with the exception of locations within the Route 128 median.

### **8.3.7 Performance Standards.**

All Wireless Communications Links erected, installed and/or used shall comply with the following performance standards:

1. Compliance with Federal and State Regulations;
2. All Wireless Communications Links shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Act.

### **8.3.8 Co-Location of Wireless Communications Equipment.**

All owners and operators of such Wireless Communications Link shall, as a continuing condition of installing, constructing, erecting, and using a Wireless Communications Link, permit other public utilities or FCC-licensed commercial entities seeking to operate a Wireless Communications Link to install, erect, mount, and use compatible Wireless Communications equipment and fixtures on the equipment mounting structure on reasonable commercial terms, provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing Wireless Communications Link, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional Wireless Communications equipment or fixtures.

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### **8.3.9 Coexistence with Other Uses.**

A Wireless Communications Link may be located on the same lot with any other structures or uses lawfully in existence and/or lawfully undertaken pursuant to this By-law.

### **8.3.10 Exemptions.**

The following types of wireless communications facilities are exempted from this By-law:

1. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications System, provided the tower is not used or licensed for any commercial purpose.
2. Facilities used for the purposes set forth in M.G.L., Chapter 40A, Section 3.

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### SECTION 9.0 ADMINISTRATION AND PROCEDURES

#### 9.1 ADMINISTRATION

##### 9.1.1 Execution.

The Inspector of Buildings shall execute the provisions of this By-Law, except where otherwise provided, and, in so doing, shall have the same powers as are provided for the execution of the State Building Code. He shall issue no permit for the construction, alteration, enlargement, reconstruction, moving, or raising up of any building or structure which would be in violation of any of the provisions of this By-Law. Where authorization by the Board of Appeals is required pursuant to the provisions of this By-Law, the Inspector of Buildings shall issue no permit until so directed in writing by the Board, and any conditions imposed by the Board shall be made a part of said permit. The Inspector of Buildings shall not issue a new permit or license for a change of use of a building, structure, or land which use would be in violation of any zoning by-law. Whenever the term Inspector of Buildings is used in this by-law, such term shall include the Assistant Building Inspector and authorize said Assistant Building Inspector to act in the absence or illness of the Inspector of Buildings or Building Commissioner, however the position may be designated.

##### 9.1.2 Enforcement.

Whoever violates any of the provisions of this By-Law, or any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each violation, and each day shall be considered a separate violation. It shall be the duty of the Inspector of Buildings to enforce this By-Law, and for this purpose he may make criminal complaints or apply for injunctions to any court of competent jurisdiction.

##### 9.1.3 Emergency Powers Granted to Building Inspector.

In case of fire or explosion or destruction by other means in part or in whole of the living quarters of a resident or residents of the Town of Dedham, the Building Inspector may issue a permit for temporary housing for a period of not more than sixty (60) days, provided the applicant has filed an application for a permit with the Board of Appeals.

#### 9.2 BOARD OF APPEAL

##### 9.2.1 Establishment.

There is hereby established a Board of Appeals. The Board shall include five (5) members, residents of Dedham, one of whom shall be an attorney at law, one a civil engineer, one an architect, structural or mechanical engineer, or a master builder, or a person with ten (10) or more years of experience in construction or supervision of construction of buildings. The Board of Selectmen shall annually in April appoint one member to the Board of Appeals to serve for the term of five (5) years commencing with the first day of May following, to succeed the member whose term will then expire. Vacancies shall be filled for the unexpired terms in the same manner

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as in the case of the original appointment. The Board of Appeals shall elect annually a chairman and a clerk from its own number. There shall be two (2) associate members of the Board of Appeals, residents of Dedham, appointed annually by the Board of Selectmen. The Chairman of the Board of Appeals may designate either or both associate members to sit as a member of the Board of Appeals in case of absence, inability to act, or interest on the part of a member thereof, or in the event of a vacancy on said board, may designate either associate member to sit as a member on the Board until such vacancy is filled in a manner provided by this section.

### **9.2.2 Powers.**

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-law. The Board's powers are as follows:

1. To hear and decide applications for Special Permits. Unless otherwise specified herein, the Board of Appeals shall serve as the Special Permit granting authority.
2. To hear and decide appeals or petitions for variances from the terms of this By-law, with respect to particular land or structures, as set forth in G.L. c.40A, s.10. The Board of Appeals shall not grant use variances.
3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c.40A, ss. 8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing, as set forth in G.L. c.40B, ss. 20-23.

### **9.2.3 Rules and Regulations.**

The Board by annual vote shall establish rules and regulations for its own procedure consistent with the General Laws of the Commonwealth pertinent thereto.

### **9.2.4 Fees.**

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

### **9.2.5 Quorum.**

Four members of the Board shall constitute a quorum, and the affirmative votes of four members shall be necessary to reverse any order or decision of any administrative official or to effect any variance in the application of this By-law. No member of the Board shall vote on any matter in which he has any financial interest.

**9.2.6 Meetings and Records.**

The Chairman may and at the request of the Board shall from time to time call meetings of the Board. All hearings will be held in open session of which there shall be kept by the Clerk as public records minutes recording the vote, abstention, or absence of each member on every question presented and other official action. Continued absence of any member from regular meetings of the Board shall, at the discretion of the Selectmen, render any such member liable to immediate removal from office by the Selectmen.

**9.3 SPECIAL PERMITS**

**9.3.1 Special Permit Granting Authority.**

Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority (SPGA).

**9.3.2 Criteria.**

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

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

**9.3.3 Procedures.**

An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

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### 9.3.4 Other Boards.

Complete copies of petitions, appeals, or applications for Special Permits and any supporting materials shall forthwith be transmitted by the SPGA to the:

1. Planning Board
2. Board of Health
3. Conservation Commission
4. Historic District Commission
5. Board of Selectmen
6. Building Commissioner/Zoning Enforcement Officer
7. Department of Public Works
8. Fire Department
9. Police Department
10. Such other board, department, or agency as the Board of Appeals deems appropriate.

Any board, agency, or department to which such petitions, appeals, or applications for Special Permits are transmitted shall make such recommendations as they deem appropriate and shall forward copies thereof to the SPGA. The SPGA shall transmit copies of such recommendations to the applicant. The failure of any such board or agency to make recommendations within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed a lack of opposition thereto. All responses received from any board, department, or agency shall be entered in the minutes of the meetings at which action is taken upon any such petition, application, or appeals.

### 9.3.5 Conditions.

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

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### **9.3.6 Plans.**

The applicant for a Special Permit shall submit a plan in substantial conformance with the requirements specified in the Rules and Regulations of the Special Permit Granting Authority.

1. The provisions of this Section shall not apply to applications for Special Permits to reconstruct, extend, alter, or structurally change a nonconforming single or two-family structure.

### **9.3.7 Regulations.**

The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

### **9.3.8 Fees.**

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

### **9.3.9 Lapse.**

Special Permits may lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the Special Permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c.40A, s.17, from the grant thereof) with the Town Clerk.

## **9.4 SPECIAL PERMIT FOR MAJOR NONRESIDENTIAL PROJECT**

### **9.4.1 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.

### **9.4.2 Applicability.**

A Special Permit from the Planning Board for a Major Nonresidential Project shall be required for all developments which trigger the criteria set forth in Section 10.0. In construing such definition, 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 Article 25 of the warrant for the 1988 Annual Town Meeting. Where the floor area of a building has been reduced by demolition so that the net increase after reconstruction is less than 25,000 square feet, Major Nonresidential Project will not be applicable.

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### 9.4.3 Application and Review Procedure.

1. Prior to the formal filing of an application and the required exhibits under this section, the applicant shall submit seven (7) copies of a plan showing the existing and proposed buildings and structures, parking spaces, access way, landscaping, and uses with the Planning Board, and shall request a meeting with the Board for a scoping session to define the scope of the project, the specific information that may be needed, and any waivers from the procedural and technical requirements of this Section, or shall request that a scoping session be waived because the scale and scope of the project do not warrant it or because the project is a modification of a previously approved site plan.
2. After the scoping session, or after the scoping session was waived by the Planning Board, the applicant shall submit the number of copies required by the Rules and Regulations of the Planning Board of the items specified in subsection 9.4.4. hereof, except for those waived by the Board. The Board shall forthwith distribute copies thereof to the Building Commissioner, Board of Health, Conservation Commission, Police and Fire Departments, Town Planner, Public Works Commissioner, Dedham-Westwood Water District, Board of Selectmen, and such other departments and boards as the Planning Board may deem appropriate.
3. 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 constitute approval by that agency of the adequacy of the submittal and also that, in the opinion of that agency, the proposed project will have no adverse impact.
4. 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.
5. 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 the close of said hearing. The hearing and notice requirements set forth herein shall comply with the requirements of G.L. Chapter 40A. Section 11 All costs of the notice requirements shall be at the expense of the applicant.
6. If the Major Nonresidential Project also requires other Special Permits, the Planning Board shall be the Special Permit Granting Authority for all such Special Permits.

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### 9.4.4 Contents and Scope of the Application.

An application under this Section shall comprise the following drawings, exhibits, and statement prepared by and bearing the seals and signatures of qualified professionals, such as a registered professional engineer, architect, land surveyor, landscape architect, and others, as necessary, and shall include a completed application form signed by the owner of the site, and the required back-up information or exhibits, processing, and review fees. The Planning Board shall require substantive compliance with these requirements and with the following requirements for impact statements, and may, by regulation or vote, impose additional requirements, interpret and apply these requirements, and grant waivers therefrom when warranted by the scope of the project or other special circumstances, and the ability to review the project is not affected adversely by the waiver:

1. A site plan at a scale of 1" = 40,' unless a different scale has been approved by the Planning Board, showing the recorded boundaries and area of the parcel of land, and the location, size, and material of all buildings and structures; public utilities or services; parking areas, paved walks, drives, and other spaces, landscaped areas; wooded areas and major free-standing trees; outdoor lights; streams, water bodies, wetlands, and flood plains, and topography of the site and of abutting areas for at least 100 feet. All above features shall be identified as existing or proposed (including changes of grade), and zoning district boundaries, names of abutting owners according to Assessor's records, names and widths of streets, and purposes and dimensions of easements on or within 100 feet of the site shall be shown.
2. Landscaping and planting, including plant species and size, outdoor lighting, and illuminated signs, fences, and screening, shall be shown on a separate sheet or sheets in sufficient detail to permit evaluation.
3. A perspective view or isometric drawing of the proposed development shall be provided, unless this requirement is waived by the Planning Board.
4. Building elevations and floor plans, showing the proposed uses, outside material, and color of all buildings, unless no exterior or floor plan change is planned. A tabulation of proposed employees, occupants, and floor areas to be devoted to various uses, and of the existing, required and proposed parking spaces for such uses shall be provided on the floor plan drawing (show all floors and basement).
5. A locus plan at a scale of 1" =100' or 200' showing streets, lots, buildings, and topography at 5 or 10 ft. contour interval, respectively, for at least 500 ft. from the site, shall be included on the cover sheet or separately.

**9.4.5 Statements.**

The following impact assessment statements shall be submitted with the application:

**1. Traffic impact assessment:**

Its purpose shall be to document the existing traffic volumes, capacities, controls, road condition, hazards, and level of service on the site and the streets adjacent to the site; to project changes due to the site development and to the background traffic growth or decline; to assess the projected impact of such changes; and to propose and discuss management and structural improvements and mitigation measures, both on and off the site.

**2. Environmental impact assessment:**

It shall include a substantiated assessment of the existing and expected post-development environmental conditions, including air and water quality, pollution of ground, water, and air, noise levels, harmful or noxious emissions, damage or threat to wetlands and flood plain, plants and animals, and the visual environment. The potential for erosion or sedimentation and the proposed or existing control measures shall be discussed. Glare, smoke, odors, vibration, electromagnetic radiation, effects on groundwater supply, streams, water bodies, unique or valuable vistas, symbiotic ecological relationships of animal and plant communities, and compatibility of the project with the existing and future natural and manmade environment shall be considered, and any expected changes and preventive or corrective actions shall be discussed. Waste disposal, snow removal, maintenance of landscaped and paved areas, off-site environmental impacts, and drainage shall be discussed, and pre- and post-development drainage calculations for 10 and 100 year storm shall be included.

**3. Community and fiscal impact assessment:**

The assessment shall consider the existing and projected demand for public or municipal services (such as schools and cultural institutions, fire and police, medical and social services, water and sewer, waste disposal, administrative and inspection services), historical and visual compatibility, revenues to the town, voluntary contributions and services, and the effects of the project failing, not living up to the projections, or having to modify structures and uses for economic reasons. The assessment shall also consider fiscal or economic impacts, and compatibility with the town Master Plan and other plans and development policies, and shall explain and evaluate any zoning changes or variances sought or obtained.

**9.4.6 Development Impact Standards.**

The following standards shall be used by the applicants in preparing plans and by the Planning Board in reviewing them. The required standards must be substantially met in order for a Special Permit to be granted, the recommended standards are intended as a flexible guide and not meant to discourage creativity and innovation.

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### 9.4.7 Required Traffic Standards.

1. The net effect of the project and the mitigating measures or improvements (the execution of which must be guaranteed) shall be no worsening of the level of service (LOS) by more than one level or level D or E on the streets providing access to or egress from the site and within the nearest public street intersections in either direction.
2. Traffic signs and signals, storage and turning lanes and movements, curbs and curb cuts, pavement widths and grades, separation of pedestrian and vehicular traffic, sight distances, directional signs, and markings shall all conform to the professional norms and design standards of the Institute of Transportation Engineers, and to the accepted professional standards.
3. All required permits and approvals shall be in hand or otherwise assured before the Special Permit may be granted.
4. Binding provisions shall be made to compensate for errors in projecting the potential traffic volumes and travel routes.
5. The traffic study shall be based on actual counts on any street or intersection likely to be affected by the development taken within twelve (12) months prior to the filing of the application.

### 9.4.8 Recommended Traffic Standards.

1. Make legally binding arrangements to reduce traffic by single occupancy cars and to promote public transportation, carpools, off-site parking for employees, and other traffic-reducing measures.
2. Minimize traffic conflict points between vehicles and pedestrians by adhering to the subdivision street design standards of the Rules and Regulations for the Subdivision of Land in Dedham.
3. Locate access and exit points so as to route site-generated traffic so far as practicable away from residential streets.

### 9.4.9 Required Environmental Standards.

1. The proposed development shall not cause significant environmental harm or hazard through emissions of noise, dust, fumes, toxic or noxious gases, electromagnetic radiation, water pollution, soil contamination, excessive smoke, vibration, or other toxic, harmful, or hazardous agents.
2. The proposed development shall not increase the potential for sedimentation, erosion, or flooding, raise the water table, either on site or on adjacent properties and streets, to an appreciable extent, and shall not increase the rate of runoff from the site, unless such increase is deemed by the Planning Board to be beneficial.

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3. Exterior lighting shall be arranged to minimize glare and objectionable spillover onto adjacent properties.
4. No unique environmental features, habitats, or vistas shall be endangered or destroyed.
5. Proper mitigation measures shall be taken to minimize any unavoidable harmful impacts, and replication or relocation shall be used, where appropriate, to preserve valuable environmental features, parts of which may be adversely affected or damaged by the proposed development.

### **9.4.10 Recommended Environmental Standards.**

1. Locate proposed structures so as to minimize obstruction of sunlight during daylight hours and to allow the use of solar energy panels.
2. Use planting and landscaping to create a visually pleasing setting and to screen parking and service areas, especially from residential neighborhoods.
3. Where possible, recharge uncontaminated water to the ground and minimize discharges to public storm and sanitary sewers.

### **9.4.11 Required Community and Fiscal Standards.**

1. The revenue and service fees from the projected development shall equal or exceed the projected cost of public services attributable to it as its share of the total municipal cost of such services.
2. In the event that the projected development does not materialize as envisioned, provisions shall be made to minimize adverse financial, social, and visual impacts and to prevent deterioration and blight.
3. If the proposed development will require or accelerate off-site capital expenditures to provide the needed facilities and services or to mitigate adverse impacts, the applicant (owner) shall be responsible for the payment of impact fees at least equal to the share of the total cost attributable to the project, but excluding any part of such capital expenditures coming from federal or state grants and any part of operating costs.

### **9.4.12 Recommended Community and Fiscal Standards.**

1. Make the development conform, so far as feasible, to any adopted plans for the town or the neighborhood, including plans for land use and zoning, open space and conservation, circulation, and the expansion of water, sewer, and other services and facilities.
2. Make the development consistent or compatible with the neighborhood as regards the size, materials, style, and treatment of elements of structures. This shall not be interpreted to mandate uniformity or discourage creativity.

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3. Minimize grading and destruction of the natural ground cover by adapting development to the environment, rather than changing the environment more than necessary.
4. Design to keep low the cost of operation and maintenance of public services and facilities.

### 9.4.13 Planning Board Findings and Action.

Prior to approving, approving with modifications and conditions, or disapproving a Special Permit, the Planning Board shall make written findings whether the application meets each of the required traffic, environmental, community, and fiscal standards, and to what extent the various recommended standards are applicable and are met by the proposal. The Planning Board shall also make a written finding whether the application as a whole substantially conforms to the intent of this By-law and proposes an appropriate and beneficial development of the site. The findings shall be included in the certificate of action which the Planning Board shall transmit to the applicant, the Town Clerk, the public agencies which submitted written comments on the site plan, and to any person attending the public hearing who has requested a copy of the decision. If the Board approves the Special Permit, the certificate of action shall also list any waivers granted by the Planning Board and any modifications, conditions, and safeguards imposed at the time of approval.

1. Except where the required standards are clearly inapplicable or have no effect, or where the impact would be as severe if the site were developed in a way requiring no Special Permit review and permissible as of right, the Planning Board shall not grant waivers from the required standards or grant a Special Permit not meeting some of the required standards. A Special Permit application not meeting two or more recommended standards may be disapproved, or the Planning Board may find that the standards do not apply, are of no significance, or their intent is adequately met by other means.
2. Approval may be conditional on the applicant modifying the plan or meeting other requirements before the Special Permit is granted by the Planning Board.
3. Approval may be conditioned on the applicant meeting certain requirements after the appeal period has expired, either before construction work begins or by the time a specified stage is reached. Such conditions may be enforced by refusal by the Building Commissioner to issue an occupancy permit, or by realizing on any surety posted by the applicant to ensure satisfactory performance.

### 9.4.14 Conditions, Limitations, and Safeguards.

In granting a Special Permit, the Planning Board may impose conditions, limitations, and safeguards which shall be in writing and shall be a part of such special permit. Such conditions may include, among other matters and subjects:

1. Controls on the location and type of access to the site;
2. 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);

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3. Requirements for off-site improvements 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;
4. Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widenings or improvements;
5. 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.
6. Conditions to minimize off-site impacts on traffic and environmental quality during construction.

### 9.4.15 Administration.

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. 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.

1. 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.

## 9.5 SITE PLAN REVIEW

### 9.5.1 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. The site plan review process provides for a comprehensive review of proposed projects within an expedited time frame.

### 9.5.2 Applicability.

Site plan review and approval by the Planning Board shall be required before a building or occupancy permit can be issued for any new construction, addition, or alteration of a building so as to add 5,000 or more square feet gross floor area even where a part of the building is being demolished, so that the net increase in the floor area is less than 5,000 square feet. One or two family dwellings, farms on parcels of more than five acres, buildings devoted to a religious or

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educational use, and owned by or leased to an agency or political subdivision of the Commonwealth of Massachusetts, a religious denomination, or a nonprofit educational corporation, and premises subject to a Special Permit for Major Nonresidential Project shall not be subject to the provisions of this Section 9.5. 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 Article 25 of the warrant for the 1988 Annual Town Meeting. Where the floor area of a building has been reduced by demolition, so that the net increase is less than 5,000 square feet, the new floor area added and not the net difference shall be used for purposes of this section.

### 9.5.3 Application.

The applicant, who shall be the owner of the building, a prospective purchaser under a binding purchase-and-sale agreement, or a lessee having the authority to make the modifications and to comply with the conditions which may be imposed by the Planning Board, shall submit a completed application Form X, processing and review fees in the form of two separate checks made out to the Town of Dedham, and a plan or plans showing the following information:

1. Legal boundaries of the parcel with dimensions, bearings, radii, including any easements on the property and its area, and showing boundaries of zoning districts, including flood plain.
2. Existing and proposed topography with two (2) foot contours.
3. The location, showing distances from property lines, dimensions, and use of existing and proposed buildings, structures, additions, and demolitions, also fences, streams, and wetlands.
4. The location and size of underground utilities, including water, sewer, and drain piping, the inverts of manholes and drain catch basins, underground or overhead electric and other conduits.
5. Elevations and floor plans of existing and proposed buildings; location and design of all signs and exterior lighting.
6. Parking layout, paved ways and areas, curbs and ramps, and landscaping to the level of detail required for parking plans.
7. The traffic study shall be based on actual counts on any street or intersection likely to be affected by the development taken within 12 months prior to the filing of the application.
8. A tabulation of floor areas (and outdoor areas, where this is applicable) devoted to various principal uses, the applicable parking requirements, the estimated cost of construction and of landscaping meeting the requirement for parking plans.

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9. Title block, showing address, scale, north arrow, seal and signature of the registered architect, engineer, land surveyor, or landscape architect responsible for a particular component of the site plan, and a locus plan at 1" = 200' scale showing abutting lots.

### 9.5.4 Parking Plan.

Site plan review shall include the review and approval of a parking plan which shall comply with the requirements of Section 5.1. The following items shall also be submitted:

1. A separate traffic and access report shall be submitted, citing and substantiating the number of cars and trucks expected to enter and leave the premises in a 24-hour period and during the morning and afternoon peak hours; traffic volumes, pavement width, and Level of Service on each road abutting or serving the site; signalization and turning movements for any intersection abutting or within 500 feet of the site; any special conditions affecting it; and mitigating measures proposed.
2. The applicant shall also submit other explanatory or relevant exhibits and materials to assist the Planning Board in evaluating the site plan and its effect on the neighborhood. Nine (9) copies of the application, plans, traffic report, and supplementary materials shall be filed with the Planning Board simultaneously with the processing and review fees, and the review period shall not commence until all required items have been submitted.

### 9.5.5 Regulations.

The Planning Board shall adopt and may, from time to time, revise by vote at a duly posted meeting its regulations for site plan reviews and the processing and consultant review fees for site plan reviews. The cost of consultant review and inspections shall be borne by the applicant, who shall be billed for costs in excess of the initial review fee and shall be refunded any part of the fee not used, together with any interest accrued thereon. The schedule of Planning Board fees shall be available at the offices of the Town Clerk and the Planning Board.

### 9.5.6 Procedures.

Upon receipt of all required items, the Planning Board shall distribute copies thereof to the Conservation Commission, Chief of Police, Chief of Fire Department, Public Works Commissioner, Building Commissioner, Design Review Advisory Board, Board of Selectmen, and other boards or officials believed by the Planning Board to be affected, with the request for a review and comment within 35 days, and failure to so comment shall be deemed to indicate no objection. The Planning Board shall hold no advertised Public Hearing on site plan review, but shall, within 45 days of receipt of the complete plans, application, and fees, invite the applicant and his representatives to a meeting, the posted agenda of which shall list the review of the site plan as an item, shall send a written notice to property owners abutting the site, and shall within 60 days of said meeting approve, with or without conditions and modifications, or disapprove the site plan. In the event of a disapproval, the Planning Board shall state in writing where the site plan fails to conform, to the letter or intent of this By-law or of other laws or regulations, or to the applicable professional standards. The decision of the Planning Board shall be filed with the Town

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Clerk, and may be appealed within 20 days of such filing to the Board of Appeals. If the 20 days elapse without the Town Clerk being notified that an appeal has been filed, the Planning Board shall endorse and distribute copies thereof to the applicant and to the Building Commissioner. In the event of a disapproval, if no appeal has been filed or if the disapproval is upheld by the Board of Appeals, no resubmittal shall be accepted within one year thereafter, unless the Planning Board finds that conditions have changed materially and the initial grounds for disapproval no longer apply.

### **9.5.7 Coordination with Special Permit.**

If a Special Permit from the Board of Appeals is required for a project subject to site plan review, the site plan review application shall be submitted first, and not less than fourteen (14) days shall elapse thereafter prior to filing the Special Permit petition.

### **9.5.8 Expiration of Site Plan Approval.**

Any approval of a site plan which has been granted pursuant to this By-law shall lapse, if a substantial use thereof has not sooner commenced, except for good cause, within two (2) years from the grant thereof or, in the case of a permit for construction, if construction has not begun, except for good cause, within such two (2) year period.

## **9.6 DESIGN REVIEW ADVISORY BOARD**

### **9.6.1 Establishment.**

There shall be a Design Review Advisory Board comprised of five unpaid voting members, including two members qualified by education or training and experience in design professions (architecture, landscape architecture, or urban planning), appointed one each by the Board of Selectmen and the Planning Board; one member qualified by education or training and experience in historic preservation, design, or a related field appointed by the Historic District Commission or Civic Pride Committee; one member, who shall be a building contractor or an engineer experienced in commercial or industrial building construction, appointed by the Planning Board; and one member owning retail or other commercial business in town, appointed by the Board of Selectmen. The Planning Director shall be ex-officio non-voting member of the Design Review Advisory Board. The members shall be appointed, and may be reappointed to the following terms:

Design professional member appointed by Board of Selectmen	3 years
Design professional member appointed by the Planning Board	3 years
Design specialist appointed by the Historic District Commission or Civic Pride	2 years
Building Contractor or Engineer	2 years
Business owner	1 year

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The Board may from time to time designate as non-voting associate members for a period not exceeding one year persons nominated by civic organizations that hold an interest in or have special knowledge of specific projects, issues, or areas of Dedham and are willing and able to actively participate in the work of the Design Review Advisory Board.

### 9.6.2 Duties.

The Board shall develop, with assistance and input from local civic organizations and interested citizens, design guidelines for areas of town having different visual and functional character. It shall meet at the call of the chair to review and make recommendations for building projects define in Subsection 9.6.3 hereof. Administrative and logistic support for the Design Review Advisory Board shall be provided by the Planning Board, but the Board may also seek support and advice from the Historical Society and other entities and individuals concerned about Dedham's visual character.

### 9.6.3 Jurisdiction.

The following projects shall be submitted to the Design Review Advisory Board for their review and advisory report:

1. All new construction, additions to and exterior alterations of existing buildings, and all new signage or alterations of existing signs in the Central Business (CB), General Business (GB), Highway Business (HB), Local Business (LB), Limited Manufacturing (LMA), Limited Manufacturing Type B (LMB), and Research, Development, and Office (RDO) districts.
2. All projects subject to parking plan approval, site plan review, or Major Nonresidential Project, or requiring a Special Permit or variance from the Board of Appeals, if located in RDO, Paul Corey, PR, or LM districts.

### 9.6.4 Applicability.

A copy of preliminary or conceptual architectural plans shall be transmitted to the Board for review and advisory report. The Design Review Advisory Board shall consider the size or scale, bulk, architectural style, material, texture, color, location, orientation, signs, lighting, landscaping, and site layout in relation to the surrounding area and the visual character of the neighborhood and the town, and shall make written recommendations to the applicant or owner, to the approving town agency, and to the Building Commissioner, referring to the applicable design guidelines. Such recommendations shall be advisory and shall be given due weight by the owner and the Planning Board or other approving agency or official. In the event that the Planning Board, or special permit granting authority, does not adopt the substance of such recommendation, it shall state in writing in its decision the reasons therefore, including the lack of authority, where applicable.

### 9.6.5 Procedures.

Whenever possible, the owner or applicant shall make an appointment and consult with the Design Review Advisory Board prior to the formal submission of preliminary plans to the Planning

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Board or other town agency, and the recommendations may be voluntarily adopted or negotiated by the applicant. Otherwise, within five (5) working days after formal submission to the Planning Board, Board of Appeals, or the Building Commissioner, the applicant shall transmit a completed Design Review Advisory Board application form together with all supporting materials and one complete set of plans to the Design Review Advisory Board, and request its review and recommendations within 21 days of transmittal or such longer period as the applicable legal requirements may allow. The Board may request additional information, may seek to meet with the applicant, or may determine that the project does not warrant design review. An official decision, action, or approval required by law to be taken within a certain time period or by a certain date shall not be postponed beyond the required date while awaiting Design Review Advisory Board comments.

1. Town agencies and officials may consult the Design Review Advisory Board relative to construction projects not subject to its mandatory review, and the Board shall select projects for its review and recommendations based on time availability and their importance to the image and visual character of Dedham.

## TOWN OF DEDHAM ZONING BYLAWS, REVISED MAY 2011

### SECTION 10.0 DEFINITIONS

For the purposes of this By-law, the following terms and words are hereby defined, explained, or limited, except where the context clearly indicates a different meaning. The word “shall” is mandatory; the word “may” is permissive. The singular includes the plural and the plural includes the singular, and the present tense includes the future tense. Unless these definitions or the context clearly shows a different meaning, the meaning assigned to them in Section 201 of the State Building Code, and in the Zoning Act (G.L. c. 40A) and the Subdivision Control Law (G.L. c. 41, ss. 81L to 81GG, shall also be used.

#### **Accessory Dwelling Unit:**

A separate dwelling unit located in a building originally constructed as a single-family dwelling or in a detached building located on the same lot as the single-family dwelling provided that such separate unit has been established pursuant to the provisions of this By-Law.

#### **Accessory Use:**

Either a subordinate use of a building, or other structure or tract of land, or a subordinate building or other structure: (1) Whose use is customary in connection with the principal building or other structure or use of land, and (2) Whose use is clearly incidental to the use of the principal building, other structure or use of land, and (3) Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment, and (4) Which does not constitute, in effect, conversion of the principal use of the premises to one not permitted.

#### **Accessory Wireless Communications Link:**

Any wireless communication link located on the same lot with and customary and incidental to a use permitted as of right, by special permit, by variance, or as a preexisting nonconforming use including without limitation, any home-mounted wireless transmission/reception box and any fixtures and equipment customary and incidental to a private business exchange also known as a PBX Wireless Campus.

#### **Adult Day Care Facility:**

A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs as an accessory use.

#### **Animal or Veterinary Hospital:**

A place where animals or pets are given medical or surgical treatment, or the boarding of animals is limited to short-term care incidental to the clinic or hospital use.

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### **Assisted Living Residence:**

Any residential development owned and operated by an entity, where conducted for profit or not for profit, which meets all of the following criteria:

1. Provides room and board;
2. Provides directly by employees of the entity or through arrangements with another organization, which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to the care provider;
3. Collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for same; and
4. Is eligible for certification as an Assisted Living Residence by the Executive Office of Elder Affairs pursuant to G.L. c. 19D and all of applicable requirements.

This definition shall not include any other forms of group living quarters such as group foster care group homes, single room occupancy residences, rooming, or lodging houses, and other facilities as listed in Commonwealth of Massachusetts Regulations (651 CMR 12.01).

### **Buffer Zone:**

Areas of land maintained in a landscaped fashion or in a natural state that are open, unpaved, unbuilt upon, and not used for buildings, parking areas, or storage of any kind.

### **Building:**

A structure having a roof and designed, intended, or used as a shelter for occupancy, by persons, animals, or things, provided that any other building, structure, or part thereof sharing a wall with, touching, or having a permanent above-ground structural connection to a building shall be considered part of such building.

### **Building-Mounted Wireless Communications Link:**

Any out-of-doors Wireless Communications Link mounted on, erected on, or supported in whole or in part by an existing building or structure (including without limitation, buildings, water towers, smoke stacks, and the like) occupied and/or used primarily for other purposes.

### **Business or Professional Office:**

Office use primarily for the following activities: accounting, architecture, data processing, editing, engineering, law, landscape architecture, research and science, administrative offices, or like enterprise.

### **Child Care Facility:**

A day care center or school age child care program, as those terms are defined in G.L. c.28A, s.9.

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### **Commercial Storage:**

Storage in a building of contractor's equipment and building supplies, hardware, metal, pipe, furniture, shop supplies, wood, paper, tools, tobacco, or any product of manufacturing activities

permitted in the district, whether or not produced on the premises, but no retail sales or services in the premises.

**Contractor's Yard:**

Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

**Drive Through Facilities:**

Business establishments that are designed to allow customers to access sales or services without leaving their motor vehicles in so-called drive-through or drive-up facilities, including but not limited to banking, dry cleaning, pharmacies, photo processing or similar customer services.

**Dwelling Unit:**

One or more rooms constituting independent living quarters for a single family, including cooking, sleeping, and bathroom facilities, and physically separated from any use not accessory to such dwelling, and from any other dwelling unit by open space, party wall, or hallway.

**Essential Services:**

Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

**Exterior Street Line:**

The boundary of street right-of-way or layout, or, where the boundaries are not a matter of record, a line parallel to and 25 feet distant from the center line of pavement or vehicular traveled way.

**Family:**

One person or several individuals living together as a single and separate housekeeping unit and related by blood, marriage, or adoption, and not more than three individuals not so related (including domestic employees), provided that for the purposes of this by-law, a single and separate housekeeping unit comprising one of the following shall be deemed a family: (1) a congregate housing unit consisting of persons with disabilities or persons 60 years of age or older, sharing cooking and living facilities, and not more than one other person performing housekeeping, nursing, or other care and assistance functions. (2) A family day care home or a family and not more than six foster children.

**Family Day Care:** Large or small family day care as defined in G.L. c. 28A, s. 9.

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**Fence:**

An enclosure or barrier, such as wooden posts, wire, iron, etc. used as a boundary, means of

protection, privacy screening or confinement, but not including hedges, shrubs, trees or other natural growth. Any fence installation proposed to be in excess of six (6) feet six (6) inches in height shall require a Special Permit from the Zoning Board of Appeals.

**Floor Area Ratio (FAR):**

The ratio of the net floor area to the gross area of the lot on which such building is located, exclusive of land in Flood Plain districts or wetlands subject to General Laws Chapter 131, Section 40.

**Free-Standing, Exterior Wireless Communications Link:**

Any out-of-doors Wireless Communications Link mounted on, erected on, or supported by any free-standing monopole, lattice tower, or any other similar free-standing structure.

**Frontage:**

A continuous segment of the exterior street line between intersections with lot side lines or other lot boundaries, including an intersection of street lines, or street lines extended with an interior angle of 135 degrees or less. If a lot is bounded by more than one street, as defined herein, the lot owner may designate any of them as the frontage street, if it provides legal and physical access to the lot for the requisite distance and if the building on the lot is numbered on that street.

**General Service Establishment:**

Nonexempt business or trade school, blueprinting or copying establishment, catering service, clothing rental establishment, dancing or music school, meeting hall for hire, funeral home, repair shops for bicycles, typewriters, televisions, electronic and household appliances, or like enterprise.

**Home Occupation:**

The use of a room or rooms in a dwelling or building accessory thereto as an office, studio, or workroom for a lawful home occupation by a person resident on the premises, provided that: a) Such use is clearly incidental and secondary to the use of the premises as a dwelling, and b) Not more than one person other than residents of the premises regularly provided paid services in connection with such use, and c) No commodity or service is sold or provided to another person who is on the premises, and d) The public is not invited onto the premises in the usual course of business, and e) No offensive noise, traffic, vibration, smoke, dust, odor, heat, or glare is produced as a result of the home occupation, and f) There is no exterior display or exterior sign except as permitted under the Sign Code, and g) There is no exterior storage of materials or equipment (including the exterior parking of more than one commercial vehicle), and no other exterior indication of such use or variation from the residential character of the premises, and h) All parking for such home

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occupation, other than for residents of the premises, shall be provided off street. Adequate off-street parking shall be provided in accordance with the provisions of the Zoning By-

Laws, and i) Such use has been approved in writing by the Building Commissioner.

**Indoor Wireless Communications Links:**

An indoor Wireless Communications Link mounted inside, erected inside, or supported within an existing building or structure (including, without limitation, buildings, cupolas, church spires, inactive smoke stacks, and the like) occupied and/or used primarily for other purposes.

**Kennel:**

A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold located on at least five (5) acres of land.

**Limited Manufacturing:**

Fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery and processes, and free from agents disruptive to neighborhoods. Such agents include, but are not limited to air or water pollution, odors, gas fumes, smoke, cinders, flashing or excessively bright lights, discharge or accumulation of refuse, electromagnetic radiation, heat, or vibration.

**Lot:**

An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose.

**Lot Area:**

The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least eighty (80) percent of the lot area required for zoning compliance shall be contiguous land other than that under any water body, or wetland as defined in G.L. c. 131, s. 40.

**Major Highway:**

Route 1A, Providence Highway, or any other street designated as a numbered highway by the Commonwealth if having at least two travel lanes in each travel direction.

**Major Nonresidential Project (MNP):**

- a. Any new structure, or group of structures under the same ownership on the same lot or contiguous lots, with at least 25,000 square feet of gross floor area or requiring the provision of 100 or more additional parking spaces under this By-Law;

- b. Any improvement, alteration, or change in use, which either results in an increase of at least 25,000 square feet of gross floor area or requires an addition of 100 or more parking spaces to the amount required by this By-Law prior to such improvement, alteration or change in use.

Where a use is developed as a MNP, and such use requires a special permit as set forth in the Use Regulation Table, the Special Permit Granting Authority shall be the Planning Board.

**Manufacturing:**

A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Medical Office:**

Office of a doctor or dentist not conducted in the home of the resident professional.

**Motel or Hotel:**

A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

**Multi-Family Residential Complex:**

Buildings and structures or a group of buildings and structures containing three or more dwelling units and the lots upon which the same are located authorized by a Special Permit issued by the Zoning Board of Appeals under Section 7.3.

**Municipal Facilities:**

Facilities owned or operated by the Town of Dedham.

**Net Floor Area:**

The sum, in square feet of the occupiable or habitable area in a building which shall be determined by excluding the following from calculation of gross floor area:

1. Areas used for parking or loading;
2. Areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating, or cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery, or mechanical equipment;
3. The thickness of load-bearing walls, at each floor;
4. Elevator shafts and common stairways, and common hallways at each floor.
5. Porches, balconies, which are unroofed;
6. Fire escape.

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**Nonconforming Building, Structure or Use:**

An existing legally established or erected building, structure, lot, or use which predates and does not conform to the current requirements of the district in which it is situated as regards the size, dimensions, location, or use of building or land.

**Nursing or Convalescent Home:**

Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**Parking Lot:**

An area dedicated and exclusively used, in whole or in part, for parking of motor vehicles on a lot, in a garage, or on a parking deck, including aisles, accessory structures, and landscaping, provided that the horizontal area on the lot available for parking, whether paved or not, and the parking layout meet the provisions of this by-law applicable at the time of approval, and further provided that any increase in the required parking due to a change in use or to an increase in building floor area or outdoor area served by such parking shall require approval or a revised parking or site plan.

**Personal Service Establishment:**

Barber or beauty shop, self-service laundry and/or a collection station for laundry and dry cleaning not done on the premises, photographic studio, shoe or hat repair shop, shop for custom work by a dressmaker, furrier, milliner, or tailor, frozen food locker, news dealer, tanning salon, or like enterprise.

**Rear Line:**

A lot boundary separating it from other lots and located most nearly parallel to and opposite lot frontage, provided that a triangular or wedge-shaped lot may have no rear line.

**Research and Development Facilities** are facilities used primarily for research, development, and/or testing of innovative information, concepts, methods, processes, materials, or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, specialized machinery, and devices integral to research or testing may be associated with these uses.

**Restaurant:**

A building or portion thereof containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended, and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces designed for dining purposes, which adjuncts to the main indoor restaurant facility.

**Retail Business:**

Any retail operation with a gross floor area in excess of 10,000 square feet.

**Row House or Town House:**

A dwelling unit in a multi-unit building containing three to eight such units side-by-side, separated by party walls, with each unit not more than two rooms deep front to back and, unlike apartments, with separate entrances and stairways serving each unit exclusively.

**Senior Supportive Housing:**

Any residential development with supportive services available to the occupants including, without limitation, assistance with the activities of daily living (at a minimum including support for bathing, dressing and ambulation), assistance with instrumental activities of daily living, food, transportation, nursing care, personal care or home health care. Such supportive housing may consist of a single building or group of buildings for residential dwelling purposes. Each dwelling or unit must be occupied by at least one person who is 62 years of age or older, and all occupants must be 55 years of age or older. Such supportive housing may or may not be licensed as an Assisted Living Residence under applicable state law.

**Side Line:**

A lot boundary separating it from other lots that is not a frontage or a rear lot line.

**Small Retail Business:**

Bookstore, delicatessen, dry goods store, drugstore, florist, gift shop, grocery or fruit store, hardware store, jewelry store, tobacconist, variety store, wearing apparel store, or like enterprise, not exceeding a gross floor area of 10,000 square feet.

**Street or Way:**

A town way, a way laid out by county or state, a way shown on a definitive subdivision plan approved in accordance with the Subdivision Control Law and constructed or with construction secured as provided in said Law, or a way in existence when the Subdivision Control Law became effective in Dedham which has in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction for the needs of vehicular traffic in relation to the proposed use of land and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. The naming of a private right-of-way, easement or driveway serving one or more lots for the purpose of facilitating emergency access or for any other purpose shall not confer upon it the legal status of a street or way for frontage and zoning purposes. No more than two lots meeting street frontage requirements may share an access driveway.

**Structure:**

A combination of materials constructed or erected so as to be permanently attached to and have a fixed location on the ground and including buildings, mobile homes, in-ground pools, billboards, and the like, but excluding for the purposes of this By-Law boundary walls and fences less than six feet in height, mail boxes, and similar minor structures.

**Subsidiary Apartments:**

A separate and complete dwelling unit established in conjunction with and clearly subordinate or equal to the primary use of the structure.

**Trade Shop:**

Shop of a cabinet maker, carpenter, electrician, painter, plumber paperhanger, sign painter or upholsterer, or like enterprise.

**Warehouse:**

Building or plant for storage and distribution of all items, excluding paint and alcoholic beverages, which are sold and/or used in retail stores, including supermarkets, department and drug stores, toy, hardware, ice cream, tobacco, and gift stores.

**Wholesale Office or Showroom:**

A showroom for building supplies, plumbing, heating, and ventilating equipment, with storage limited to floor samples only, or like enterprise.

**Width:**

The distance between lot lines, measured along a straight line connecting the front corners of the lot for the depth equal to the required minimum frontage.

**Wireless Communications Link:**

A Wireless Communications Link consisting exclusively of fixtures and equipment used by a public utility or FCC licensed commercial entity for the wireless transmission and reception of radio signals including:

1. Reception and transmission equipment and fixtures such as antennae, communication dishes, and similar devices;
2. Structures that are erected and used primarily to support such reception and transmission equipment including, without limitation, monopoles and lattice towers; and
3. Any accessory mechanical, electronic, or telephonic equipment, fixtures, wiring, and protective covering customary and necessary to operate such wireless communications equipment.

A Wireless Communications Link is a transmission and reception substation, not a principal facility for conducting a communications business. Wireless Communications Link shall not include television and radio transmission antennae.

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### **Yard, Required Minimum:**

A strip of uniform depth specified by this By-Law along and contiguous to frontage, side, and rear lines, measured at right angles or radially to said lines. Within the required minimum yards there shall be no buildings or structures, except for building projections and minor structure allowed by the By-Law, including buildings accessory to residences in side and rear yards and subject to yard requirements for such accessory buildings.