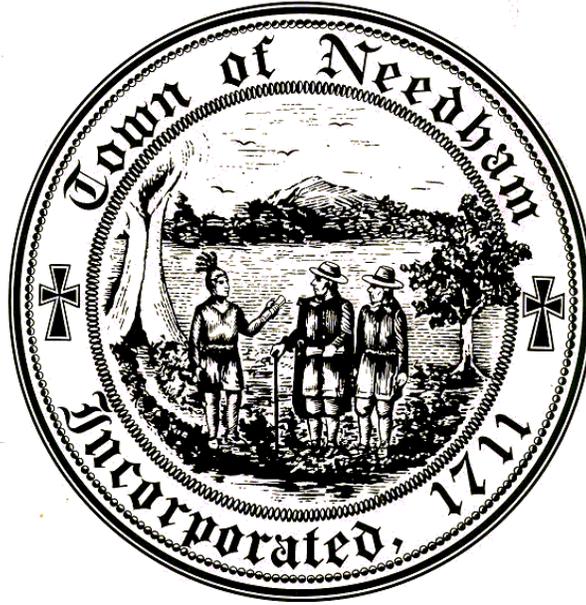


**ZONING BY-LAW
OF THE
TOWN OF NEEDHAM**



**As amended under Article 48 - March 26, 1925 Adjourned Annual
Town Meeting, as recodified to February 27, 1984 and as further
amended to October, 2017.**

NEEDHAM PLANNING BOARD

**Ted Owens, Chairman
Paul S. Alpert, Vice-Chairman
Martin Jacobs
Jeanne S. McKnight
Elizabeth J. Grimes**

**Lee Newman
Director of Planning and Community Development**

**The edition published May 2018 includes
all amendments adopted by the October 2017**

SPECIAL TOWN MEETING

ZONING BY- LAW

OF THE

TOWN OF NEEDHAM, MASSACHUSETTS

TABLE OF CONTENTS

1.	<u>GENERAL</u>	1			
1.1	Purpose	1		3.2.2	34
1.2	Basic Requirements	1		3.2.3	45
1.3	Definitions	1		3.2.4	48
1.4	Non-Conformance	10		3.2.5	51
	1.4.1 Intent	10		3.2.6	53
	1.4.2 Continuation	10		3.3	56
	1.4.3 Change.....	10		3.3.1	56
	1.4.4 Restoration.....	10		3.3.2	56
	1.4.5 Abandonment	11		3.3.3	57
	1.4.6 Alteration.....	11		3.3.4	58
	1.4.7 Single-Family and Two Family Dwellings.....	11		3.3.5	58
	1.4.8 Non-Conforming Lots...	14		3.3.6	59
	1.4.9 Conformance with Subsequent Amendments.	14		3.4	60
	1.4.10 Substitution.....	14		3.4.1	60
1.5	Variation	14		3.4.2	60
2.	<u>USE DISTRICTS</u>	16		3.4.3	60
2.1	Classes of Districts	16		3.4.4	61
2.2	Location of Districts	17		3.4.5	61
2.3	Description of Flood Plain Districts	18		3.4.6	61
3.	<u>USE REGULATIONS</u>	19		3.4.7	65
3.1	Basic Requirements	19		3.4.8	67
	3.1.2 Prohibited Uses.....	19		3.5	68
3.2	Schedule of Use Regulations ...	20		3.5.1	68
	3.2.1 Uses in the RRC, SRA, SRB, GR, A-1, A-2, A-3, I, IND & IND-1 Districts..	20		3.5.2	68
				3.5.3	68

3.5.4 Permitted Uses	69	3.8.7 Site Plan Review	84
3.5.5 Special Permit Uses	69	3.8.8 Design Guidelines	85
3.5.6 Special Permit Standards For Adult Uses	69	3.9 Lower Chestnut Street Overlay District.....	86
3.5.7 Lapse of Special Permit	71	3.9.1 Purpose of District	86
3.5.8 Severability	71	3.9.2 Scope of Authority	86
3.6 Medical Overlay District.....	72	3.9.3 Use Regulations	86
3.6.1 Purpose of District	72	3.9.4 Dimensional Regulations	88
3.6.2 Scope of Authority	72	3.9.5 Off-Street Parking	89
3.6.3 Allowed Uses	72	3.9.6 Affordable Housing	90
3.6.4 Special Permit Uses.....	72	3.9.7 Site Plan Review	91
3.6.5 Multiple Buildings and Uses.	73	3.9.8 Design Guidelines	91
3.6.6 Dimensional Regulations for the Medical Overlay District .	73	3.10 Garden Street Overlay District.....	92
3.6.7 Required Number of Parking Spaces	74	3.10.1 Purpose of District	92
3.6.8 Site Plan Review Requirements.....	75	3.10.2 Scope of Authority	92
3.7 Wireless Communications Facilities Towers Overlay District.....	76	3.10.3 Use Regulations	92
3.7.1 Purpose of District	76	3.10.4 Dimensional Regulations ...	93
3.7.2 Scope of Authority	76	3.10.5 Off-Street Parking	94
3.7.3 Uses in the Wireless Communications Facilities Towers Overlay District	76	3.10.6 Affordable Housing	94
3.7.4 Establishment and Delineation of Wireless Communications Facilities Towers Overlay District	78	3.10.7 Site Plan Review	94
3.7.5 Severability	78	3.10.8 Design Guidelines	95
3.8 Needham Center Overlay District	79	3.11 Temporary Meteorological Towers Overlay District.....	96
3.8.1 Purpose of District	79	3.11.1 Purpose of District	96
3.8.2 Scope of Authority	79	3.11.2 Scope of Authority	96
3.8.3 Use Regulations	79	3.11.3 Definitions	96
3.8.4 Dimensional Regulations ...	80	3.11.4 Uses in Temporary Meteorological Towers Overlay District ...	96
3.8.5 Off-Street Parking	82	3.11.5 Submission Requirements ...	98
3.8.6 Affordable Housing	83	3.11.6 Severability	99
		3.12 Elder Services Zoning District.....	100
		3.12.1 Purpose of District.....	100
		3.12.2 Scope of Authority.....	100
		3.12.3 Allowed Uses.....	100

3.12.4	Special Permit Uses.....	100	4.	<u>DIMENSIONAL REGULATIONS</u>	118
3.12.5	Multiple Buildings and Uses in the Elder Services Zoning District.....	100	4.1	Basic Requirements	118
3.12.6	Dimensional Regulations For the Elder Services Zoning District.....	101	4.1.1	Applicability	118
3.12.7	Building Height Requirements.....	101	4.1.2	Exemption for Recorded Lots.	118
3.12.8	Building Bulk, Lot Coverage and Other Dimensional Requirements.....	101	4.1.3	Reduction of Area, Frontage, and Setback requirements ...	118
3.12.9	Off-Street Parking.....	102	4.1.4	Change of Subdivision Plans..	118
3.12.10	Affordable Housing.....	102	4.1.5	Minimum Required Lot Width.	119
3.13	Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District	104	4.1.6	Height and Setback Limitation Exception.....	119
3.13.1	Purpose of District	104	4.2	Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence and Institutional Districts.....	124
3.13.2	Scope of Authority	104	4.2.1	Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B and General Residence Districts, for Buildings and Structures on Lots Created by Deed or Plan Endorsed or Recorded Prior to January 9, 1986 and Not Including New Construction ...	126
3.13.3	Definitions	104	4.2.2	Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B and General Residence Districts, for Buildings and Structures on Lots Created by Deed or Plan Endorsed or Recorded on or after January 9, 1986 and Not Including New Construction ...	128
3.13.4	Allowed Uses..	104	4.2.3	Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B and General Residence Districts, for Buildings and Structures Created Through New Construction On Any Lot	130
3.13.5	Special Permit Uses.....	105			
3.13.6	General Requirements....	105			
3.14	Mixed-Use Overlay District	110			
3.14.1	Purpose of District	110			
3.14.2	Scope of Authority	110			
3.14.3	Definitions	111			
3.14.4	Approval Process.....	111			
3.14.5	Special Permit Decision Criteria.....	113			
3.14.6	Special Permit Conditions.	114			
3.14.7	Time Limit.....	114			
3.14.8	Dimensional Requirements	115			
3.14.9	Performance Standards....	115			
3.14.10	Peer Review.....	117			
3.14.11	Special Permit Uses.....	117			

4.2.4	Table of Regulations for Public, Semi-Public and Institutional Uses in the Rural Residence Conservation, Single Residence A, Single Residence B and General Residence Districts, and for the Institutional District ...	132	4.4.6	Enclosed Parking.....	154
4.2.5	Build Factor Formula.....	134	4.4.7	Business Use in Other Districts.....	154
4.2.6	Lot Area Calculation.....	134	4.4.8	Side & Rear Setbacks Adjoining Residential Districts.....	155
4.2.7	Special Regulations for Rural Residence – Conservation District.....	135	4.4.9	Building Entrances in the CSB, ASB, HAB, and NB.....	156
4.2.8	Height Limitation Exceptions...	135	4.4.10	Building Entrances in Center Business District.....	156
4.2.9	Minimum Side & Rear Line Setbacks: Accessory Structures.	136	4.5	Dimensional Regulations for Highland Commercial 128.....	157
4.2.10	Flexible Development Consistent with Subdivision Control Law..	137	4.5.1	Supplemental Dimensional Regulations.....	158
4.2.11	Planned Residential Development (PRD)	139	4.5.2	Floor Area Ratio, Incentives.	158
4.2.12	Residential Compound.....	142	4.6	Dimensional Regulations for Industrial Districts	159
4.2.13	Reductions in Dimensional Regulations by Special Permit..	145	4.6.1	Basic Requirements.....	159
4.2.14	Screening for Public, Semi-Public & Institutional Uses.....	145	4.6.2	Front and Side Setbacks....	159
4.3	Dimensional Regulations for Apartment Districts.....	148	4.6.3	Maximum Lot Coverage.....	159
4.3.1	Table of Regulations.....	148	4.6.4	Height Limitation.....	159
4.3.2	Driveway Openings.....	148	4.6.5	Side & Rear Setbacks Adjoining Residential Districts.....	159
4.3.3	Open Space.....	149	4.6.6	Driveway Openings.....	160
4.3.4	Building Location.....	149	4.7	Special Conditions.....	161
4.3.5	Setbacks for Other Uses.....	149	4.7.1	Specific Front Setbacks....	161
4.4	Dimensional Requirements for Commercial Districts.....	150	4.7.2	Height Limitation Exceptions in Business, Apartment, Industrial & Industrial-1 Districts.....	161
4.4.1	Minimum Lot Area & Frontage.	150	4.7.3	Minimum Side Line Setbacks for a Dwelling or Institutional Building in Certain Districts.	161
4.4.2	Maximum Building Bulk	150	4.7.4	Change in Dimensional Regulations by Special Permit.....	162
4.4.3	Height Limitation.....	152	4.7.5	Historical Preservation Dimensional Special Permit..	162
4.4.4	Front Setback.....	152	4.8	Dimensional Regulations - NEBC	164
4.4.5	Driveway Openings.....	153	4.8.1	Supplemental Dimensional Regulations for NEBC.....	165

4.8.2 Floor Area Ratio, Incentives.	165	5.5 Signs	181
4.9 Dimensional Regulations for Mixed - Use 128.....	166	6. <u>SPECIAL REGULATIONS</u>...	182
4.9.1 Supplemental Dimensional Regulations.....	167	6.1 Accessory Uses.....	182
4.9.2 Floor Area Ratio, Incentives..	167	6.2 Boats, Motor Homes & Trailers..	183
4.10 Dimensional Regulations for Industrial-1 Districts.....	168	6.2.1 Occupancy.....	183
4.10.1 Basic Requirements.....	168	6.2.2 Storage.....	183
4.10.2 Floor Area Ratio	168	6.3 Filling Stations and Commercial Garages.....	183
4.10.3 Driveway Openings.....	169	6.4 Outdoor Parking of Vehicles....	184
4.10.4 Gould Street – Highland Avenue Buffer.....	169	6.4.1 Basic Requirements.....	184
5. <u>GENERAL REGULATIONS</u>.....	170	6.4.2 Review Criteria.....	185
5.1 Off-Street Parking Requirements	170	6.5 Limited Heliports.....	185
5.1.1 Applicability	170	6.5.2 Basic Requirements.....	185
5.1.2 Required Parking	174	6.6 Complex Developments.....	187
5.1.3 Parking Plan and Design Requirements.....	176	6.6.1 Intent.....	187
5.1.4 Off-Street Parking Requirements for Multi-Family Structures....	179	6.6.2 Applicability.....	187
5.1.5 Applicability for Parking Structures.....	179	6.6.3 Submittal Requirements...	187
5.1.6 Maintenance.....	179	6.6.4 Decision Criteria.....	188
5.2 Earth Removal.....	179	6.6.5 Conditions.....	189
5.3 General Design Requirements....	180	6.7 Wireless Communications Facilities.....	190
5.3.1 Access.....	180	6.7.1 Intent.....	190
5.3.2 Drainage.....	180	6.7.2 Definitions.....	190
5.3.3 Water quality and erosion.....	180	6.7.3 Use Regulations.....	192
5.3.4 Light.....	181	6.7.4 Submittal Requirements...	194
5.3.5 Safety.....	181	6.7.5 Decision Criteria.....	196
5.3.6 Environment.....	181	6.7.6 Design Review for Wireless Communication Equipment..	197
5.4 Disposal of Low Level Radioactive Waste.....	181	6.7.7 Modifications.....	198
		6.7.8 Monitoring & Maintenance..	198
		6.7.9 Abandonment or Discontinuation of Use.....	199

6.7.10 Reconstruction or Replacement of Existing Towers and Monopoles.....	199	7.5.3 Variances.....	219
6.7.11 Severability.....	199	7.6 Planning Board.....	220
6.8 Intensity of Use Special Permit Criteria for the NEBC, HC-128 & MU-128 Districts.....	200	7.6.1 Special Permit Granting Authority.....	220
6.8.1 Applicability.....	200	7.6.2 Recommendations to the Board of Appeals.....	220
6.9 Outdoor Seating.....	202	7.7 Design Review.....	220
6.9.1 Applicability.....	202	7.7.1 Purpose.....	220
6.9.2 Basic Requirements Seasonal Outdoor Seating.....	202	7.7.2 Design Review Board.....	221
6.10 Special Permit Criteria for a Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary.....	204	7.7.3 Procedure.....	222
6.11 Retaining Walls.....	205	7.7.4 Design Criteria.....	223
6.11.1 Purpose and Intent.....	205	7.8 Repetitive Petitions.....	224
6.11.2 Applicability.....	205	7.9 Penalties.....	224
6.11.3 General Provisions.....	205	7.10 Amendment.....	225
6.11.4 Design Review & Permitting.	206	7.11 Severability.....	225
6.11.5 Special Permit Provisions....	206	7.12 Effective Date.....	225
7. ADMINISTRATION.....	207	8. <u>TEMPORARY MORATORIUM ON THE SALE AND DISTRIBUTION OF RECREATIONAL MARIJUANA</u>.....	225
7.1 Enforcement.....	207	8.1 Purpose.....	225
7.2 Building or Use Permit.....	207	8.2 Definitions	226
7.3 Occupancy Permit.....	208	8.3 Temporary Moratorium.....	227
7.4 Site Plan Review.....	209	8.4 Severability.....	227
7.4.1 Purpose.....	209		
7.4.2 Definitions.....	209		
7.4.3 Requirements.....	211		
7.4.4 Procedure.....	212		
7.4.6 Review Criteria.....	214		
7.5 Board of Appeals.....	215		
7.5.1 Appeals.....	215		
7.5.2 Special Permits.....	215		

Amendments – 1925 to 2017 (on file in Planning Board Office)

ZONING BY-LAW
NEEDHAM, MASSACHUSETTS

1. GENERAL

1.1 Purpose

The purpose of this By-Law is to promote the health, safety, convenience, morals or welfare of the inhabitants of Needham; to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the Town and to preserve and increase amenities under the provisions of General Laws, Chapter 40A. The use, construction, alteration, height, area and location of buildings and structures and the use of premises in the Town of Needham are regulated as hereinafter provided.

1.2 Basic Requirements

Any building or structure hereinafter erected, reconstructed, altered, enlarged, or moved or any use of premises hereinafter established, altered or expanded in the Town of Needham shall be in conformity with the provision of this By-Law. Any use not specifically or generically enumerated in a district herein shall be deemed prohibited. In accordance with General Laws, Chapter 40A, and notwithstanding any provisions to the contrary, this By-Law shall not prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a non-profit educational corporation, provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

1.3 Definitions

In this By-Law the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future.

Accessory Building – a building devoted exclusively to a use subordinate to and customarily incidental to the principal use.

Accessory Use – a use subordinate to and customarily incidental to the principal use.

Adult Day Care – a facility offering daytime programs for older adults providing health care and assessment, personal care, social programs, recreational activities, meals and transportation, but not providing overnight or residential accommodations.

Affordable Housing Unit - A dwelling unit that is affordable to and occupied by a household with income at or below eighty (80) percent of the area median income that applies to subsidized housing in the Town of Needham, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD), and meets all applicable requirements for inclusion on the Chapter 40B Subsidized Housing Inventory. Except as may be provided elsewhere in this bylaw, each affordable housing unit shall be eligible for inclusion in the Chapter 40B Subsidized Housing Inventory, in accordance with regulations or policies of the Massachusetts Department of Housing and Community Development (DHCD). As used in this bylaw, “affordable housing unit” and “affordable unit” shall have the same meaning.

Affordable Housing Restriction - A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Needham, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of M.G.L. c.184, ss. 31-33 or other applicable state law. The Board of Selectmen of the Town of Needham may accept, hold, and enforce affordable housing restrictions.

Antenna – a device used for transmitting or receiving radio, television or other type of electronic waves.

Assisted Living and Alzheimer's/Memory Loss Facilities – Convalescent or nursing homes that may not be licensed as skilled nursing facilities by the Massachusetts Department of Public Health, but cater to individuals who need some degree of assistance in caring for themselves and are certified, licensed, or otherwise approved by the Executive Office of Elder Affairs or other Commonwealth of Massachusetts governmental entity.

Basement – That portion of a building that is partly or completely below grade. A minimum of 50% of the area of the basement walls must be below grade to be considered a basement. Only one basement level may be partly below grade; additional basement levels must be completely below grade. Notwithstanding the above, a walkout basement shall be limited to a maximum height of 10 feet with said height measured from the plane of the finished basement floor to the plane of the underside of the first floor joists directly above. For purposes of this definition, area shall be computed by taking the exterior perimeter of basement walls, whether or not exposed, multiplied by the height of all walls, whether or not exposed.

Building (or part or parts thereof) – a combination of any materials, whether portable or fixed, having a roof to form a structure for the shelter of persons, animals or property. Roof shall include an awning or any similar covering whether or not permanent in nature.

Christmas Season – a period of time from the Saturday before Thanksgiving Day until January 4 of the following year.

Complex Development – any development made subject to the provisions of Section 6.6 Complex Development by designation (“SPC”) in Section 3.2 Use Regulation Schedule, based on size and general category of use.

Conforming Use – use of buildings, structures or land which complies with all the use and dimensional requirements of the zoning district in which the use is located.

Continuing Care Retirement Community – A Continuing Care Retirement Community, whether or not governed by M.G.L. Chapter 93, Section 76, is also sometimes called a life care community, allowing residents to “age in place”. Facilities are on a campus of one or more contiguous parcels that includes separate housing for those who live independently, which may include communal dining for one or more meals, assisted living facilities that offer more support, and nursing homes for those needing skilled nursing care.

Coverage – that portion of a lot that is covered or occupied by any building or structure; underground buildings or structures devoted solely to parking are exempt from the definition of coverage, if the ground area immediately above said underground building or structure is equal to or no higher than 3 feet above the lowest elevation, as determined by the existing street grade measured at its centerline in front of the underground building or structure, and is devoted to surface parking, landscaping or other elements of off-street parking areas as provided for in Section 5.1 of the Zoning By-Law.

Dormer – A projection built out from a sloping roof, usually containing a window or vent.

Dwelling – any fixed structure containing one or more dwelling units, but not including hotels, motels, boarding houses, or structures solely for transient or overnight occupancy.

Dwelling Unit – a room or group of rooms designed and equipped exclusively for use as living quarters for only one family including provisions for living, sleeping, cooking and eating.

Dwelling, Multi-Family - A building in the Needham Center, Chestnut Street or Garden Street Overlay District containing three or more dwelling units, which building houses only residential uses.

Family – (1) one or more persons related by blood or marriage and including not more than eight additional persons of which not more than six may be foster children and not more than four may be persons other than foster children, or (2) not more than five unrelated individuals per dwelling unit where one individual is the resident owner of the property, all living as a single

housekeeping unit. The Board of Appeals may issue a special permit for up to two additional individuals per dwelling unit.

Farmers Market – A Farmers Market is activity which is comprised predominantly of activity whereby a) farmers display and sell (i) items that have been produced on farms they operate or (ii) items that have been produced on other farms through a farmer-agent relationship (such items to include food, flowers, plants, firewood, preserves, baked goods, soaps, wool products and similar items), such sales to be directly to the public and not through wholesale vendors, by the farmer, the farmer’s employees, or farmer-agents, and b) bakery establishments display and sell their baked goods, such sales to be directly to the public and not through wholesale vendors, by the bakery establishment, its employees, or farmer-agents. A farmer-agent is defined as a farmer who is acting on behalf of another farmer (or bakery) on the basis of a direct contractual relationship with such farmer (or bakery) and there is no intermediary.

Floor Area, Gross – the sum of the areas of the several floors of each building on a lot including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls, but excluding cellars, unenclosed porches, balconies, attics, or any floor space in accessory buildings or in main buildings intended and designed for the parking of automobiles or for accessory heating and ventilating equipment, laundry, or accessory storage.

Floor Area Ratio (FAR) – the floor area divided by the lot area. Floor area shall be the sum of the horizontal areas of the several floors of a building as measured from the exterior surface of the exterior walls. Parking garages, interior portions of building devoted to off-street parking, and deck or rooftop parking shall be considered floor area.

Frontage – a continuous portion of a sideline of a way, public or private, between the sidelines of a lot in common ownership and in the case of a corner lot, between a sideline of such lot and the intersection of sidelines of ways or the midpoint of the curve connecting such sidelines. No lot shall be required to have frontage on more than one way. No lot shall be deemed to have frontage unless there exists safe and convenient vehicular access from said lot to a street or way.

Green Building - A building designed, constructed, and operated and maintained throughout its life cycle to conserve energy and water, reduce environmental impacts, and protect the health of the general public and occupants of the building.

Health-Care Facility – Premises licensed to provide care on a relatively long-term basis to persons admitted thereto, comprising nursing homes, rest homes, sanitariums, convalescent homes, hospices, long-term pediatric or geriatric care facilities, extended care or rehabilitation facilities, and physical, psychiatric, psychological, cognitive, or behavioral therapy facilities, whether or not owned by or affiliated with a hospital.

Height – the vertical distance of the highest point of a structure or the roof of a building above the average grade of the ground adjoining the building or surrounding the structure.

Heliport, general – an area used by helicopters which includes passenger and cargo facilities and regularly scheduled passenger and cargo service, aircraft maintenance and repair, fueling service, storage space, hangars and accessory buildings, and/or overnight storage.

Heliport, limited – an area on a roof or on the ground used by helicopters for the purpose of picking up or discharging passengers or cargo, but not including fuel service, maintenance or overhaul, hangars or other accessory buildings, or overnight storage (except when removal is prohibited due to atmospheric conditions or mechanical difficulties).

Hospital – A facility licensed as a hospital under Section 51 of Chapter 11, M.G.L., and maintained for the purposes of caring for persons admitted thereto for diagnosis or medical, surgical, restorative or other treatment that is rendered within said facility. A hospital may include but shall not be limited to such related on-premises facilities as laboratory and radiology services, out-patient departments, medical equipment rentals, patient and retail pharmacy, physical, speech and occupational therapy, transitional care and rehabilitation respite, palliative care, birthing facilities, pediatrics, mental health and behavioral medicine, specialty clinics, radiation oncology, alternative medicine treatment, mobile diagnostic services, meeting and conference facilities, stock rooms, laundries, staff and administrative offices.

Hospital, Community – An acute hospital in which a majority of the case mix consists of medical-surgical, pediatric, obstetric, and maternity cases, providing a broad range of health services primarily to those who work or live in Needham and surrounding communities, with no single dominant specialization.

Hotel or Motel – a building intended and designed solely for transient or overnight occupants and divided into separate units or rooms within the same building and with or without public dining facilities.

Independent Living Apartments – A building in the Elder Services Zoning District containing three or more dwelling units, which building houses only residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community.

Indoor Athletic or Exercise Facilities – A commercial facility which as its primary purpose provides facilities for individual physical health activities, such as aerobic exercise, running and jogging, use of exercise equipment, saunas, showers, massage rooms and lockers. Such establishments are operated as a business even if open only to members and their guests on a membership basis and to the public at large paying a daily admission fee. All facilities must be contained within the building.

Landscaping – any grading or relocation of earth not resulting in the change of the elevation of any land within a Flood Plain District.

Lot – a single area of land, in one ownership throughout, defined by metes and bounds or boundary lines as shown in a recorded deed or on a recorded plan. The area of a lot shall not include any part of a way, public or private, which adjoins the lot.

Lot, Corner – a lot at the point of intersection of, and abutting on, two or more intersecting streets, the angle of intersection of the street lines or, in the case of a curved street, street lines extended, being not more than one hundred and thirty-five (135) degrees.

Lot Line – a recorded boundary separating a lot from a street or adjoining lots; for example, front, side and rear lot lines.

Medical Clinic – An institution or facility providing medical, surgical, dental, restorative or mental hygiene services to persons not accommodated overnight therein, under license as a clinic under Massachusetts General Laws, whether or not affiliated with a hospital or other health care facility.

Medical Laboratory – A facility for the provision of testing, analytical, diagnostic, pharmaceutical or other health care support services, equipment or procedures, whether or not owned by or affiliated with a hospital.

Medical Marijuana Treatment Center – A facility operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or succeeding regulation pertaining to the registration of such facilities, and pursuant to all other applicable state laws and regulations, also to be known as a Registered Marijuana Dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to patients or their personal caregivers registered and qualified under the provisions of 105 CMR 725.000 (“Qualified Patients or Qualified Caregivers”) or succeeding regulation pertaining to the registration and qualification of Qualified Patients and Qualified Caregivers. A Medical Marijuana Treatment Center may include facilities which cultivate and/or process marijuana for medical use.

Medical Services Building – Premises with occupancy limited to doctor’s offices, dentist’s offices, orthodontic services, psychiatric, psychological and other mental health services, radiology and laboratory services, sale, and repair of medical devices and equipment or other health care or health care services, whether or not owned or affiliated with a hospital, but not including those licensed as a clinic.

Mixed-Use Building - A building in the Needham Center, Chestnut Street or Garden Street Overlay District in which the ground floor facing the street is used for such retail or restaurant uses as may be permitted by right or by special permit in the applicable overlay district, and other ground-floor and upper-floor space is used for other commercial use(s) or dwelling unit(s).

Mixed-Use Development - Two (2) or more buildings in the Chestnut Street Overlay District on one lot, with retail use(s) or mixed-use buildings facing the street and other buildings for

commercial use(s), mixed uses or multi-family dwelling(s) located to the rear of the lot, connected by walkways, landscaping and pedestrian amenities, and shared parking.

Motor Home – a vehicle with motive power designed for sleeping or living quarters for one (1) or more persons, which is not a dwelling and which may include a pick-up camper and beach buggy.

Needham Center Off-Street Parking Fund - A special revenue fund established under Chapter 438 of the acts of 2008 to support the provision of off-street parking in the area governed by the act.

Non-Conforming Building – a building or structure lawfully in existence or lawfully begun before the first publication of notice of the public hearing regarding a zoning by-law that would otherwise render said building or structure not in compliance with such a new or amended by-law, but not including a non-conforming building or structure resulting from a variance or other relief granted by the Board of Appeals.

Non-Conforming Use – a use of buildings, structures or land lawfully in existence or lawfully begun before the first publication of notice of the public hearing regarding a zoning by-law that would otherwise render said use not in compliance with such a new or amended by-law, but not including a non-conforming use resulting from a variance or other relief granted by the Board of Appeals.

Off-Site Medical Marijuana Dispensary – A facility registered and qualified as a Registered Marijuana Dispensary under the provisions of 105 CMR 725.000, which is located off-site from a separate location of the same RMD or from an affiliated RMD where marijuana or related products are cultivated or processed, and that is controlled and operated by the same registered and approved non-profit entity that operates the separate location or affiliated RMD where marijuana or related products are cultivated or processed, but which dispensary serves only to acquire, possess, transfer, transport, sell, distribute, dispense or administer processed marijuana for medical use, related products and supplies and educational materials to Qualified Patients or Qualified Caregivers, and which dispensary includes no cultivation or processing of such marijuana or related products.

Parking Space – an area available for parking one automobile and having not less than one hundred sixty-six and one-half (166.5) square feet, exclusive of driveways and approaches thereto, a free and unimpeded access to a way over unobstructed driveways or approaches and a minimum width of not less than nine (9) feet.

Personal Fitness Service Establishment – A commercial facility all the business of which involves instructional and/or directed exercise and fitness activities, including, but not limited to, personal training, yoga, spinning, pilates, exercise and fitness classes and lessons, and related activities; having at least one instructor or supervisor for every 15 clients; a maximum class size of 15 clients; a maximum occupancy at any one time of 20 persons; and a maximum total area of 2,500 square feet. Such establishments are operated as a business, even if open only to members and their

guests on a membership basis and not to the public at large paying a daily admission fee. All facilities must be contained within the building.

Pharmacy – A facility for the sale of prescription and/or non-prescription drugs, medications, and medical supplies.

Premises – a lot together with all buildings, structures and uses thereon.

Professional – a person who by education and experience is a member of a recognized profession such as a physician, dentist, architect, attorney, artist or engineer.

Public Utility – any person, firm, corporation or municipal department, board or commission authorized to furnish gas, steam, electric, waste disposal, communication facility, transportation or water to the public.

Residential Hospice House – a single-family detached dwelling, in which care is given to terminally ill patients who have medically documented prognoses of less than six months to live. Hospice services given in a residential hospice house under these By-Laws, must be provided by a non-profit, tax exempt, Massachusetts corporation, that holds a license as a hospice care program from the Department of Public Health of the Commonwealth of Massachusetts, pursuant to G.L., Chapter 111, s.57D and 105 CMR s.141.000.

Retaining Wall - A wall or terraced combination of walls used at a grade change to hold soil and other earth material at a higher position. Retaining walls may be attached to or independent from other structures. The exposed side of a retaining wall shall be known as a “face”. The area between a lower wall and a successive higher wall shall be known as a “terrace.

Setback – front, side and rear – the minimum horizontal distance from a street line or a lot line, as the case may be, to any part of a building or structure, including overhang but not: (i) uncovered steps, fences or awnings; (ii) in a required front yard width, an uncovered landing, above a stair or stairs, which neither exceeds a total area of fifty (50) square feet nor projects more than five (5) feet from the face of a building; and (iii) in a required side or rear yard, an uncovered landing, above a stair or stairs, which neither exceeds a total area of twenty-five (25) square feet nor projects more than four (4) feet from the face of a building, where such landing is required by the State Building Code. Notwithstanding the above, in the Business, Chestnut Street Business, Center Business, Avery Square Business, Neighborhood Business, Highland Commercial-128, Elder Services and Hillside Avenue Business districts, the following exemptions shall apply: (i) eaves, cornices, friezes, and architraves shall not be regarded in the computation of the setback to the extent that they do not intrude into the setback area by more than one and one-half (1.5) feet, are a minimum of twelve (12) feet above the mean grade level at the façade on which the encroachment occurs, and have a cumulative area of not more than ten (10) percent of the wall area of the façade on which the encroachment occurs; and (ii) pilasters and columns shall not be regarded in the computation of the setback to the extent that they do not intrude into the setback area by more than one-half (.5) foot, are ornamental and non-structural in nature, and have a cumulative width of not more than five (5) percent of the length of the façade on which the encroachment occurs. In

measuring the required setback from any street line, the applicable minimum front setback requirement shall be used.

Story – that part of a building between any floor, other than a basement, and the floor or roof next above.

Half-Story or ½ Story – For all single-family detached dwellings and two-family detached dwellings located in all Districts, and apartment and multi-family dwelling units permitted by Special Permit in the Center Business District and Chestnut Street Business District and located in the half-story directly above the second floor, that portion of a building included between the upper surface of a floor and the lower surface of a sloping roof next above where the area contained therein has a finished ceiling height exceeding 5'-0". Dormers installed in a sloping roof directly above the second story of a structure shall be limited in size as follows: (1) The total length of the front wall(s) of a dormer(s) shall not exceed fifty percent (50%) of the eave length of the portion of the roof in which the dormer is built. In no case shall a single dormer exceed twenty feet (20') in width. (2) A roof line overhang shall be continued between the dormer and the story next below so as to avoid the appearance of an uninterrupted wall plane extending beyond two stories. (3) The vertical plane of the side wall of any dormer shall not be closer than eighteen inches (18") from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer. (4) No dormer may project above the main ridgeline of the building. There are no restrictions on dormers installed in a sloping roof directly above the first story of a structure. This definition shall apply to all single-family detached dwellings, two-family detached dwellings, and apartment and multi-family dwelling units permitted by Special Permit in the Center Business District and Chestnut Street Business District and located in the half-story directly above the second floor. For all other buildings the definition is, that part of a building under a sloping roof where the full-length rafters rest on the top beam of the story below.

Street or Way – any public way or any private way shown on a plan approved under the provisions of the Subdivision Control Law or in existence when the provisions of said Subdivision Control Law became effective in the Town of Needham, having in the opinion of the Planning Board suitable width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure – anything constructed or erected, the use of which requires a fixed location on the ground or attached to something located on the ground including an artificial or a constructed swimming pool having a depth of water of two (2) feet or more or a water surface area of at least one hundred (100) square feet when filled to capacity, but excluding a fence, boundary wall, retaining wall, public utility pole, public utility supporting device or a structure with less than one hundred square foot ground coverage and a height of less than eight (8) feet.

Telecommunications facility – facility for the operation, monitoring and maintenance of telecommunications switching equipment, data storage computers, internet connectivity routers, and ancillary equipment.

Toxic or Hazardous Materials – all liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, and also any other toxic caustic or corrosive chemicals, radioactive materials or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste under the provisions of Chapter 21 (c), G.L.

Traffic Mitigation Fund – a fund to be established in the office of the Town Treasurer to be held in a separate account to be administered and operated in accordance with the provisions of Chapter 200 of the Acts of 2001.

Trailer – a vehicle without motive power, designed to be and capable of being towed, including, but not limited to, a utility trailer, boat trailer, tent trailer and mobile home.

Uninterrupted Facade Length – As may be required by certain sections of this by-law, the term “uninterrupted facade length” shall mean the maximum horizontal length of a building facade, uninterrupted by a wall plane projection or recess having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade.

1.4 Non-Conformance

1.4.1 Intent

The intent of this section is to define the application of this By-Law to otherwise lawful buildings, structures and uses which do not conform to its provisions; to prevent the expansion or change thereof except in conformity with the provisions of this section; and to provide for the discontinuance of said uses or for their eventual conversion to a conforming status.

1.4.2 Continuation

Any building or structure, or use of a building, structure or land which lawfully existed at the time of the adoption of this By-Law, or any amendment thereof, may be continued to the same extent except as otherwise provided herein.

1.4.3 Change

A non-conforming use shall not be changed other than to conforming use except as hereinafter set forth, and once so changed, shall not be permitted to revert to a non-conforming use.

1.4.4 Restoration

A lawful pre-existing non-conforming building or structure which has been damaged or destroyed by fire or other accidental cause may be rebuilt in the same location and to the dimensions not exceeding those that existed prior to the damage or destruction.

1.4.5 Abandonment

A non-conforming use of any building, structure or land which has been abandoned shall not thereafter be returned to that non-conforming use or converted to any other non-conforming use. A non-conforming use shall be considered abandoned:

- (a) when the intent to discontinue the use is stated by the owner or occupant, or is otherwise manifest or;
- (b) when the use has been discontinued or the stock-in-trade, equipment or furnishings characteristic of the use have been removed from the premises, for twenty-four consecutive months; or
- (c) when the non-conforming use has been replaced by a conforming use; or,
- (d) when the non-conforming use has been changed to another non-conforming use under a special permit granted by the Board of Appeals.

1.4.6 Alteration

Except as otherwise provided in Section 1.4.7, a lawful pre-existing non-conforming use may be changed or extended and a non-conforming building may be structurally altered, enlarged or reconstructed only pursuant to a special permit issued by the Board of Appeals pursuant to Section 7.5.2. No such permit shall be issued except in accordance with the requirements of Section 7.5.2 nor unless the Board shall determine that such change, extension, alteration, enlargement or reconstruction would not be substantially more detrimental to the neighborhood than using the existing non-conforming use or structure. The issuance of a special permit hereunder shall not authorize the violation of any dimensional, parking or intensity regulation with which the structure or use was theretofore in conformity.

1.4.7 Single-Family and Two-Family Dwellings

1.4.7.1 Reconstruction

A lawful pre-existing non-conforming two-family detached dwelling located in a zoning district where two-family detached dwellings are prohibited constitutes a non-conforming use and may not be reconstructed except pursuant to Section 1.4.7.4. As used in Section 1.4.7 the term “reconstruction” shall be defined as the voluntary razing and rebuilding of a building or structure.

1.4.7.2 Alteration of Single-Family and Two-Family Dwellings

A lawful pre-existing non-conforming single-family or two-family dwelling which is non-conforming because of front, side and rear setback, build factor, area and/or frontage requirements of this By-Law may be altered, extended or structurally changed (but not reconstructed) as of right and without a special permit or finding by the Board as required in the preceding section provided that such alteration, extension or structural change complies with all front, side and rear setback, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law. Such alteration, extension or structural change shall not be considered an increase in the non-conforming nature of the dwelling. For purposes of this section, the extension of an exterior wall within a required setback area shall be deemed to create a new non-conformity and shall require the grant of a variance by the Board of Appeals.

1.4.7.3 Reconstruction of Single-Family and Two-Family Dwellings Located in a Zoning District Where the Use is Permitted

A lawful pre-existing non-conforming single-family or two-family dwelling which is non-conforming because of front, side and rear setback, build factor, area and/or frontage requirements of this By-Law may be reconstructed as a matter of right and without a special permit or finding by the Board as required in the preceding section provided that the new building is built in compliance with all front, side and rear setback, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law.

1.4.7.4 Reconstruction of Two-Family Dwellings Located in a Single Residence A, Single Residence B or Rural Residence-Conservation District Where the Use is Prohibited

A lawful pre-existing non-conforming two-family dwelling located in a Single Residence A, Single Residence B or Rural Residence-Conservation District may be reconstructed as a matter of right and without a special permit or finding by the Board as required in the preceding section provided i) the building is rebuilt in the same location and in the same footprint as that which existed prior to the demolition up to the height limit of the current By-Law provided further, however, that any footprint that is violative of the side setback requirement shall not be increased as to height or story beyond that of the existing building absent a Special Permit from the Board of Appeals, or ii) the building is rebuilt in a different location on the lot in compliance with all front, side and rear setback, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law, and provided that the building as reconstructed has a footprint no greater in area than that of the original non-conforming building.

As used in this Section 1.4.7.4, the term “footprint” shall be defined as the area of the lot which is within the perimeter created by the vertical extension to the ground of the exterior walls of all fully enclosed portions of a building, including attached garages, porches, solariums and similar fully enclosed extensions, attachments and accessory annexes, plus eaves and roof overhangs. Not included in the footprint are unenclosed portions or extensions of buildings, including, but not limited to, unenclosed carports, decks, and porches.

Upon application the Board of Appeals may issue a special permit allowing a lawful pre-existing non-conforming two-family dwelling located in a Single Residence A, Single Residence B or Rural Residence-Conservation District to be reconstructed with a footprint greater in area than that of the original non-conforming building provided the Board of Appeals finds that the reconstructed and enlarged building is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties, and that the proposed reconstruction and enlargement will not be substantially more detrimental than the existing non-conforming building to the neighborhood, provided further, however, that such reconstruction and enlargement shall not be allowed by special permit in the following circumstances:

(a) Reconstruction of a non-conforming two-family dwelling on a non-conforming lot resulting in a building footprint of greater than 1,800 square feet except as set forth in subsection (c), below;

(b) Reconstruction of a non-conforming two-family dwelling on a conforming lot resulting in a building footprint of greater than 2,500 square feet or lot coverage greater than 18%;

(c) Reconstruction of a non-conforming two-family dwelling on a lot that conforms in all respects other than not meeting the minimum frontage requirement of the By-Law resulting in a building footprint of greater than 2,500 square feet or lot coverage greater than 18%;

(d) Reconstruction of a non-conforming two-family dwelling on a lot where the building as reconstructed would not comply with all front, side, and rear setbacks, lot coverage, building height, and building story requirements of the current By-Law including but not limited to the provisions of Section 4.2.3 of this By-Law; and

(e) Reconstruction of a non-conforming two-family dwelling on a lot resulting in the construction of enclosed garage space servicing more than one car per dwelling unit.

Notwithstanding the provisions of this section to the contrary, the Board of Appeals may allow reconstruction of a non-conforming two-family dwelling on a lot resulting in the construction of enclosed garage space servicing two cars per dwelling unit, provided the Board finds that:

a.i the additional enclosed garage space will be located in an accessory building where the accessory building is separate from and located to the rear of the back wall of the principal structure and where the enclosed garage space authorized under Section 1.4.7.4 (e) is located within the principal structure, or

a.ii. the additional enclosed garage space will be located in a tandem parking space located within the principal structure where such space is accessed through a single garage door and where such garage door shall be a standard single car garage door width; and

b. the additional enclosed garage space will not alter the character of the premises in which it is located, and

c. the additional enclosed garage space will not have a material adverse effect on the value of the land and buildings or structures in the neighborhood, or on the amenities thereof, and

d. the additional enclosed garage space will be appropriate in scale and mass for the neighborhood, taking into consideration the visual impact of the garage from the street.

Notwithstanding the provisions of this section, (1) the enclosed garage space for not more than one car per dwelling unit allowed pursuant to Section 1.4.7.4(e) and (2) the additional (second) enclosed garage space allowed by paragraph "a.i" immediately above and located in an accessory building of not more than 575 square feet per two vehicles, where the accessory building is separate from and not in front of the house, shall be excluded from the lot coverage calculation of Section 1.4.7.4 (a), 1.4.7.4 (b), 1.4.7.4 (c).

1.4.8 Non-Conforming Lots

Notwithstanding any other provision of this By-Law, an increase in the area or frontage of an existing improved lot which includes a conforming structure or building or pre-existing non-conforming structure or building shall not terminate the status of a structure or building as a pre-existing non-conforming structure if it continues to be non-conforming following such increase in area or frontage.

1.4.9 Conformance with Subsequent Amendments

Construction or operations under a building or special permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through completion as continuously and expeditiously as is reasonable.

1.4.10 Substitution

The Board of Appeals may grant a special permit for the replacement of a non-conforming use of a building, structure or land by another specified use not conforming to this By-Law, provided the replacement is less objectionable and detrimental to the neighborhood or any property in the neighborhood.

1.5 Variation

Where this By-Law imposes a greater restriction upon the use of buildings or premises than is imposed by existing provisions of law or other by-laws, the provisions of the By-Law shall control. Where a provision of this By-Law may be in conflict with any other provision or provisions of this By-Law, the more stringent or greater requirement shall control. More

particularly, if a lot is located in more than one zoning district, the minimum area, frontage and all other dimensional requirements of the district in which fifty (50) percent or more of the lot is located shall apply throughout.

2. USE DISTRICTS

2.1 Classes of Districts

Residential

RRC	--	Rural Residence – Conservation
SRA	--	Single Residence A
SRB	--	Single Residence B
GR	--	General Residence
A-1	--	Apartment – A-1
A-2	--	Apartment – A-2
A-3	--	Apartment – A-3

Commercial

B	--	Business
CSB	--	Chestnut Street Business
CB	--	Center Business
ASB	--	Avery Square Business
HAB	--	Hillside Avenue Business
NB	--	Neighborhood Business
HC-128	--	Highland Commercial-128
ES	--	Elder Services

Industrial

IND	--	Industrial
IND-1	--	Industrial – 1
NEBC	--	New England Business Center
MU-128	--	Mixed Use-128

Institutional

I	--	Institutional
---	----	---------------

Overlay

FP	--	Flood Plain
AP	--	Aquifer Protection
M	--	Medical Overlay
AU	--	Adult Uses
WCFT	--	Wireless Communications Facilities Towers Overlay
NC	--	Needham Center Overlay
LC	--	Lower Chestnut Street Overlay
GS	--	Garden Street Overlay
TMT	--	Temporary Meteorological Towers Overlay District
LGSPI	--	Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District
MUOD	--	Mixed-Use Overlay District

2.2 Location of Districts

Said districts are located and bounded as shown on a map entitled “Zoning Map of the Town of Needham, Mass.” dated September, 1924, as revised and amended to date and on file in the Office of the Town Clerk and as further described for Flood Plain Districts in Section 2.3. The Zoning Map with boundaries of the districts and all explanatory matter thereon is hereby made a part of this By-Law.

2.2.1

Where a district boundary is shown as following a street, railroad or utility, the boundary shall be the center line thereof as said line existed at the date of the adoption of the Zoning Map, unless otherwise indicated.

2.2.2

Where a district boundary is indicated as a property or lot line and the exact position of such line is not defined by measurements, the true location thereof shall be taken as the boundary line as said line existed at the date of the establishment of such boundary.

2.2.3

Where a district boundary is shown outside of a street, railroad or utility and approximately parallel thereto, the boundary shall be deemed parallel to the nearest line thereof, and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line otherwise indicated.

2.2.4

Where a district boundary is shown as following a watercourse, the boundary shall coincide with the center line thereof as said line existed at the date of the establishment of such boundary.

2.2.5

Where a district boundary shall include a numerical figure followed by the letters, M.S.L., it is at that number of feet above mean sea level.

2.2.6

Where the location of a district boundary line is otherwise uncertain, the location thereof shall be determined with the distance in feet from other lines of bounds as given or as measured from the scale of the Zoning Map.

2.3 Description of Flood Plain Districts

The Floodplain District is herein established as an overlay district. The areas included in the Flood Plain Districts are defined as follows:

2.3.1

All special flood hazard areas within the Town of Needham designated as Zone A, AE, or AH on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Needham are panel numbers 25021C0016E, 25021C0017E, 25021C0018E, 25021C0019E, 25021C0028E, 25021C0036E, 25021C0037E, 25021C0038E, and 25021C0039E dated July 17, 2012. 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 Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department.

2.3.2

All that land along or sloping toward that portion of Rosemary Brook between Rosemary Lake and Central Avenue that is at or below the following elevations:

- (a) Ninety (90) feet above mean sea level upstream of West Street
- (b) Eighty-eight (88) feet above mean sea level between West Street and Central Avenue

2.3.3

All that land along or sloping toward that portion of Rosemary Brook between Central Avenue and the Needham-Wellesley town line that is at or below an elevation of eighty-five (85) feet above mean sea level.

3. USE REGULATIONS

3.1 Basic Requirements

No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.1.2 and as permitted and set forth in Section 3.2, Schedule of Use Regulations, and in accordance with the following notation:

Y (Yes)	Use Permitted (except major projects under Section 7.4.2, which require a special permit from the Planning Board)
SP (Special Permit)	Use allowed under a special permit for an exception by the Board of Appeals as provided here-after
SPP (Special Permit)	Use allowed under a special permit by the Planning Board as provided hereafter
SPC (Complex Development)	Use allowed under a special permit under the provisions of Section 6.6 Complex Projects
N (No)	Use Prohibited
Y#	Allows for the use upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.

Uses permitted and uses allowed by the Board of Appeals or by the Planning Board shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this By-Law.

Notwithstanding the uses set forth in the Schedule of Use Regulations (Section 3.2), in all Industrial, Business and/or Commercial zoning districts, including Mixed Use-128 (a) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to, a use allowed by Section 3.2 as of right, that use shall be allowed and (b) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to a use allowed by Section 3.2 by special permit, that use may be allowed by the Planning Board by special permit.

3.1.2 Prohibited Uses

In any district no use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or

dwelling in the Town. Use of any premises in any district for landing or taking off of aircraft, including helicopters, is prohibited except for purposes of emergency.

3.2 Schedule of Use Regulations

3.2.1 Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial-1 Districts.

The following schedule of use regulations shall apply in the RRC, SRA, SRB, GR, A-1, 2 & 3, I, IND and IND-1 districts.

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND- 1</u>
<p><u>AGRICULTURE</u></p> <p>Farmers Market, not to exceed once a week, during the season from May 15 to November 30, which may take place on existing parking areas serving one of the following uses: (i) municipal/public uses, (ii) religious and educational uses protected by MGL Chapter 40A, Section 3 or (iii) in a commercially zoned district commercial uses, provided that the special permit granting authority determines that in addition to other necessary findings under Section 7.5.2 of the By-Law adequate parking and loading areas are maintained to serve such other uses during the Farmers Market.</p>	SP	SP	SP	SP	SP	SP	SP
<p>Farm, greenhouse, nursery, truck garden, provided the subject property contains a minimum of two and one half (2-1/2) acres</p>	Y	Y	Y	Y	Y	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
Salesroom or stand for agricultural and horticultural products provided all products sold are grown or produced on the premises of the farm, greenhouse, nursery or truck garden, provided the subject property contains a minimum of two and one half (2-1/2) acres	Y	Y	Y	Y	Y	Y	Y
Sale during the Christmas season at a nursery or green-house of cut Christmas trees and wreaths grown or fabricated elsewhere than on the premises	Y	Y	Y	Y	Y	Y	Y
Sale during Christmas season by a non-profit corporation or organization of uncut or cut Christmas trees and wreaths grown or fabricated elsewhere than on the premises and associated, related merchandise, including the outdoor display of trees, wreaths and merchandise. Outdoor display is permitted on existing parking spaces, except that adequate parking and loading must be maintained.	SP	SP	SP	SP	Y	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
<u>PUBLIC, SEMI-PUBLIC & INSTITUTIONAL</u>							
Church or other place of worship, parish house, rectory, convent and other religious institution	Y	Y	Y	Y	Y	Y	Y
School – public, religious, sectarian or denominational	Y	Y	Y	Y	Y	Y	Y
Public library and museum and philanthropic institution	Y	Y	Y	Y	Y	Y	Y
Public park and playground and municipal structure including a water tower and reservoir	Y	Y	Y	Y	Y	Y	Y
Public passenger station	Y	Y	Y	Y	Y	Y	Y
Child care facility	Y	Y	Y	Y	Y	Y	Y
Other private school, nursery, or kindergarten	SP	SP	SP	SP	SP	SP	SP
Convalescent or nursing home, hospital	SP	SP	SP	SP	SP	SP	SP
Cemetery	SP	SP	SP	SP	SP	SP	SP
Private club not conducted as a business	SP	SP	SP	SP	SP	SP	SP

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND- 1</u>
<u>RESIDENCE</u>							
Single-family detached dwelling	Y	Y	Y	Y	Y	Y	Y
PRD (See 4.2.11)	SP	SP	N	N	N	N	N
RC (See 4.2.12)	SP	SP	N	N	N	N	N
Two-family detached dwelling	N	N	Y	Y	N	N	N
Conversion of a single-family dwelling to a two-family dwelling	N	N	Y	Y	N	N	N
Apartment or multi-family dwelling	N	N	N	Y	N	N	N

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
<p>The use of an owner-occupied structure for shared elderly housing for up to six elderly occupants (age 60 or over); provided, (1) that such structure so used shall not be sub-divided into separate apartments, (2) that occupancies therein by non-owner occupants shall be pursuant to an agreement specifying a term of occupancy of not less than one year, (3) that at any time there shall be in the town no more than fifty structures for which permits have been issued under authority of this section, (4) that no more than 20 percent of such structures shall be located in any one precinct of the town, and (5) that the number of structures for which permits are granted hereunder in any one year shall not exceed five.</p> <p>**Applies only to structures in existence prior to December 31, 1982, otherwise "N".</p>	SP	SP	SP	SP	SP**	N	N

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
The use of a single-family detached dwelling for a residential hospice house*	Y*	Y*	Y*	N	N	N	N
<p>*provided that the following conditions in addition to those set forth at section 1.3 shall apply: (1) up to, but not more than two persons for each bedroom in a residential hospice house, may receive hospice care within the house, up to a maximum of sixteen persons in the RRC and SRA Districts and six persons in the SRB and GR districts, respectively; (2) there shall be not less than one parking space for each staff person living on the premises, plus one parking space for each two persons receiving hospice care on the premises; no parking space shall be in any setback area required by this by-law; (3) any dwelling used as a residential hospice house shall comply with the following requirements: (a) minimum lot area: 87,120 square feet in the RRC and SRA Districts and 20,000 square feet in the SRB and GR Districts, respectively, calculated in accordance with Section 4.2.6 of this By-Law; (b) minimum frontage 150 feet in the SRA and RRC Districts and 80 feet in the SRB and GR Districts, respectively; (c) front setback: 50 feet in the SRA and RRC Districts and 20 feet in the SRB and GR Districts, respectively; (d) side setback: 25 feet in the SRA and RRC Districts and 20 feet in the SRB and GR Districts and 20 feet in the SRB and GR Districts, respectively, except that in the SRB and GR districts buildings and structures on lots created by deed or plan endorsed or recorded before January 9, 1986, shall have a minimum side line setback of 10 feet; (e) rear setback: 25 feet in the SRA and RRC Districts and 10 feet in the SRB and GR Districts, respectively; (f) maximum stories: 2-1/2, and maximum height: 35 feet, except that single-family dwellings existing before the passage of this By-Law and containing more than 2-1/2 stories or being more than 35 feet in height, may be used as a residential hospice house not subject to these restrictions on height and number of stories, provided that no additions or alterations may be made that would increase the existing height or number of stories; (4) visual buffering in the form of a natural vegetative buffer between the residential hospice house and associated parking areas, and any abutting structure, shall be maintained if such vegetative buffer exists, or created using vegetation consistent with that already on the lot of the residential hospice house, or the surrounding area; (5) modifications to the exterior of an existing structure shall be consistent with the existing structure's predominant character as a single-family home; whenever egress stairways or other exterior renovations are required for building code compliance, they shall be contained within the exterior walls of the dwelling; (6) the initial owner or operator of a dwelling used as a residential hospice shall apply to the Building Inspector for an occupancy permit before any persons receive hospice care within the residential hospice house, and shall demonstrate compliance with the preceding paragraphs 1 through 5; each subsequent owner or operator of a dwelling used as a residential hospice house shall apply to the Building Inspector for an occupancy permit and shall demonstrate continued compliance with the preceding paragraphs 1 through 5.</p>							

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND- 1</u>
Boarding house with no arrangements of any description for private cooking or housekeeping	N	N	SP	SP	N	Y	Y
<u>INSTITUTIONAL</u>							
Dormitory for a school with no provisions for private cooking or housekeeping	N	N	N	N	Y	Y	Y
<u>BUSINESS</u>							
Retail establishments serving the general public containing 5750 or more gross square feet of floor area	N	N	N	N	N	SP	SP
Retail establishments serving the general public containing less than 5750 gross square feet of floor area or incidental retail sales which are accessory to a permitted principal use which does not involve 50% of the total floor area or 5750 square feet of the principal use, whichever is lesser. In multi-tenanted structures the provisions of this section will individually apply to each tenant or use and not to the aggregate total of the structure	N	N	N	N	N	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
Retail trade or shop for custom work or the making of articles to be sold at retail on the premises	N	N	N	N	N	Y	Y
Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises	N	N	N	N	N	Y	Y
Offices and banks	N	N	N	N	N	Y	Y
Craft, consumer, professional or commercial service established dealing directly with the general public and not enumerated elsewhere in this section	N	N	N	N	N	Y	Y
Theaters, indoor moving picture shows, bowling alleys, skating rinks, billiard rooms, and similar commercial amusement or entertainment places	N	N	N	N	N	Y	Y
Personal fitness service establishment; provided, all required off-street parking is provided on-site for all land uses located on the subject site and in adherence with the requirements of Section 5.1.2, Required Parking, absent any waivers from the provisions of Subsections 5.1.1.5 and 5.1.1.6	N	N	N	N	N	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
Personal fitness service establishment; where there is insufficient off-street parking on-site to serve all land uses located thereon in adherence with the requirements of Section 5.1.2 but where it can be demonstrated that the hours, or days, of peak parking for the uses are sufficiently different that a lower total will provide adequately for all uses or activities served by the parking lot	N	N	N	N	N	SP	SP
Indoor Athletic or Exercise Facilities *Applies only to Industrial Districts any portion of which is located within 150 feet of the Route 128 boundary, otherwise N.	N	N	N	N	N	SP*	SP
Commercial garage for the storage or repair of vehicles; gasoline and oil filling station; trucking terminal, truck rental agency and similar material hauling enterprise; the parking of vehicles involved in rubbish disposal and oil delivery and the private parking of vehicles for compensation	N	N	N	N	N	SP	SP
Laundry; coin-operated or self-service laundry or dry cleaning establishment; car wash	N	N	N	N	N	SP	SP

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND- 1</u>
Lumber or fuel establishment; contractor's, stone mason's, junk or salvage yard	N	N	N	N	N	SP	SP
Airport, heliport, landing strip or area for any type of air-craft	N	N	N	N	N	N	N
Hotel or motel	N	N	N	N	N	SP	SP
Eat-in or take-out restaurant or other eating establishment except a lunch counter incidental to a primary use	N	N	N	N	N	SP	SP
Veterinary office and/or treatment facility	N	N	N	N	N	SP	SP
Medical Clinic	N	N	N	N	N	SP	SP
Medical Marijuana Treatment Center	N	N	N	N	N	N	SPP
Outdoor parking in conjunction with the sale or leasing of new or used vehicles on applications filed after September 28, 1978	N	N	N	N	N	SP	SP
<u>MANUFACTURING</u>							
Wholesale distribution facilities or storage in an enclosed structure, excluding the storage of flammable liquids, gas or explosives	N	N	N	N	N	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
Industrial services, for example, machine shop, plumbing, electrical or carpentry shop or similar service	N	N	N	N	N	Y	Y
Welding shop	N	N	N	N	N	SP	SP
Stone cutting, shaping, or finishing in an enclosed building	N	N	N	N	N	SP	SP
Autobody or auto paint shop, provided that all work is carried out inside the building	N	N	N	N	N	SP	SP
Outside truck service or repair for others including body work	N	N	N	N	N	SP	SP
Food processing primarily for wholesale use	N	N	N	N	N	SP	SP
Bottling plant	N	N	N	N	N	Y	Y
Equipment rental service	N	N	N	N	N	Y	Y
Garment manufacturing	N	N	N	N	N	Y	Y
Laboratory or place where scientific experimental research is conducted not including genetic or biological research laboratory	N	N	N	N	SP	Y	Y
Genetic biological research	N	N	N	N	N	SP	SP
Radio or television studio	N	N	N	N	N	Y	Y

<u>USE</u>	<u>RRC SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2 & 3</u>	<u>I</u>	<u>IND</u>	<u>IND- 1</u>
Medical reference laboratories other than accessory to a medical office	N	N	N	N	N	SP	SP
Dental prosthesis laboratories other than accessory to a dental office	N	N	N	N	N	Y	Y
Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed in a manner so as not to create a nuisance or hazard to safety or health	N	N	N	N	N	Y	Y
Any lawful purpose or special use not enumerated elsewhere in this By-Law	N	N	N	N	N	SP	SP
More than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law	N	N	N	N	SP	SP	SP
More than one municipal building and/or municipal use on a lot	Y	Y	Y	Y	Y	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
<p><u>ACCESSORY</u></p> <p>Use of a room or rooms in a single or two-family dwelling as an office or studio by a resident professional person provided not more than one other person is regularly employed therein in connection with such use and that not more than 25% of the gross floor area, not in excess of 600 sq. ft., is regularly devoted to such use</p>	Y	Y	Y	N	Y	Y	Y
<p>Customary home occupation engaged in by a resident of a single or two-family dwelling, which may include carpentry, cooking, preserving, dress-making, handicrafts, repair of small appliances or other small items and similar activities, provided that (1) not more than one person is regularly employed therein in connection with such operation, (2) there is no exterior storage of material or equipment nor other exterior evidence of variation from the regular residential character of the premises, and (3) there is no advertising and signing and no public display or sale of goods on the premises.</p>	Y	Y	Y	Y	Y	Y	Y

<u>USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u>	<u>A-1, 2</u> <u>& 3</u>	<u>I</u>	<u>IND</u>	<u>IND-</u> <u>1</u>
The taking of not more than four non-transient boarders or the leasing of not more than two rooms with no provisions for private cooking by a resident family in a single-family dwelling	SP	SP	SP	Y	SP	SP	SP
Café or lecture room associated with a private school	N	N	N	N	SP	SP	SP
Research laboratory or statistical office associated with a private school, including printing, binding and electrotyping as incidental uses	N	N	N	N	SP	SP	SP
Off-street parking for vehicles associated with a principal use, located on a separate lot owned or leased by the owner of the land on which the principal use is located, within a zoning district in which the principal use is permitted	N	N	N	N	N	SP	SP
Seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter	N	N	N	N	N	Y#	Y#
Other customary and proper accessory uses, such as, but not limited to, garages, tool sheds, greenhouses and cabanas	Y	Y	Y	Y	Y	Y	Y

3.2.2 Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts

The following schedule of use regulations shall apply in the B, CSB, CB, ASB, and HAB districts.

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
<p><u>AGRICULTURE</u></p> <p>Farmers Market, not to exceed once a week, during the season from May 15 to November 30, which may take place on existing parking areas serving one of the following uses: (i) municipal/public uses, (ii) religious and educational uses protected by MGL Chapter 40A, Section 3 or (iii) in a commercially zoned district commercial uses, provided that the special permit granting authority determines that in addition to other necessary findings under Section 7.5.2 of the By-Law adequate parking and loading areas are maintained to serve such other uses during the Farmers Market.</p>	SP	SP	SP	SP	SP
Farm, greenhouse, nursery, truck garden, provided the subject property contains a minimum of 2 ½ acres	Y	Y	Y	Y	Y
Salesroom or stand for agricultural and horticultural products provided all products sold are grown or produced on the premises of the farm, greenhouse, nursery or truck garden, provided the subject property contains a minimum of 2 ½ acres	Y	Y	Y	Y	Y
Sale during the Christmas season at a nursery or greenhouse of cut Christmas trees and wreaths grown or fabricated elsewhere than on the premises	Y	Y	Y	Y	Y

USE	B	CSB	CB	ASB	HAB
Sale during Christmas season by a non-profit corporation or organization of uncut or cut Christmas trees and wreaths grown or fabricated elsewhere than on the premises and associated, related merchandise, including the outdoor display of trees, wreaths and merchandise. Outdoor display is permitted on existing parking spaces, except that adequate parking and loading must be maintained	Y	Y	Y	Y	Y
<u>PUBLIC, SEMI-PUBLIC & INSTITUTIONAL</u>					
Church or other place of worship, parish house, rectory, convent and other religious institution	Y	Y	Y	Y	Y
School – public, religious, sectarian or denominational	Y	Y	Y	Y	Y
Dormitory for a school with no provisions for private cooking or housekeeping	Y	N	N	Y	Y
Public library and museum and philanthropic institution	Y	Y	Y	Y	Y
Public park and playground and municipal structure including a water tower and reservoir	Y	Y	Y	Y	Y
Public passenger station	Y	SP	SP	Y	Y
Child care facility	Y	Y	Y	Y	Y
Other private school, nursery, or kindergarten	SP	SP	SP	SP	SP
Convalescent or nursing home, hospital	SP	SP	SP	Y	Y
Cemetery	SP	N	N	Y	Y
Private club not conducted as a business	SP	SP	SP	SP	SP

<u>RESIDENCE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Single-family detached dwelling	Y	N	N	Y	Y
Planned residential development	N	N	N	SP	SP
Residential compound	N	N	N	SP	SP
Two-family detached dwelling	Y	N	N	Y	Y
Conversion of a single-family dwelling to a two-family dwelling	N	N	N	Y	Y
Apartment or multifamily dwelling *Allowed on second floor and in half-story directly above second floor only; consistent with density requirements for A-1	N	SP*	SP*	SP	SP
The use of an owner-occupied structure for shared elderly housing for up to six elderly occupants (60+); provided, (1) that such structure so used shall not be subdivided into separate apartments, (2) that occupancies therein by non-owners occupants shall be pursuant to an agreement specifying a term of occupancy of not less than one year, (3) that at any time there shall be in the town no more than fifty structures for which permits have been issued under the authority of this section, (4) that no more than 20% of such structures shall be located in any one precinct of the town, and (5) that the number of structures for which permits are granted in any one year shall not exceed 5 *Applies only to structures in existence prior to Dec. 31, 1982, otherwise N	SP*	N	N	SP	SP
Boarding house with no arrangements of any description for private cooking or housekeeping	Y	N	N	Y	Y

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
<u>BUSINESS</u>					
Retail establishment serving the general public if containing 10,000 or more gross sq. ft. of floor area (“Complex Development”):					
Grocery Store	Y	Y	N	SPC	N
Outdoor parking, storage or display of motor vehicles in conjunction with the sale or leasing of new or used motor vehicles on applications filed after September 28, 1978	SP	N	N	N	N
Other outdoor display of goods	Y	N	N	N	N
Retail trade or shop for custom work or the making of articles to be sold at retail on the premises					
	Y	Y	Y	SPC	N
Other retailing	Y	Y	Y	SPC	N
Retail establishments serving the general public if containing more than 5750 but less than 10,000 gross sq. ft. of floor area:					
Grocery store	Y	Y	N	Y	N
Outdoor parking, storage or display of motor vehicles in conjunction with the sale or leasing of new or used motor vehicles on applications filed after September 28, 1978	SP	N	N	N	N
Other outdoor display of goods	Y	N	N	N	N
Retail trade or shop for custom work or the making of articles to be sold at retail on the premises	Y	Y	Y	Y	N
Other retailing	Y	Y	Y	Y	N

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
<p>Retail establishments serving the general public if containing less than 5750 gross sq. ft. of floor area or incidental retail sales which are accessory to a permitted principal use which does not involve 50% of the total floor area or 5750 square feet of the principal use, whichever is lesser. In multi-tenanted structures the provisions of the section will individually apply to each tenant or use and not to the aggregate total of the structure:</p> <p>Grocery store * If under 1,000 sq. ft. of gross floor area</p>	Y	Y	Y*	Y	SP
<p>Outdoor parking, storage or display of motor vehicles in conjunction with the sale or leasing of new or used motor vehicles on applications filed after September 28, 1978</p> <p>Other outdoor display of goods</p> <p>Retail trade or shop for custom work or the making of articles to be sold at retail on the premises</p> <p>Other retailing</p>	SP	N	N	N	N
	Y	N	N	N	N
	Y	Y	Y	Y	Y
	Y	Y	Y	Y	SP
<p>Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises</p>	Y	Y	Y	Y	Y
Banks	Y	Y	Y	Y	Y

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Offices totaling more than 20,000 square feet, unless created through change of use from either retailing or any principal use listed below this one in Section 3.2.2, such as garment manufacturing: For consumer sales or service Others * Allowed on second floor only	Y Y	Y Y	Y Y*	SPC SPC	SPC SPC
Smaller amounts of office space, or offices created through change of use from either retailing or any principal use listed below this one in this Section 3.2.2, such as garment manufacturing: For consumer sales or service Others *Allowed on second floor only	Y Y	Y Y	Y Y*	Y Y	Y Y
Craft, consumer, professional or commercial service establishment dealing directly with the general public and not enumerated elsewhere in this section	Y	Y	Y	Y	Y
Theaters and indoor moving picture shows; pool and billiard rooms	Y	SP	SP	SP	N
Electronic game and amusement arcades	Y	N	N	N	N
Bowling alleys, skating rinks, and similar commercial amusement or entertainment places	Y	N	N	N	N

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Personal fitness service establishment; provided, all required off-street parking is provided on-site for all land uses located on the subject site and in adherence with the requirements of Section 5.1.2, Required Parking, absent any waivers from the provisions of Subsections 5.1.1.5 and 5.1.1.6	Y	Y	Y	Y	Y
Personal fitness service establishment; where there is insufficient off-street parking on-site to serve all land uses located thereon in adherence with the requirements of Section 5.1.2 but where it can be demonstrated that the hours, or days, of peak parking for the uses are sufficiently different that a lower total will provide adequately for all uses or activities served by the parking lot	SP	SP	SP	SP	SP
Automobile service station, excluding repair services	SP	SP	N	N	N
Other commercial garage for the storage or repair of vehicles; gasoline and oil filling station; trucking terminal, truck rental agency and similar material hauling enterprise; the parking of vehicles involved in rubbish disposal and oil delivery and the private parking of vehicles for compensation	SP	N	N	N	N
Car wash	SP	N	N	N	N
Laundry; coin operated or self-service laundry or dry cleaning establishment	SP	SP	SP	SP	SP
Lumber or fuel establishment; contractor's, stone mason's, junk or salvage yard	SP	N	N	N	N
Airport, heliport, landing strip or area for any type of aircraft	N	N	N	N	N
Hotel or motel	SP	N	N	N	SP

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Eat in or take-out restaurant or other eating establishment except a lunch counter incidental to a primary use:					
Restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter	SP	SP	SP	SP	N
Take-out operation accessory to the above	SP	SP	SP	SP	N
Take-out food counter as an accessory to a food retail or other non-consumptive retail establishment	SP	SP	SP	SP	N
Retail sales of ice cream, frozen yogurt and similar products for consumption on or off the premises	SP	SP	SP	SP	N
Take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere	SP	SP	N	SP	N
Fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers	SP	SP	N	N	N
Veterinary office and/or treatment facility:					
With boarding of animals	SP	N	N	N	N
Without boarding of animals	SP	SP	SP	SP	SP
Medical clinic	SP	SP	SP	SP	SP

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
<u>MANUFACTURING</u>					
Wholesale distribution facilities or storage in an enclosed structure, excluding the storage of flammable liquids, gas or explosives	SP	N	N	N	SP
Industrial services, for example, machine shop, plumbing, electrical or carpentry shop, or similar service	SP	N	N	N	SP
Welding shop	N	N	N	N	N
Stone cutting, shaping, or finishing in an enclosed building	N	N	N	N	N
Autobody or auto paint shop, provided that all work is carried out inside the building	N	N	N	N	N
Outside truck service or repair for others including body work	N	N	N	N	N
Food processing primarily for wholesale use	N	N	N	N	N
Bottling plant	N	N	N	N	N
Equipment rental service	Y	N	N	SP	SP
Garment manufacturing	SP	N	N	SP	SP
Laboratory or place where scientific experimental research is conducted not including genetic or biological research laboratory	SP	N	N	SP	SP
Genetic biological research	N	N	N	N	SP
Radio or television studio	SP	N	N	SP	SP
Medical reference laboratories other than accessory to a medical office	SP	N	N	SP	SP
Dental prosthesis laboratories other than accessory to a dental office	SP	N	N	SP	SP

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed in a manner so as not to create a nuisance or hazard to safety or health	SP	N	N	SP	SP
Any lawful purpose or special use not enumerated elsewhere in this By-Law	SP	N	N	N	N
More than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law	SP	SP	SP	SP	SP
More than one municipal building and/or municipal use on a lot	Y	Y	Y	Y	Y
<u>ACCESSORY</u> Use of a room or rooms in a single or two-family dwelling as an office or studio by a resident professional person provided not more than one other person is regularly employed therein in connection with such use and that not more than 25% of the gross floor area, not in excess of 600 sq. ft., is regularly devoted to such use	Y	N	N	Y	Y
Customary home occupation engaged in by a resident of a single or two-family dwelling which may include carpentry, cooking, preserving, dressmaking, handicrafts, repair of small appliances or other small items and similar activities, provide that (1) not more than one person is regularly employed therein in connection with such operation, (2) there is no exterior storage of material or equipment nor other exterior evidence of variation from the regular residential character of the premises, and (3) there is no advertising and signing and no public display or sale of goods on the premises	Y	N	N	Y	Y

<u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
The taking of not more than four non-transient borders or the leasing of not more than two rooms with no provisions for private cooking by a resident family in a single-family dwelling	Y	N	N	Y	Y
Café or lecture room associated with a private school	SP	N	N	SP	SP
Research laboratory or statistical office associated with a private school, including printing, binding, and electrotyping as incidental uses	SP	N	N	SP	SP
Lunch counter incidental to a principle use	Y	SP	SP	Y	Y
Other customary and proper accessory uses, such as, but not limited to, garages, tool sheds, greenhouses and cabanas	Y	SP	SP	Y	Y
Off-street parking for vehicles associated with a principle use, located on a separate lot owned or leased by the owner of the land on which the principle use is located, within a zoning district in which the principle use is permitted	SP	SP	SP	SP	SP
Other accessory uses incidental to lawful principle uses	Y	SP	SP	Y	Y
Seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter	Y#	Y#	Y#	Y#	N

3.2.3 Uses in the Neighborhood Business District

3.2.3.1 Permitted Uses

The following uses are permitted within the Neighborhood Business District as a matter of right:

- (a) Farm, greenhouse, nursery, truck garden, provided the subject property contains a minimum of 2 ½ acres.
- (b) Salesroom or stand for agricultural and horticultural products provided all products sold are grown or produced on the premises of the farm, greenhouse, nursery or truck garden, and provided the subject property contains a minimum of 2 ½ acres.
- (c) Sale during the Christmas season at a nursery or greenhouse of cut Christmas trees and wreaths grown or fabricated elsewhere than on the premises.
- (d) Churches, synagogues, and temples; includes associated dwellings for religious personnel and associated buildings used for religious purposes.
- (e) Elementary or secondary school, trade or vocational school for elementary and secondary school students; operated by a public agency, or by a religious sect or denomination, or a non-profit educational corporation; includes associated buildings and land used for educational purposes.
- (f) Public or private, college or technical school, trade or vocational school operated for college age students; operated by a public agency, or by a religious sect or denomination, or a non-profit educational corporation; includes buildings, land or other facilities used for educational purposes but not including space used for revenue producing purposes not directly associated with the education of students.
- (g) Child care facility.
- (h) Public library and museum and philanthropic institution.
- (i) Public parks, playgrounds, municipal buildings or uses.
- (j) Single-family detached dwelling.
- (k) Two-family detached dwelling, provided they comply with the reconstruction provisions of Section 1.4.7.4.
- (l) Retail shop for the sale of convenience goods often bought on a daily basis such as candy, newspapers and tobacco products, provided the gross floor area so used does not exceed two thousand five hundred (2,500) square feet per establishment.
- (m) Retail shop for the sale of books, stationary, drugs, sporting goods, jewelry, photographic equipment and supplies, flowers, novelties, cards, footwear, and the like

which are typically of a size that a customer can carry them by hand, provided the gross floor area so used does not exceed two thousand five hundred (2,500) square feet per establishment.

- (n) Retail shop for the sale of apparel, fabrics and accessories, hardware, paint, wallpaper, lawn and garden supplies and equipment, provided the gross floor area so used does not exceed two thousand five hundred (2,500) square feet per establishment.
- (o) Grocery store, provided the gross floor area so used does not exceed two thousand five hundred (2,500) square feet per establishment.
- (p) Beauty salon, day spa, barber shop, tailor, dressmaker, shoe repair, photographic processing, photocopying and reduction services but not commercial printing, provided the gross floor area so used does not exceed one thousand five hundred (1,500) square feet per establishment.
- (q) Medical, dental or psychiatric office, provided the gross floor area so used does not exceed one thousand (1,000) square feet per company.
- (r) Real estate sales or rental office, provided the gross floor area so used does not exceed one thousand five hundred (1,500) square feet per company.
- (s) Use of a room or rooms in a single or two-family dwelling as an office or studio by a resident professional person provided not more than one other person is regularly employed therein in connection with such use and that not more than 25% of the gross floor area, not in excess of 600 square feet, is regularly devoted to such use.
- (t) Customary home occupation engaged in by a resident of a single or two-family dwelling which may include carpentry, cooking, preserving, dressmaking, handicrafts, repair of small appliances or other small items and similar activities, provided that (1) not more than one person is regularly employed therein in connection with such operation, (2) there is no exterior storage of material or equipment nor other exterior evidence of variation from the regular residential character of the premises, and (3) there is no advertising and signing and no public display or sale of goods on the premises.
- (u) The taking of not more than four non-transient borders or the leasing of not more than two rooms with no provisions for private cooking by a resident family in a single-family dwelling.
- (v) Professional offices, not listed in (q), provided the gross floor area so used does not exceed one thousand five hundred (1,500) square feet per company.
- (w) Offices for consumer sales and/or services totaling no more one thousand five hundred (1,500) square feet per company.
- (x) General office uses, provided the gross floor area so used does not exceed one thousand five hundred (1,500) square feet per company.

As to uses (l)-(x) above, all operations must be conducted entirely within an enclosed building. Storage of equipment and products outdoors during non-operating hours is prohibited. Commercial delivery and/or maintenance trucks must be parked during non-operating hours in a garage or in an outdoor area not within the required setback for the principal building and shall be screened from the view of the abutting lots and street(s). If operations of the aforementioned uses are in whole or in part conducted outdoors during operating hours, such uses shall be deemed to be uses permitted by special permit pursuant to Section 3.2.3.2.

3.2.3.2 Uses Permitted By Special Permit

The following uses are permitted within the Neighborhood Business District only upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:

- (a) Public passenger station.
- (b) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.3.1.
- (c) Bank, provided the gross floor area so used does not exceed three thousand (3,000) square feet gross floor area per company.
- (d) Laundry or dry cleaning pick-up station with processing done elsewhere; self-service laundromat; provided the gross floor area so used does not exceed one thousand five hundred (1,500) square feet per establishment.
- (e) Commercial garage for motor vehicle maintenance and minor repairs limited to engine tune-up, lubrication and installation of replacement parts, adjustment or replacement of brakes or tires, but not including engine overhaul, body work or painting.
- (f) Retail sales of ice cream, frozen yogurt and similar products for consumption on or off the premises, provided the gross floor area so used does not exceed two thousand (2,000) square feet per establishment.
- (g) Take-out food counter as an accessory to a food retail or other non-consumptive retail establishment.
- (h) Lunch counter incidental to a principal use.
- (i) More than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law.
- (j) Other accessory uses incidental to lawful principal uses.
- (k) Medical, dental or psychiatric office exceeding one thousand (1,000) square feet gross floor area per company.

- (l) Professional offices, not listed in 3.2.3.1(q), exceeding one thousand five hundred (1,500) square feet gross floor area per company.
- (m) Offices for consumer sales and/or services exceeding one thousand five hundred (1,500) square feet gross floor area per company.
- (n) General office uses exceeding one thousand five hundred (1,500) square feet gross floor area per company.
- (o) Uses (l)-(x) of Section 3.2.3.1 conducting operations in whole or in part outdoors during operating hours.

Uses conducted in whole or in part outdoors during operating hours and/or storing equipment and product outdoors during non-operating hours shall be required to provide such screening and landscaping as deemed necessary by the SPGA to shield neighboring residential uses. Except for use (e), commercial delivery and/or maintenance trucks must be parked during non-operating hours in a garage or in an outdoor area not within the required setback for the principal building and shall be screened from the view of the abutting lots and street(s).

3.2.4 Uses in the New England Business Center District

3.2.4.1 Permitted Uses

The following uses are permitted within the New England Business Center District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Professional, business or administrative office, but not including a medical clinic or Medical Services Building or medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”) or physical therapy, alternative medicine practices, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. “Professional” shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals (“Non-group Practice”).
- (d) Bank or Credit Union.
- (e) Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable liquids, gas or explosives.
- (f) Medical laboratory or laboratory engaged in scientific research and development, and experimental and testing activities including, but not limited to, the fields of biology,

genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.

- (g) Radio or television studio.
- (h) Light non-nuisance manufacturing, including but not limited to the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.
- (i) Telecommunications facility housed within a building.
- (j) On the ground floor of a building, consumer and commercial service establishments dealing directly with the general public; business service centers; retail establishments; pharmacies (not affiliated with Group Practices as defined in Section 3.2.4.1, physical therapy, alternative medicine, wellness treatments such as acupuncture, yoga, chiropractic and/or nutrition services); day care uses (other than adult day care establishments requiring a special permit under Section 3.2.4.2 (b) hereof); and laundry and dry-cleaning pick-up stations where processing is done elsewhere. Except for day care uses, each business establishment shall be limited to 15,000 square feet of floor area.
- (k) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.
- (l) More than one building on a lot.
- (m) More than one use on a lot.

3.2.4.2 Uses Permitted by Special Permit

The following uses are permitted within the New England Business Center District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:

- (a) Public light-rail train station.
- (b) Adult day care facility.
- (c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.4.1.

- (d) Hotel.
- (e) Indoor athletic or exercise facilities and/or outdoor pool(s) associated with such facilities.
- (f) Eat in or take-out restaurants or other eating establishments, including coffee shops. Further provided that drive-thru restaurants or other eating establishments are prohibited. Each eat in or take-out restaurant or other eating establishments, including coffee shops, shall be limited to 15,000 square feet of floor area.
- (g) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.4.1(d) hereof.
- (h) Off-street parking for vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located.
- (i) Group Practices as defined in Section 3.2.4.1 and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies. If the principal use is located on the ground floor, then the affiliated pharmacy may be located there also.

3.2.4.3 Special Permit, Parking Garage

Notwithstanding the dimensional requirements and the use table of this By-Law the Planning Board is authorized to issue a special permit for a parking garage and/or a parking structure for more than three (3) vehicles, including both enclosed and open structures, above and below ground, that serve uses located in the NEBC, MU-128 and HC-128 districts, where the parking garage and/or parking structure is located in the immediate vicinity of and on the same side of Highland Avenue as the uses it serves, subject to such setback requirements as the Board may impose.

3.2.4.4 Special Permit, Intensity of Use

Projects that seek a floor area ratio beyond what is permitted by right pursuant to Section 4.8 shall require a special permit and shall be subject to Section 6.8 Special Permit Conditions in the New England Business Center District. Provided, however, that nothing contained herein shall impair the rights conferred by Section 1.4 of this By-Law.

3.2.5 Uses in the Highland Commercial-128 District

3.2.5.1 Permitted Uses

The following uses are permitted within the Highland Commercial-128 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment or combination of retail establishments serving the general public where each establishment contains less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.
- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Professional, business or administrative office, but not including a medical clinic or Medical Services Building or Group Practices or alternative medicine practices, physical therapy, and wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, all as defined in Sections 1.3 and 3.2.4.1.
- (g) Bank or Credit Union.
- (h) Medical laboratory or laboratory engaged in scientific research and development, and experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes but not the manufacture of finished products. Not allowed on the first floor.
- (i) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.
- (j) More than one building on a lot.
- (k) More than one use on a lot.

3.2.5.2 Uses Permitted by Special Permit

The following uses are permitted within the Highland Commercial-128 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:

- (a) Public light-rail train station.
- (b) Adult day care facility.
- (c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.5.1.
- (d) Retail establishment or combination of retail establishments serving the general public where each establishment contains more than 10,000 but less than 25,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (e) Laundry or dry-cleaning pick-up station with processing done elsewhere.
- (f) Equipment rental service but not including any business that uses outside storage.
- (g) Hotel.
- (h) Restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter.
- (i) Take-out operation accessory to the above restaurant.
- (j) Take-out food counter as an accessory to a food retail or other non-consumptive retail establishment.
- (k) Retail sales of ice cream, frozen yogurt and similar products for consumption on or off the premises.
- (l) Take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere.
- (m) Fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers.
- (n) Veterinary office and/or treatment facility including convalescent stays but not the boarding of animals.
- (o) Indoor athletic or exercise facilities.
- (p) Off-Site Medical Marijuana Dispensary, subject to the issuance of a special permit by the Planning Board.

- (q) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.5.1(g) hereof.
- (r) Off-street parking for vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located.
- (s) Other customary and proper accessory uses incidental to lawful principal uses.

3.2.5.3 Special Permit, Parking Garage

Notwithstanding the dimensional requirements and the use table of this By-Law the Planning Board is authorized to issue a special permit for a parking garage and/or a parking structure for more than three (3) vehicles, including both enclosed and open structures, above and below ground, that serve uses located in the NEBC, MU-128 and HC-128 districts, where the parking garage and/or parking structure is located in the immediate vicinity of and on the same side of Highland Avenue as the uses it serves, subject to such setback requirements as the Board may impose.

3.2.5.4 Special Permit, Intensity of Use

Projects that seek a floor area ratio beyond what is permitted by right pursuant to Section 4.5 shall require a special permit and shall be subject to Section 6.8 Special Permit Conditions in the Highland Commercial-128 District. Provided, however, that nothing contained herein shall impair the rights conferred by Section 1.4 of this By-Law.

3.2.6 Uses in the Mixed Use-128 District

3.2.6.1 Permitted Use

The following uses are permitted within the Mixed Use-128 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment or combination of retail establishments serving the general public where each establishment contains less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.

- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Laundry or dry cleaning pick-up station with processing done elsewhere.
- (g) Professional, business or administrative office, but not including a medical clinic or Medical Services Building or Group Practices or alternative medicine practices, physical therapy, and wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, all as defined in Sections 1.3 and 3.2.4.1.
- (h) Bank or Credit Union.
- (i) Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable liquids, gas or explosives.
- (j) Medical laboratory or laboratory engaged in scientific research and development, and experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.
- (k) Radio or television studio.
- (l) Light non-nuisance manufacturing, including but not limited to the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.
- (m) Telecommunications facility housed within a building.
- (n) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Board of Selectmen in accordance with Section 6.9.
- (o) More than one building on a lot.
- (p) More than one use on a lot.

3.2.6.2 Uses Permitted By Special Permit

The following uses are permitted within the Mixed Use-128 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:

- (a) Public light-rail train station.

- (b) Adult day care facility.
- (c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.6.1.
- (d) Retail establishment or combination of retail establishments serving the general public where each establishment contains more than 10,000 but less than 25,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (e) Equipment rental service but not including any business that uses outside storage.
- (f) Hotel.
- (g) Eat-in or take-out restaurant or other eating establishment except that a lunch counter incidental to a primary use shall be permissible by right.
- (h) Veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.
- (i) Indoor athletic or exercise facilities.
- (j) Medical Marijuana Treatment Center, subject to the issuance of a special permit by the Planning Board.
- (k) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.6.1(h) hereof.
- (l) Off-street parking for vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located.

3.2.6.3 Special Permit, Parking Garage

Notwithstanding the dimensional requirements and the use table of this By-Law the Planning Board is authorized to issue a special permit for a parking garage and/or a parking structure for more than three (3) vehicles, including both enclosed and open structures, above and below ground, that serve uses located in the NEBC, MU-128 and HC-128 districts, where the parking garage and/or parking structure is located in the immediate vicinity of and on the same side of Highland Avenue as the uses it serves, subject to such setback requirements as the Board may impose.

3.2.6.4 Special Permit, Intensity of Use

Projects that seek a floor area ratio beyond what is permitted by right pursuant to Section 4.9 shall require a special permit and shall be subject to Section 6.8 Special Permit Conditions in the

Mixed Use-128 District. Provided, however, that nothing contained herein shall impair the rights conferred by Section 1.4 of this By-Law.

3.3 Uses in Flood Plain District

The purpose of the Flood Plain District is to protect the streams, rivers, and other watercourses in the Town and their adjoining lands; to protect the health and safety of persons and property against the hazards of flooding; to preserve and maintain the ground water table for water supply purposes; to protect the community against detrimental use and development of lands adjoining such water courses; to conserve the watershed areas of the Town for the health, safety, welfare of the public; and to preserve the balance of the components of the ecosystem of the watercourses and adjoining land.

The Flood Plain District shall be considered as overlying other use districts established by this By-Law. Within the Flood Plain District, the requirements of the underlying district continue to apply insofar as they comply with the provisions of this section. In the event there is a conflict or difference between the provisions of the overlying and underlying district the more restrictive shall apply. Compliance with these provisions shall not be construed as satisfying the provisions of Massachusetts General Laws Chapter 131.

3.3.1 Prohibited Uses

The following uses are prohibited, regardless of other requirements:

- (a) Manufacture, use, transport, storage or disposal of toxic or hazardous materials.
- (b) Sanitary landfill; junkyard; salvage yard; and other solid waste disposal.
- (c) Encroachments including fill, replacement of soil with impervious material, new construction, substantial improvements (the cost of which exceeds 50 percent of the market value of the structure), or other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels in the Town during the occurrence of a 100-year flood.

3.3.2 Permitted Uses

- (a) Uses directly related to the conservation of water, plants, and wildlife.
- (b) Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted which do not require removal or transfer of earth.
- (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any watercourse.

- (d) Grazing and farming, including truck gardening and harvesting of crops.
- (e) Forestry and nurseries.
- (f) Removal from a watercourse of silt and other accumulated debris which tends to interfere with the natural flow patterns of the watercourse.
- (g) Dwellings for sustained human habitation lawfully existing which shall not hereafter be enlarged or extended to increase ground coverage.

3.3.3 Uses Requiring a Special Permit

The Board of Appeals may grant a Special Permit for the following:

- (a) All new construction and substantial improvements (the cost of which exceeds 50 percent of the market value of the structure before the improvements) of residential structures which have the lowest floor, including basement or cellar, elevated to or above the flood plain elevation defined on the Norfolk County Flood Insurance Rate Maps (the 100-year flood plain elevation) and the Town of Needham Zoning Map. No new construction or substantial improvement shall be permitted unless it can be demonstrated by the applicant that the cumulative effect of the proposed development will not increase the water surface elevation of the 100-year flood.
- (b) All new construction and substantial improvements (the cost of which exceeds 50 percent of the market value of the structure before the improvement) of non-residential structures which have the lowest floor, including basement or cellar, elevated to or above the flood plain elevation defined on the Norfolk County Flood Insurance Rate Maps (the 100-year flood elevation) and the Town of Needham Zoning Map or are flood proofed and watertight to the applicable flood elevation. In the case where watertight flood proofing is permitted, a registered professional engineer or architect shall certify to the Building Inspector that the methods used are adequate to withstand flood depth pressures and velocities impact and the uplift of forces and other factors associated with the 100-year flood. No new construction or substantial improvement shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development will not increase the water surface elevation of the 100-year flood.
- (c) Small non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage, or sale of crops raised on the premises.
- (d) Any driveway and walkway ancillary to uses otherwise permitted by this section.
- (e) Tennis courts or other uses requiring a similarly prepared surface.
- (f) Water and sewer pumping stations.
- (g) Any use not expressly permitted or prohibited.

- (h) Swimming pools, together with structures, walkways, mechanical systems accessory thereto, and fences.
- (i) Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the Flood Plain District is found by the Board of Appeals not, in fact, to be subject to flooding. The Board of Appeals shall refer each question on this matter to the Planning Board, Conservation Commission, Board of Health, and Department of Public Works, and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.

3.3.4 Special Permit Criteria

In granting a special permit, the Board of Appeals shall consider, among other factors, the following:

- (a) Geographic location of proposed building and security of driveway or walkway access during flooding.
- (b) Foundation elevations of proposed building and security of foundation during flooding, including assurance that foundations would not be undermined and that the proposed building would not be floated off, swept away, or battered during flooding.
- (c) Disposal of sewage from the proposed building and containment of sewage during flooding.
- (d) Safety of water, sewage, gas, electric and fuel utilities from breaking, igniting, electrocution or other dangers during flooding.
- (e) Soil structure and the general character of development in the neighborhood.
- (f) The preservation of the natural water channel passage of flood flows.
- (g) The retention of existing flood water storage capacity.

3.3.5 General Provisions Relating to Flood Plain District

- (a) All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following: (i) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR); (ii) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00); (iii) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and (iv) Minimum

Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

- (b) All subdivision proposals in the Flood Plain District shall be reviewed to assure that: (i) such proposals minimize flood damage; (ii) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage is provided to reduce exposure to flood hazards.
- (c) Base flood elevation data shall be provided for subdivision proposals or other developments of greater than 50 lots or 5 acres, within unnumbered A zones, as shown on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 17, 2012.
- (d) Within areas designated Zone A, AH, and AE, along watercourses that have not had a regulatory floodway designated, as shown on the Norfolk County Flood Insurance Rate Map (FIRM), Floodway Map, and Flood Insurance Study, dated July 17, 2012, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (e) Within Zone AH on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

3.3.6 National Flood Insurance Program (NFIP) Requirements

Reference is hereby made to the Norfolk County Flood Insurance Rate Map (FIRM) and Flood Insurance Study dated July 17, 2012 – both of which are on file in the office of the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department. In granting special permits authorized above under Subsections 3.3.3 and 3.3.4, the Board of Appeals shall, as appropriate, require the following as conditions of approval:

- (a) Require that new and replacement water supply and sanitary sewerage systems be designed to minimize or eliminate infiltration of flood waters into said systems, as well as discharges from said systems into flood waters;
- (b) Require that new adequate drainage is provided to reduce exposure to flood hazards in flood-prone areas, and more specifically, require adequate drainage around proposed structures on slopes to guide flood waters around and away from such structures; and
- (c) Require that adjacent communities, the site coordination office and the NFIP State Coordinator at the Massachusetts Department of Conservation and Recreation be notified prior to any alteration or relocation of a water course, and that a copy of such notification be submitted to the Federal Emergency Management Agency (FEMA) Administrator.

3.4 Aquifer Protection District

3.4.1 Purpose of District

The purpose of this Aquifer Protection District is to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Needham; to preserve and protect existing and potential sources of drinking water supplies; to conserve the natural resources of the town; and to prevent temporary and permanent contamination of the environment.

3.4.2 Scope of Authority

The Aquifer Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Aquifer Protection District must comply with the requirements of this district as well as with the underlying zoning. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Aquifer Protection District.

3.4.3 Definitions

For the purposes of this section, the following words and phrases shall have the following meanings:

- (a) **Aquifer** – Geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
- (b) **Aquifer Protection District** – The zoning district defined to overlay other zoning districts in the Town of Needham delineated on a map entitled, “Zoning Map of the Town of Needham, Massachusetts” as originally dated September 1924 and revised to May 15, 1989, and as revised and amended to date and on file in the Office of the Town Clerk. The aquifer protection district may include specifically designated recharge areas.
- (c) **Impervious Surface** – Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
- (d) **Mining** – the removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
- (e) **Recharge Areas** – Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III.

- (f) **Toxic or Hazardous Material** – Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Needham. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.
- (g) **Zone II** – The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined in 310 Code of Massachusetts Regulations (CMR) 22.00.
- (h) **Zone III** – The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00.

3.4.4 Establishment and Delineation of Aquifer Protection District

For the purposes of this district, there are hereby established within the town certain aquifer protection areas, consisting of aquifers or recharge areas which are delineated on a map entitled “Zoning Map of the Town of Needham, Massachusetts” as originally dated September 1924 and revised to May 15, 1989, and as revised and amended to date and on file in the Office of the Town Clerk.

3.4.5 District Boundary Disputes

If any land designated as lying within an Aquifer Protection District is proved not to possess the characteristics by which such districts are delineated and which this By-Law seeks to protect, the Special Permit Granting Authority may permit uses of the land otherwise prohibited or requiring a special permit under this section if it finds that such use will not be detrimental to the environment or the health, safety and general welfare of the community. Resolution of such boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

3.4.6 Use Regulation

In the Aquifer Protection District the following regulations shall apply:

(a) **Permitted Uses** – The following uses are permitted within the Aquifer Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- (1) conservation of soil, water, plants, and wildlife;
- (2) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- (3) foot, bicycle and/or horse paths, and bridges;
- (4) normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- (5) maintenance, repair, and enlargement of any existing structure, subject to Section 3.4.6 (b) (prohibited uses) and Section 3.4.6 (c) (special permitted uses);
- (6) residential development, subject to Section 3.4.6 (b) (prohibited uses) and Section 3.4.6 (c) (special permitted uses);
- (7) farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 3.4.6 (b) (prohibited uses) and Section 3.4.6 (c) (special permitted uses);
- (8) necessary public/utilities designated so as to prevent contamination of groundwater. Underground storage tanks related to these activities are not categorically permitted.

(b) **Prohibited Uses** -- The following uses are prohibited within the Aquifer Protection District:

- (1) landfills and open dumps as defined in 310 CMR 19.006;
- (2) storage of liquid petroleum products, except the following:
 - i. normal household use, outdoor maintenance, and heating of a structure;
 - ii. waste oil retention facilities required by statute, rule, or regulation;
 - iii. emergency generators required by statute, rule, or regulation;
 - iv. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters;

provided that storage, listed in items i through iv above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.

- (3) land filling of sludge or septage as defined in 310 CMR 32.05;

- (4) storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- (5) individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design;
- (6) storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- (7) storage of animal manure unless covered or contained;
- (8) earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 6 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- (9) facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00, except the following:
 - i very small quantity generators as defined under 310 CMR 30.00;
 - ii household hazardous waste collection centers and events under 310 CMR 30.390;
 - iii waste oil retention facilities required by MGL Chapter 21, Section 52A;
 - iv water remediation treatment works approved under 314 CMR 5.00.
- (10) automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1;
- (11) treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following:
 - i the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - ii the replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);

- iii treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
 - (12) storage of liquid hazardous materials, as defined in MGL Chapter 21E, unless in a free standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;
 - (13) industrial and commercial uses which discharge process wastewater on-site;
 - (14) stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
 - (15) storage of commercial fertilizers and soil conditioners, as defined in MGL Chapter 128, Section 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;
 - (16) the use of septic system cleaners which contain toxic or hazardous chemicals.
- (c) **Uses and Activities Requiring A Special Permit** – The following uses and activities are permitted within the Aquifer Protection District only upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as they may require:
- (1) enlargement or alteration of existing uses that do not conform to the Aquifer Protection District;
 - (2) the application of pesticides, including herbicide, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses in accordance with state and federal standards. The special permit shall be granted if such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;
 - (3) the application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
 - (4) those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use permitted in the underlying zoning (except as prohibited under Section 3.4.6.b). Such activities shall require a special permit to prevent contamination of groundwater;
 - (5) the construction of dams or other water control devices, ponds, pools or other changes in water bodies or courses, created for swimming, fishing, or other

recreational uses, agricultural uses, or drainage improvements. Such activities shall not adversely affect water quality or quantity;

- (6) any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are not feasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

3.4.7 Procedures For Issuance of Special Permit

- (a) **Special Permit Granting Authority** – The Special Permit Granting Authority under this By-Law shall be the Planning Board. Such special permit shall only be granted if the Special Permit Granting Authority determines, after recommendations from the Board of Health, the Conservation Commission and the Needham Department of Public Works that the intent of this By-Law, as well as its specific criteria, are met. The Special Permit Granting Authority shall not grant a special permit under this section unless the petitioner’s application materials include, in the Special Permit Granting Authority’s opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other Needham boards or agencies in its decision.
- (b) **Review by Other Boards or Agencies** – Upon receipt of the special permit application, the Special Permit Granting Authority shall transmit one copy to the Board of Health, the Conservation Commission, and the Needham Department of Public Works for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
- (c) **Special Permit Approval Criteria** – The Special Permit Granting Authority may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 3.4.6 of this By-Law, and any regulations or guidelines adopted by the Special Permit Granting Authority. The proposed use must:
 - (1) in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Aquifer Protection District, and
 - (2) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

- (d) **Rules and Regulations** – The Special Permit Granting Authority may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of this By-Law, the Subdivision Regulations and Procedural Rules of the Planning Board and Chapter 40A and other provisions of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.
- (e) **Application Contents** – In addition to the requirements of Massachusetts General Laws, Chapter 40A, Section 9 and the Rules and Regulations of the Special Permit Granting Authority, the applicant shall file ten copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Special Permit Granting Authority and shall be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
- (1) a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use:
 - (2) for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief, Board of Health and Local Emergency Planning Committee. The plan shall include:
 - i provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - ii provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
 - iii evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA Identification number from the Massachusetts Department of Environmental Protection.
 - (3) proposed down-gradient location(s) for groundwater monitoring well(s), should the Special Permit Granting Authority deem the activity a potential groundwater threat.
- (f) **Technical Assistance** – To assist its review of applications for special permits, the Special Permit Granting Authority may engage a professional geologist, hydrologist, soil scientist, or Massachusetts registered professional engineer experienced in groundwater evaluation or hydro geology to review the application for completeness, accuracy and effectiveness of remediation and shall charge the applicant for the cost of such review. The Special Permit Granting Authority may retain a professional geologist, hydrologist, soil scientist, or Massachusetts registered professional engineer hereunder only for reviewing the applicant's projections of the impact of the proposed activity on the purposes of the district described in Section 3.4.1, verifying information contained in the

application, and verifying the inclusion of the subject land within the Aquifer Protection District, whichever is proposed.

- (g) **Violations** – Written notice of any violations of this Section shall be given by the Building Inspector to the responsible person as soon as possible after 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 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 and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Needham Department of Public Works, and Water Division. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and/or operator of the premises.

For situations that require remedial action to prevent adverse impact to the water resources within the Aquifer Protection District, the Town of Needham, the Building Inspector, the Board of Health, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Needham, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be assessed to the owner and/or operator of the premises.

3.4.8 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

3.5 Adult Uses Overlay Districts

3.5.1 Purpose and Intent

It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that adult entertainment uses are distinguishable from other business uses and that the location of adult entertainment uses degrade the quality of life in the areas of the community where they are located, with impacts including increased levels of crime, blight, and late hours of operation resulting in noise and traffic late into the night. Therefore, this By-Law is enacted pursuant to M.G.L. Chapter 40A, Section 9 and Section 9A to serve the compelling Town interests by regulating and limiting the location of adult entertainment enterprises as defined herein. This regulation will promote the Town of Needham's great interest in protecting and preserving the quality of its neighborhoods, commercial districts, and the quality of life through effective land use planning.

3.5.2 Establishment of Districts and Relationship to Underlying Districts

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

3.5.3 Definitions

The following terms shall be specifically applicable to the Adult Uses regulations and shall have the meanings provided below:

Adult Bookstore – an establishment having at least fifteen (15%) percent of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Adult Video Store – an establishment having at least fifteen (15%) percent of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Adult Paraphernalia Store – an establishment having at least fifteen (15%) percent of its stock devices, objects, tools, or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

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

Adult Live Entertainment Establishment – any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in M.G.L. Chapter 272, Section 31.

Adult Use – Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, and/or Adult Live Entertainment Establishment as herein defined.

3.5.4 Permitted Uses

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

3.5.5 Special Permit Uses

The following uses are prohibited except upon the issuance of a Special Permit from the Board of Appeals: Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Adult Live Entertainment Establishment. Such permit shall require specific improvements, amenities, and locations of proposed uses for which such permit may be granted.

3.5.6 Special Permit Standards for Adult Uses

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

- (a) No Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Adult Live Entertainment Establishment may be located less than 500 feet from a child-care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, another Adult Use, or any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12, or any establishment with a common victualler's license that allows consumption of alcoholic beverages on its premises, nor less than 700 feet from any residential district designated by this By-Law. The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the Adult Uses is to be located to the nearest property line of any of the designated uses set forth herein.
- (b) No merchandise or services prohibited as obscene or indecent under any federal or Massachusetts law or regulation or found to be obscene by any superior or higher federal or state court in any of the New England states shall be disseminated or available therein.
- (c) No signs, graphics, pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Adult Live Entertainment Establishment merchandise, or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the

building of any Adult Bookstore, Adult Video Store, Adult Paraphernalia Store, Adult Motion Picture Theater, or Adult Live Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments, or from vehicles on Route 128 (Interstate 95).

- (d) All building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
- (e) Appearance of buildings for Adult Uses shall be consistent with the appearance of buildings in similar (but not specifically “adult”) use in Needham, not employing unusual color or building design which would attract attention to the premises.
- (f) No Special Permit for an Adult Use shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Sections 28, 29, 29A, 29B, and 35A. No Special Permit for an Adult Use shall be issued to any corporation, partnership, trust or any other legal entity if any of its directors, partners, trustees, principals, managers, employees or beneficial owners have been convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Sections 28, 29, 29A, 29B, and 35A. If any person who is a director, partner, trustee, principal, manager, employee or owns a beneficial interest in such legal entity is convicted of violating M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Sections 28, 29, 29A, 29B, and 35A, the Special Permit shall terminate herewith.
- (g) Special Permits granted for Adult Uses shall be subject to the provisions of Section 7.5.2 Special Permits of this By-Law.
- (h) The Adult Use shall comply with all dimensional and parking requirements set forth in Section 5.1 Off-Street Parking Requirements of this By-Law. In addition, no off-site parking as is allowed by right in Section 5.1.3 (m) and as is allowed by Special Permit in Section 3.2.1, shall be permitted.
- (i) 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.
- (j) Special Permits granted for Adult Uses shall be subject to annual renewal.
- (k) Special Permits shall be granted for Adult Uses only upon determination of the Board of Appeals that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

- (l) A Special Permit issued under this Section shall terminate upon any one of the following occurrences:
 - (1) There is a change in the location of the adult use;
 - (2) There is a sale, transfer or assignment of the business or the license;
 - (3) There is any change in legal or beneficial ownership or management of the applicant;
 - (4) There is a violation of the Special Permit;
 - (5) If minors are to be involved.
- (m) Private duty police security detail shall be paid for by the Adult Use Business as deemed necessary by the Needham Chief of Police.

3.5.7 Lapse of Special Permit

Any Special Permit granted under this section shall lapse within one year of the date of grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. Chapter 40A, Section 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within one year of the date of grant, except for good cause.

3.5.8 Severability

If any section or portion of this By-Law is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the By-Law.

3.6 Medical Overlay District

3.6.1 Purpose of District

The purpose of the Medical Overlay District is to promote the health, safety and general welfare of the community through guiding the development and use of health care and related activities, primarily serving those who work or live in Needham with quality health care while minimizing potential adverse impacts upon nearby residential and other premises. Those purposes are to be achieved through establishing controls specifically for medical-related uses at locations where either such uses already exist or they would be appropriate because of access and other locational considerations.

3.6.2 Scope of Authority

The Medical Overlay District is superimposed over rather than replacing underlying zoning districts. The regulations of this overlay district shall govern all new construction, reconstruction or expansion of new or existing buildings, and new or expanded uses, regardless of whether the use is medical-related or not, and regardless of whether the requirements of Section 3.6 are more or less restrictive than those of the comparable regulations for the underlying district at that location. Provisions of Section 3.6 shall supersede those of Section 3.2 Schedule of Use Regulations, Sections 4.2 through 4.7 (Dimensional Regulations), and Section 5.1.2 Required Parking. On all other matters, the provisions of the underlying districts shall continue to govern.

3.6.3 Allowed Uses The following uses are allowed by right:

1. Community Hospital
2. Medical Clinic
3. Medical Services Building
4. Any of the following, but only if ancillary to and contained within a common structure with a community hospital:
 - (a) Health Care Facility
 - (b) Medical Laboratory
 - (c) Pharmacy
5. All uses allowed by right in the underlying zoning district at that location.
6. Buildings and uses accessory to 1-5 above, such as parking garage, gift shop, cafeteria, and day care facilities.

3.6.4 Special Permit Uses

All uses permitted by special permit in the underlying district at that location may be allowed upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as that Authority may require.

3.6.5 Multiple Buildings and Uses

Notwithstanding the provisions of Section 3.2 (Schedule of Use Regulations), in the Medical Overlay District more than one building and/or use on a lot is allowed as a matter of right, so long as each building and/or use is in compliance with the requirements of Section 3.6 of this By-Law.

3.6.6 Dimensional Regulations for the Medical Overlay District

3.6.6.1 Lot Area, Frontage and Setback Requirements

The lot area and lot frontage requirements of the underlying districts shall govern development in the Medical Overlay District. The following setback requirements shall apply in place of those of the underlying district, including standing in place of provisions contained in Section 4.2.13 Reduction in Dimensional Regulations By Special Permit and in Section 4.4.8 of the Zoning By-Law imposing special limitations on premises located in business districts but abutting residential districts.

- (a) Front Setback: twenty (20) feet, except twenty-five (25) feet measured from any street having traveled way width exceeding thirty-five (35) as of October 8, 1998, and except thirty (30) feet from any street having a traveled way width less than thirty (30) feet as of October 8, 1998.
- (b) Side and rear setback: ten (10) feet, except twenty (20) feet where measured from a residential district boundary not contained within the Medical Overlay District, and except that no setback is required where a lot principally used for a community hospital, medical clinic, or medical services building abuts another of those uses.
- (c) Notwithstanding the above, parking structures containing four or more parking spaces shall be set back at least fifty (50) feet from any street having a travel way width of less than thirty (30) feet.

3.6.6.2 Building Height Requirements

Maximum building height shall be fifty-five (55) feet. However, portions of a building exceeding the building height allowed in the underlying zoning district shall be set back from any street having a right-of-way width of less than fifty (50) feet behind a forty-five (45) degree bulk control plane beginning at the required setback line and the building height allowed in the underlying zoning district, except where no setback is required by Section 3.6.6.1. Mechanical penthouses above the roof shall be excluded from height limitations provided that they occupy not more than 30% of roof area and are set back from the roof edge by a distance no less than their height.

3.6.6.3 Building Bulk and Lot Coverage

Notwithstanding anything in the By-Law to the contrary, the maximum floor area ratio in the Medical Overlay District shall equal 1.0 exclusive of parking garages, interior portions of buildings devoted to off-street parking, and deck or rooftop parking. Uses in the Medical Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk such as are contained in Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, 4.2.7, 4.4.2, and 4.4.7.

3.6.7 Required Number of Parking Spaces

Notwithstanding anything in the By-Law to the contrary, in the Medical Overlay District the off-street parking requirements for hospitals, health care facilities, medical clinics, and medical services shall be the following:

- (a) The site contains only a Medical Services Building or Medical Clinic, then at least seven (7) parking spaces per 1,000 square feet of gross floor area shall be provided.
- (b) If the site contains only a Health Care Facility, then at least one (1) parking space for every two beds plus one parking space for each employee on the two largest shifts combined shall be provided.
- (c) If the site contains a Hospital or a combination of Hospital with a Medical Service Building, Medical Clinic, and/or Health Care Facility, then the required number of parking spaces shall be computed as follows:
 - (1) For facilities designated as short visit ambulatory medical, dental and related health services (out-patient facilities in which a physician, physician's assistant or nurse practitioner typically sees three (3) or more patients per hour); seven (7) parking spaces per 1,000 square feet gross floor area.
 - (2) For all other facilities, the required number of parking spaces equals the sum of the following (not including beds, employees, or floor area in the short visit ambulatory facilities included under (1) immediately above):
 - (i) One parking space for each two hospital beds, critical care/intensive care beds, and observation beds; plus
 - (ii) One parking space for each two full-time equivalent employees who are generally on-site during the largest shift, including both hospital employees and other hospital-affiliated employees; plus
 - (iii) Two and one-half (2.5) parking spaces per 1,000 square feet of gross floor area designated for longer visit ambulatory diagnostic, treatment and rehabilitation services such as radiology, rehabilitation services, emergency services, day surgery, medical day care and radiation oncology. Such services are characterized as requiring substantially more clinic time per visit than the services provided in the sort visit facilities designated under (1) above.

3.6.8 Site Plan Review Requirements

For major projects in the Medical Overlay District, the Planning Board shall consider, in addition to all the factors listed in Section 7.4.6(b), the extent to which the traffic impact and driveway openings are consistent with the maintenance of the suburban, residential character of all predominantly residential streets and portions of streets nearby the premises (for example, such as School, Lincoln, Grant, Warren, Pleasant, and Kimball Streets relative to the BI-Deaconess site as of 1998); provided that a project proponent shall (i) compare the vehicle-trip volumes projected for those streets five years in the future with and without the proposed projects, and (ii) describe its efforts to manage traffic and locate and design driveway openings so as to minimize any increase in traffic on such streets.

3.7 Wireless Communications Facilities Towers Overlay District

3.7.1 Purpose of District

The purpose of the Wireless Communications Facilities Towers Overlay District is to promote the health, safety and general welfare of the community while accommodating the communications needs of the general public. Those purposes are to be achieved by minimizing the adverse visual effect of wireless communication equipment towers, facilities and devices, by providing safeguards for the general public, by avoiding potential damage to adjacent properties, by maximizing the use of existing towers and buildings, by concealing new equipment within or on existing towers or buildings, and by encouraging co-location of equipment to accommodate the needs of wireless communication in order to reduce the number of towers needed to service the community.

3.7.2 Scope of Authority

The Wireless Communications Facilities Towers Overlay District shall be considered as overlying other use districts established by this By-Law. Within the Wireless Communications Facilities Towers Overlay District, the requirements of the underlying district continue to apply except as may be specifically superseded herein. The provisions of this section 3.7 shall not be applicable to towers presently in existence or to towers that may be constructed in the future that serve commercial television or radio communications purposes. The scope of authority of this section 3.7 shall be limited to personal wireless services and equipment related thereto as defined in section 6.7.2 of this By-Law.

3.7.3 Uses in the Wireless Communications Facilities Towers Overlay District

3.7.3.1 Permitted Uses

All uses permissible and as regulated within the underlying district. See Section 6.7 Wireless Communications Facilities.

3.7.3.2 Special Permit Uses

- (a) All uses permitted by special permit in the underlying district at that location may be allowed upon the issuance of a special permit by the Board of Appeals under such conditions as that Board may require.
- (b) Free-standing monopoles and free-standing lattice towers which meet the following criteria:
 - 1. Free-standing monopoles and free-standing lattice towers shall be no higher than 199 feet.

2. The minimum distance from the base of a free-standing monopole or a free-standing lattice tower to any property line shall be the height of the facility/mount, including any antennas or other appurtenances. In reviewing a special permit application for a wireless communications facility, the Board of Appeals may reduce the required setback distance for a free-standing monopole or a free-standing lattice tower to 125 feet from the property line, if it finds that a substantially better design will result from such reduction. In making such a finding, the Board of Appeals shall consider both the visual and safety impacts of the proposed use.
3. Monopoles are the preferred mount for such structures. The applicant for a wireless communication lattice tower shall demonstrate that such installation will reduce the number of standalone facilities needed for wireless communication facilities by enabling greater co-location of wireless communication equipment than would otherwise have been achievable on a monopole installation.
4. Co-location of wireless communication equipment on existing towers and buildings is encouraged. The applicant for a wireless communication monopole or lattice tower shall demonstrate that the communication equipment planned for the proposed structure cannot be accommodated on an existing or approved tower or structure or building within one-half mile search radius of a proposed monopole or lattice tower for one or more structural, technical, economic or other reasons as documented by a qualified engineer or other qualified professional including, but not limited to the following:
 - (a) no such tower or building exists.
 - (b) the structural capacity of the existing tower or structure is inadequate and cannot be modified at a reasonable cost, the proposed equipment will interfere with the usability of existing equipment.
 - (c) the owner of an appropriate building or structure has effectively denied permission to co-locate by unreasonable delay or commercially unreasonable terms or conditions.
 - (d) the height of an existing tower or structure is not adequate to permit the proposed equipment to function.

In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Board of Appeals. The Board of Appeals may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant, said fee should be reasonable, customary and actual. The Board of Appeals may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

5. Every special permit issued by the Board of Appeals for a new monopole or lattice tower shall be automatically subject to the condition that the permit holder must allow co-location upon the structure by other wireless communication providers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by a permit holder which requires the payment of rent in excess of industry standards or which allows co-location only if the requesting party provides comparable space on one of its structures to the permit holder shall be deemed to be commercially unreasonable.

3.7.4 Establishment and Delineation of Wireless Communications Facilities Tower Overlay District

For the purposes of this district, there are hereby established within the town certain wireless communications facilities towers overlay districts, consisting of areas which are delineated on a map entitled, "Zoning Map of the Town of Needham, Massachusetts": as originally dated September 1924 and revised to May 15, 1989, and as revised an amended to date and on file in the Office of the Town Clerk.

3.7.5 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

3.8 Needham Center Overlay District

3.8.1 Purposes of District

The purposes of the Needham Center Overlay District are to encourage redevelopment of existing properties and infill development of an appropriate scale, density, mix of uses and design for a suburban downtown, substantially as set forth in the Needham Center Development Plan dated March 30, 2009, and to establish sub-districts in which to achieve these purposes in a manner compatible with surrounding areas; to create and sustain a vibrant, walkable downtown area; and to create opportunities for housing within walking distance of goods and services, public transportation, and the civic life of the town. Toward these ends, development in the Needham Center Overlay District shall be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district(s) provided that such development complies with the design guidelines and all other requirements of this Section.

3.8.2 Scope of Authority

In the Needham Center Overlay District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Needham Center Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.8, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Needham Center Overlay District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provision of the Needham Center Overlay District shall not apply.

3.8.3 Use Regulations

3.8.3.1 Permitted Uses

The following uses are permitted in the Needham Center Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.

- (d) Mixed-use building, not exceeding five dwelling units per building, with dwelling units allowed above the ground floor only.
- (e) Accessory uses permitted as of right in the underlying district.

3.8.3.2 Special Permit Uses

The following uses are permitted in the Needham Center Overlay District only upon the issuance of a Special Permit by the Planning Board under such conditions as it may require:

- (a) Business uses allowed by special permit in the underlying district.
- (b) Mixed-use building containing six or more dwelling units, with dwelling units located on floors above the ground floor or on the ground floor, provided that:
 - (1) Entrances to ground-floor dwelling units are located on the side or rear of the building, not from any side facing the street, or the entrances may be from a first-floor lobby serving other uses in the building; and
 - (2) The ground floor of the front façade contains only retail or restaurant uses allowed as of right or by special permit.
- (c) Accessory uses permitted by special permit in the underlying district.

3.8.3.3 Multiple Buildings and Uses

In the Needham Center Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.8 of this By-Law.

3.8.3.4 Enclosed Parking

Enclosed parking in the Needham Center Overlay District shall conform to the requirements for the Center Business District in Section 4.4.6.

3.8.4 Dimensional Regulations

3.8.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Needham Center Overlay District:

- (a) Minimum Lot Area: 10,000 square feet.

- (b) Minimum Lot Frontage: 80 feet.
- (c) Minimum Front Setback: 0 feet from the front property line.
- (d) Maximum Front Setback: The lesser of 3 feet from the front property line, or the average setback of existing buildings within 100 feet on the same side of the street as the proposed development. The Planning Board may grant a Special Permit to waive this requirement when the applicant proposes to provide a pedestrian plaza, outdoor cafeteria or similar amenity in front of a building facing Great Plain Avenue, Highland Avenue, Chestnut Street, or Chapel Street.
- (e) Minimum Side and Rear Setback: For lots abutting a residential district, fifty (50) feet; for all other lots, no minimum yard setback shall apply. Where side and rear yard setbacks of fifty (50) feet are required, no accessory uses shall be located within twenty-five (25) feet closest to the district boundary and all other requirements of Sections 4.4.8.3 and 4.4.8.5 shall apply. The remaining twenty-five (25) feet may be used for an accessory use, not including a building or structure. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot side and rear yard setbacks provided that the garage structure shall be located entirely below the grade of the existing lot and set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater, and the twenty-five (25) feet closest to the district boundary shall be suitably landscaped over the surface of the garage structure in accordance with Section 4.4.8.5.

3.8.4.2 Building Height Requirements

The maximum building height in the Needham Center Overlay District shall be as follows:

- (a) In Sub-District A: The minimum building height shall be two stories and twenty-seven feet and the maximum building height shall be two and one-half stories and thirty-five feet as of right. By Special Permit from the Planning Board, the maximum height of a building may be increased up to the following limits: three stories and thirty-seven (37) feet, or four stories and forty-eight (48) feet, provided that the fourth story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Subsection 3.8.8 below.
- (b) In Sub-District B: The maximum building height shall be thirty-five (35) feet and two and one-half stories as of right, or by Special Permit from the Planning Board, thirty-seven (37) feet and three stories, provided that the third story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Section 3.8.8 below.

Buildings developed under the regulations of the Needham Center Overlay District shall not be further subject to the maximum height regulations of the underlying district, as contained in Section 4.4.3.

3.8.4.3 Building Bulk and Other Requirements

Except as provided in subsections (a) and (b) below, the maximum floor area ratio in the Needham Center Overlay District shall be the same standard that applies in the Center Business District under Section 4.4.2(b), except that the area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Needham Center Overlay District shall not be subject to any other limitations on floor area ratio or building bulk in Section 4.4.2.

- (a) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 2.0 in Sub-Districts A and B, subject to the decision standards in Section 3.8.7.
- (b) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 3.0 in Sub-Districts A and B, subject to the decision standards in Section 3.8.7 and the following additional requirements:
 - (1) Off-street parking located on the site or provided through a shared agreement on another property within 1,000 feet of the site, in a form acceptable to the Planning Board, shall be required as a condition of special permit approval; and
 - (2) No waivers of minimum parking requirements or payment of fees in lieu of off-street parking spaces under Section 3.8.5 shall be allowed.

3.8.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in the Central Business District in Section 4.4.6 shall apply in the Needham Center Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - (1) For retail stores or services, there shall be one space per 300 square feet of floor area, except that no parking spaces shall be required for a retail establishment with less than eight hundred (800) square feet of floor area.
 - (2) For any building in which more than forty (40) percent of the usable floor area is located above the ground floor, the minimum number of off-street parking spaces for upper-story business uses shall be eighty (80) percent of the number of spaces that would be required under Section 5.1.2, except that this reduction shall not apply to medical, dental and related health services or clinics.
 - (3) For dwelling units in a mixed-use building, the minimum number of off-street parking spaces shall be one and one-half spaces per dwelling unit except as provided in Section 3.8.6(h).

- (b) In addition to the requirement for bicycle racks under Section 5.1.3(n), for a mixed-use building, bicycle racks facilitating locking shall be provided to accommodate one bicycle for every two (2) dwelling units.
- (c) Except as provided in Section 3.8.4.3(b)(2) above, the Planning Board may grant a Special Permit to waive the requirements of Section 5.1.2 or Section 5.1.3, or the requirements of subsection (a) above, if a proposed development satisfies the conditions set forth in Section 5.1.1.6 and Section 3.8.5.1.

3.8.5.1 Needham Center Off-Street Parking Fund

- (a) A Special Permit may be granted to allow payment of a fee in lieu of the minimum number of off-street parking spaces required under this Section, if the Planning Board determines that:
 - (1) The applicant has reasonably demonstrated that it is uneconomic to accommodate all of the required parking spaces on the lot, given the area and shape of the lot, or under the building, given the size of the project;
 - (2) The applicant has reasonably demonstrated that it is infeasible to accommodate the required number of parking spaces through a combination of on-site parking and shared parking with an adjoining property; and
 - (3) The project has been designed to the extent feasible to reduce the required number of off-street parking spaces, e.g., by the inclusion of space for retail establishments with less than 800 sq. ft. of floor area, or a multi-story building with upper-story uses that qualify for reduced parking, as provided under Section 3.8.5(a).
- (b) The fee shall be computed on a per-space basis and paid into a special revenue fund known as the Needham Center Off-Street Parking Fund, to be used solely for the purpose of providing shared or public parking benefiting uses within the area covered by the Needham Center Development Plan.
- (c) The fee shall be determined by the Planning Board in accordance with the Needham Center Development Plan or the Town of Needham Capital Improvements Plan, as applicable, and paid by the applicant in two installments: one-half prior to the receipt of a building permit and one-half prior to receipt of a certificate of occupancy, unless the applicant chooses to pay the entire fee prior to receipt of a building permit.

3.8.6 Affordable Housing

Any mixed-use building with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.8.4.3.
- (b) For a development with not more than ten dwelling units, at least one unit shall be an affordable unit; and for a development with eleven or more dwelling units, at least ten percent shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number.
- (c) If the applicant provides at least one-half of the affordable units for households with incomes at or below fifty (50) percent of area median income, the remaining affordable units may be sold or rented to households with incomes up to 100 percent of area median income even if the latter units are not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- (d) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size and energy efficiency to the development's market-rate units.
- (e) The affordable units shall be constructed in proportion to the number of market-rate units in the development. Proportionality shall be determined by the number of building permits or certificates of occupancy issued for the affordable units and market-rate units, as applicable, or otherwise in accordance with a schedule set by the Planning Board in conditions imposed on the Special Permit.
- (f) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
- (g) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.
- (h) For affordable units with not more than one bedroom, the minimum number of parking spaces under section 3.8.5 shall be reduced to one space per unit.

3.8.7 Site Plan Review

For any project seeking a Special Permit under Sections 3.8.4.1, 3.8.4.2, or 3.8.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;

- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Needham Center Overlay District and conforms to the Design Guidelines in Section 3.8.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable for the redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
 - (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or through payment of fees in lieu of off-street parking spaces except where such payment of fees is not allowed for a Special Permit under Section 3.8.4.3(b).

3.8.8 Design Guidelines

The Design Guidelines for the Needham Center Overlay District shall be as adopted by the Planning Board and available on file in the Needham Planning Department.

3.9 Lower Chestnut Street Overlay District

3.9.1 Purposes of District

The purposes of the Lower Chestnut Street Overlay District are to encourage redevelopment of existing properties in a manner that brings buildings close to the street, with landscaping and layouts and designs of sites and buildings conducive to pedestrian use; to reorganize and consolidate curb cuts through appropriate access management controls; and to create opportunities for Chestnut Street to serve as an attractive, safe, pedestrian-friendly street, substantially as set forth in the Needham Center Development Plan dated March 30, 2009. Toward these ends, development in the Lower Chestnut Street Overlay District shall be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district(s) provided that such development complies with the design guidelines and all other requirements of this Section.

3.9.2 Scope of Authority

In the Lower Chestnut Street District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Lower Chestnut Street Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.9, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Lower Chestnut Street Overlay District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provisions of the Lower Chestnut Street Overlay District shall not apply.

3.9.3 Use Regulations

3.9.3.1 Permitted Uses

The following uses are permitted in the Lower Chestnut Street Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) All uses permitted as of right in the underlying district.
- (c) Mixed-use building, not exceeding five dwelling units per building, with dwelling units allowed above the ground floor only.
- (d) Accessory uses permitted as of right in the underlying district.

3.9.3.2 Special Permit Uses

The following uses are permitted in the Lower Chestnut Street Overlay District only upon the issuance of a Special Permit by the Planning Board under such conditions as it may require:

- (a) Business uses allowed by special permit in the underlying district, excluding an automobile service station.
- (b) Mixed-use building containing six or more dwelling units in a building, with dwelling units located on floors above the ground floor or on the ground floor, provided that:
 - (1) Entrances to ground-floor dwelling units are located on the side or rear of the building, not from any side facing the street, or the entrances may be from a first-floor lobby serving other uses in the building; and
 - (2) The ground floor of the front façade contains only retail, restaurant or office uses allowed by right or by special permit.
- (c) Mixed-use development, provided that at least sixty (60) percent of the front side of the lot facing Chestnut Street, measured in percentage of linear feet of frontage, shall be occupied by a building or buildings located within twenty (20) feet of the street line, said building(s) to contain permitted business uses and which may contain upper-story dwelling units. Free-standing multi-family dwelling(s) associated with a mixed-use development shall be located toward the rear of the site and be connected to building(s) facing the street by means of landscaped walkways or a courtyard.
- (d) Accessory uses permitted by special permit in the underlying district.

3.9.3.3. Multiple Buildings and Uses

In the Lower Chestnut Street Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.9 of this By-Law.

3.9.3.4 Special Permit, Parking Garage

The Planning Board may issue a Special Permit for a parking garage or parking structure for more than three (3) vehicles, including both enclosed and open structures, above and below ground, serving uses within the area covered by the Downtown Development Plan, where the parking garage or structure is located within 1,000 feet of the uses it serves, subject to such setback requirements as the Planning Board may impose.

3.9.4 Dimensional Regulations

3.9.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Lower Chestnut Street Overlay District:

- (a) Minimum Lot Area: 15,000 square feet.
- (b) Minimum Lot Frontage: 100 feet.
- (c) Minimum Front Setback: The lesser of 5 feet from the front property line or the average setback of abutting buildings within 100 feet on the same side of the street as the proposed development.
- (d) Maximum Front Setback: 15 feet from the front property line.
- (e) Minimum Side and Rear Setback:
 - (1) For lots abutting a residential district, fifty (50) feet from the lot line abutting the residential district; for all other lots, no minimum yard setback shall apply. Where side and rear yard setbacks of fifty (50) feet are required, the twenty-five (25) feet closest to the district boundary and all other requirements of Sections 4.4.8.2 and 4.4.8.5 shall apply. The remaining twenty-five (25) feet may be used for an accessory use, not including a building or structure. By special permit from the Planning Board, however, an underground parking structure may be permitted within the fifty (50) foot side and rear yard setbacks provided that the garage structure shall be located entirely below the grade of the existing lot and set back at least ten (10) feet from the district boundary or ten (10) feet from the lot line, whichever is greater, and the twenty-five (25) feet closest to the district boundary shall be suitably landscaped over the surface of the garage structure in accordance with Section 4.4.8.5.
 - (2) For lots adjacent to the MBTA right-of-way, there shall be a minimum yard setback of twenty-five (25) feet from the lot line abutting the MBTA right-of-way, and the first ten (10) feet of the setback shall be suitably landscaped and not used for any other purpose, including an accessory use, except that within said ten (10) feet the Planning Board may grant a special permit for surface parking, provided that the parking area is suitably landscaped. The remaining fifteen (15) feet may be used for an accessory use, not including a building or structure, except that within said fifteen (15) feet an underground parking structure is permitted if located entirely below the grade of the existing lot.

3.9.4.2 Building Height Requirements

The maximum building height in the Lower Chestnut Street Overlay District shall be two and one-half stories and thirty-five feet as of right. For lots having the required minimum frontage on Chestnut Street, the Planning Board may grant a Special Permit for a maximum building height

of three stories and thirty-seven feet or four stories and forty-eight (48) feet, provided that the fourth story is located under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines under Section 3.9.8 below.

Buildings in the Lower Chestnut Street Overlay District shall not be further subject to the maximum height regulations of the underlying district, as contained in Section 4.4.3.

3.9.4.3 Building Bulk and Other Requirements

The maximum floor area ratio in the Lower Chestnut Street Overlay District shall be 0.70, except that for lots having the required minimum frontage on Chestnut Street, the Planning Board may grant a Special Permit to increase the maximum floor area ratio as provided in subsections (a) and (b) below. The area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio under this section. Uses in the Lower Chestnut Street Overlay District shall not be subject to any other limitations on floor area ratio or building bulk such as those contained in Section 4.4.2.

- (a) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 1.5, subject to the decision standards in Section 3.9.7.
- (b) The Planning Board may grant a Special Permit to increase the maximum floor area ratio to 2.0, subject to the decision standards in Section 3.9.7 and the following additional requirements:
 - (1) Off-street parking located on the site or provided through a shared agreement on another property within 1,000 feet of the site, in a form acceptable to the Planning Board, shall be required as a condition of special permit approval; and
 - (2) No waivers of minimum parking requirements or payment of fees in lieu of off-street parking spaces under Section 3.9.5 shall be allowed.

3.9.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 shall apply in the Lower Chestnut Street Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - (1) For any building in which more than forty (40) percent of the usable floor area is located above the ground floor, the minimum number of off-street parking spaces for upper-story business uses shall be eighty (80) percent of the number of spaces that would be required under Section 5.1.2, except that this reduction shall not apply to medical, dental and related health services or clinics.

- (2) For dwelling units in a mixed-use building or mixed-use development, the minimum number of off-street parking spaces shall be one and one-half spaces per dwelling unit.
- (b) In addition to the requirement for bicycle racks under Section 5.1.3(n), for a mixed-use building or mixed-use development, bicycle racks facilitating locking shall be provided to accommodate one bicycle for every two (2) dwelling units.

3.9.5.1 Needham Center Off-Street Parking Fund

- (a) A Special Permit may be granted to allow payment of a fee in lieu of the minimum number of off-street parking spaces required under this Section, if the Planning Board determines that:
 - (1) The applicant has reasonably demonstrated that it is uneconomic to accommodate all of the required parking spaces on the lot, given the area and shape of the lot, or under the building, given the size of the project;
 - (2) The applicant has reasonably demonstrated that it is not feasible to accommodate the required number of parking spaces through a combination of on-site parking and shared parking with an adjoining property; and
 - (3) The project has been designed to the extent feasible to reduce the required number of off-street parking spaces, e.g., a multi-story building with upper-story uses that qualify for reduced parking, as provided under Section 3.9.5(a).
- (b) The fee shall be computed on a per-space basis and paid into a special revenue fund known as the Needham Center Off-Street Parking Fund, to be used solely for the purpose of providing shared or public parking benefiting uses within the area covered by the Downtown Needham Development Plan.
- (c) The fee shall be determined by the Planning Board in accordance with the Needham Center Development Plan or the Town of Needham Capital Improvements Plan, as applicable, and paid by the applicant in two installments: one-half prior to the receipt of a building permit and one-half prior to receipt of a certificate of occupancy, unless the applicant chooses to pay the entire fee prior to receipt of a building permit.

3.9.6 Affordable Housing

Mixed-use buildings or mixed-use developments with six or more dwelling units shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.9.4.3.
- (b) All other requirements of Section 3.8.6 shall apply.

3.9.7 Site Plan Review

For any project seeking a Special Permit under Sections 3.9.4.1, 3.9.4.2 or 3.9.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following review criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Lower Chestnut Street Overlay District and conforms to the Design Guidelines under Section 3.9.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable to redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;
- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
 - (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or provided through payment of fees in lieu of off-street parking spaces except where such payment of fees is not allowed for a Special Permit under Section 3.9.4.3(b).

3.9.8 Design Guidelines

The Design Guidelines for the Lower Chestnut Street Overlay District shall be as adopted by the Planning Board and available on file in the Needham Planning Department.

3.10 Garden Street Overlay District

3.10.1 Purposes of District

The purposes of the Garden Street Overlay District are to encourage redevelopment and a modest intensification of use of existing properties in a manner compatible in scale and design with adjacent residential neighborhoods, with layouts and designs of sites and buildings conducive to pedestrian use, substantially as set forth in the Needham Center Development Plan dated March 30, 2009.

3.10.2 Scope of Authority

In the Garden Street Overlay District, all requirements of the underlying district shall remain in effect except where these regulations provide an alternative to such requirements, in which case these regulations shall supersede. In the event that a proponent wishes to develop in accordance with the regulations hereunder, the rules and regulations of the Garden Street Overlay District shall apply, and by filing an application for a Special Permit, site plan review or building permit under this Section 3.10, the owner shall be deemed to accept and agree to them. In such event, where the provisions of the Garden Street Overlay District are silent on a zoning regulation that applies in the underlying district, the requirements of the underlying district shall apply.

If the proponent elects to proceed under the zoning provisions of the underlying district, the zoning bylaws applicable in the underlying district shall control and the provisions of the Garden Street Overlay District shall not apply.

3.10.3 Use Regulations

3.10.3.1 Permitted Uses

Uses permitted as of right in the Lower Chestnut Street Overlay District shall also be permitted as of right in the Garden Street Overlay District, excluding retail establishments.

3.10.3.2 Special Permit Uses

The following uses may be allowed by Special Permit in Garden Street Overlay District:

- (a) Multi-family dwelling.
- (b) Mixed-use building that includes six or more dwelling units or any retail use allowed in the underlying district, subject to the requirements of Section 3.9.3.2(b).

3.10.3.3 Multiple Buildings and Uses

In the Garden Street Overlay District, more than one use may be located on a lot as a matter of right and/or more than one building may be located on a lot by special permit, provided that each building and/or its use(s) are in compliance with the requirements of Section 3.10 of this By-Law.

3.10.4 Dimensional Regulations

3.10.4.1 Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Garden Street Overlay District:

- (a) Minimum Lot Area: 15,000 square feet.
- (b) Minimum Lot Frontage: 80 feet.
- (c) Minimum Front Setback: The lesser of 10 feet from the front property line or the average setback of abutting buildings within 100 feet on the same side of the street as the proposed development.
- (d) Minimum Side and Rear Setback: 10 feet.

3.10.4.2 Building Height Requirements

The maximum building height in the Garden Street Overlay District shall be two and one-half stories and thirty-five (35) feet or, by Special Permit from the Planning Board, three stories and thirty-seven (37) feet, provided that the third story is contained under a pitched roof or recessed from the face of the building, as shown in the Design Guidelines in Section 3.10.8 below. Buildings in the Garden Street Overlay District shall not be further subject to the maximum height regulations of the underlying district as contained in Section 4.4.3.

3.10.4.3 Building Bulk and Other Requirements

The maximum floor area ratio in the Garden Street Overlay District shall be 0.70. By Special Permit from the Planning Board, the maximum floor area ratio may be increased to 1.20 for a mixed-use building(s) and to 1.0 for a multi-family dwelling(s). The area of a building devoted to underground parking shall not be counted as floor area for purposes of determining the maximum floor area ratio under this section. Uses in the Garden Street Overlay District shall not be subject to any other limitations on floor area ratio or building bulk such as those contained in Section 4.4.2.

3.10.5 Off-Street Parking

The off-street parking regulations that apply in the Lower Chestnut Street Overlay District shall also apply in the Garden Street Overlay District.

3.10.6 Affordable Housing

Any building or combination of buildings with six or more dwelling units on the lot shall include affordable housing units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes affordable units:

- (a) The floor area of the affordable units shall not be counted for purposes of determining the maximum floor area permitted under Section 3.10.4.3.
- (b) All other requirements of Section 3.8.6 shall apply.

3.10.7 Site Plan Review

For any project seeking a Special Permit under Section 3.10.4.2 or Section 3.10.4.3, or for any project proceeding under these overlay district provisions which also constitutes a Major Project under Section 7.4.2, the Planning Board shall consider, in addition to the factors set forth in Section 7.4.6, the following review criteria:

- (a) The adequacy of existing facilities to serve the proposed development, including but not limited to water supply, sewer, natural gas and electric service;
- (b) The degree to which the proposed project, viewed in its entirety, will make a significant contribution to the urban design and economic development goals set forth in the Needham Center Development Plan;
- (c) The degree to which the proposed project is consistent with the purposes of the Garden Street Overlay District and conforms to the Design Guidelines under Section 3.10.8;
- (d) The degree to which the applicant's proposal has been designed to reduce or mitigate adverse impacts on adjacent properties or the surrounding area such as those resulting from excessive traffic congestion or excessive demand for parking;
- (e) For applications involving an increase in building height or bulk by special permit, the degree to which the applicant has reasonably demonstrated that the additional height or floor area is desirable for redevelopment of the site, considering the site's location and physical characteristics and the condition of existing improvements;
- (f) The degree to which the proposed project incorporates as many green building standards as practical, given the type of building and proposed uses;

- (g) The degree to which the proposed project provides a significant public benefit through its inclusion of at least one of the following:
- (1) Affordable housing units;
 - (2) Use of one or more renewable energy sources in the operation of the project;
 - (3) Off-street parking sufficient to accommodate the proposed uses, located on the site or provided through a shared parking arrangement acceptable to the Planning Board; or provided through payment of fees in lieu of off-street parking spaces.

3.10.8 Design Guidelines

The Design Guidelines for the Garden Street Overlay District shall be as adopted, and as may be amended from time to time, by the Planning Board and available on file in the Needham Planning Department.

3.11 Temporary Meteorological Towers Overlay District

3.11.1 Purposes of District

The purpose of the Temporary Meteorological Towers Overlay District is to promote the health, safety and general welfare of the community while accommodating the needs of the general public. Those purposes can be achieved by minimizing the adverse visual effect of temporary wind monitoring or meteorological test towers (“MET towers”), by providing safeguards for the general public, by avoiding damage to adjacent properties, by minimizing the environmental impacts of such facilities, while at the same time accommodating the testing of wind speeds, direction, and quantity of wind power a particular location can be expected to generate by permitting temporary wind monitoring or meteorological test towers.

3.11.2 Scope of Authority

The Temporary Meteorological Towers Overlay District shall be considered overlying other use districts established by the By-Law. Within the Temporary Meteorological Towers Overlay District, the requirements of the underlying district continue to apply except as may be specifically superseded herein. The scope of authority of this Section 3.11 shall be limited to temporary MET towers as defined in the following provisions.

3.11.3 Definitions

Meteorological or wind monitoring Towers (“MET Tower”): A temporary test tower equipped with mechanical devices to measure wind speeds, variability, and direction and used to determine how much wind power a site can be expected to generate. Such temporary towers are used to determine if a site can support a Wind Energy Facility by ascertaining the wind-to-electrical-energy conversion capability at a specific site.

Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmissions, storage, collection and supply equipment, substations, transformers, site access, services roads and machinery associated with the use. A wind energy facility may consist of one or more wind turbines.

3.11.4 Uses in Temporary Meteorological Towers Overlay District

3.11.4.1 Permitted Uses

All uses permissible and as regulated within the underlying district.

3.11.4.2 Special Permit Uses

- (a) All uses permitted by special permit in the underlying district at that location may be allowed upon the issuance of a special permit by the designated Special Permit Granting Authority under such conditions as the Board may require.
- (b) Free-standing MET towers which meet the following criteria:
 - 1. MET towers shall be exempt from the height and other dimensional regulations of the By-Law and shall follow the height and setback requirements set forth in this section.
 - 2. MET towers shall be no higher than 175 feet.
 - 3. The minimum distance from the base of any MET tower to any property line or public or private street or way shall be equal to the height of the MET tower.
 - 4. The minimum distance from the base of any MET tower to any dwelling, business or institutional use shall be equal to the height of the MET tower.
 - 5. The purpose of the setbacks is to provide an area free of habitable structures; such setback does not need to be cleared of trees and vegetation and to the extent possible, existing on-site trees and vegetation shall be preserved.
 - 6. Special Permit Criteria: All MET towers shall be constructed in locations to minimize any adverse visual, safety and environmental impacts. No special permit shall be issued unless the Board of Appeals, the Special Permit Granting Authority under this Section 3.11 finds that:
 - (a) the specific site is an appropriate location for such use;
 - (b) the use will not adversely affect the neighborhood;
 - (c) there will be no serious hazard to people or property from the use; no nuisance will be created by the use;
 - (d) adequate and appropriate facilities are provided for the proper operation of the use;
 - (e) the visual impact on the surrounding neighborhoods and community is minimized;
 - (f) no significant shadowing or flicking impacts the neighborhood;
 - (g) no significant negative impacts are occasioned by the use on the environment including rare species;
 - (h) the MET tower is painted with a non-reflective color that blends with the sky and/or other environmental considerations;
 - (i) all equipment is appropriately enclosed and/or shielded from view to avoid adverse visual impacts;
 - (j) the MET tower is lighted only if required by Federal Aviation Administration (FAA) or other state or federal requirements; and
 - (k) any lighting of the MET tower is shielded from abutting properties.
 - 7. All MET towers, related ground mounted electrical and control equipment shall be secured to prevent unauthorized access, and the MET tower shall be designed and installed so as not to provide readily accessible steps or ladders to the public for a minimum of eight (8) feet above the ground.
 - 8. All signs, other than manufacture or installers' identification, warning signs or owner identification on a MET tower or other structure visible from any public road shall be prohibited. All signs shall comply with the By-Law.

- (c) Prior to the issuance of a building permit (after a special permit is issued by the Board of Appeals), the applicant shall be required to provide evidence of liability insurance, in an amount to be determined by the Board of Appeals and made part of the special permit, to cover loss or damage to persons or property occasioned by damage or injury caused by the MET tower.
- (d) Proposed MET towers shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety and environmental and communications requirements. All MET tower facilities shall comply with the requirements set forth in this Section 3.11.
- (e) A Special Permit issued for any MET tower shall be valid for two (2) years unless sooner revoked. At the end of that time period, unless extended by the Board of Appeals for not more than a total of five (5) years upon a showing of good cause for same, the MET tower shall be removed by the applicant. The site shall be restored to its original condition following removal of the MET tower.
- (f) If the applicant fails to remove the MET tower in accordance with this section, the Town of Needham shall have authority, and any special permit issued hereunder shall so provide, to enter the subject property and remove the facility. The applicant may be required to provide a form of surety or bond at the time of issuance of the building permit to cover the costs of removal in the event the Town must remove the MET tower. The applicant shall submit a fully inclusive estimate of costs associated with removal and restoration of the site to its original condition, prepared by a qualified engineer. The amount of bond or surety shall be 150% of the cost at the time.

3.11.5 Submission Requirements

Ten (10) collated sets of application materials shall be submitted with any application for a MET tower. Application materials shall include all plans and materials required in this section:

- (a) Documentation: Applications must include: name, address and telephone number of applicant and any co-applicants as well as any agents for same with original signatures; documentation of the legal right to install and use the proposed MET tower and proof of control over setback areas; proof of ability to obtain financial surety or bond; proof of liability insurance; certification of lighting requirements from the FAA; and certification of attainment from FCC relating to interference with radio or television reception (if required by the FCC).
- (b) Site Plan Requirements:
 1. A locus plan at a scale of one inch equals two-hundred feet which shows all property lines, the exact location of the proposed structure(s), public and private roads, street landscape features, dwellings and other structures within two-hundred feet of the property line. The zoning district designation shall be included on the plan.

2. A plan showing the proposed location of the MET tower and any other structures proposed, including fencing, utility connections, access roads, parking areas and any other construction attendant to the MET tower.
 3. A plan showing distances at grade from the MET tower to each building on the vicinity plan.
 4. A plan showing proposed changes to the existing property including grading and vegetation removal.
 5. A plan showing tree cover and average height of trees on the property and on adjacent properties within 200 feet of the property line.
 6. A landscape plan showing existing trees and shrubs, as well as those proposed to be added.
 7. Contours at each two feet Above Mean Sea Level for subject property and adjacent properties within 200 feet of the property line.
- (c) Elevation: Elevations shall be either at 1/4 or 1/8 inch scale showing views at grade from the north, south, east and west for a 50' radius around the proposed MET tower. Elevations shall show all equipment, security barriers, structures, existing and proposed trees and shrubs and grade changes.
- (d) Equipment Brochures: Equipment brochures for the proposed MET tower such as manufacturer's specifications or trade journal reprints shall be provided for the tower, mounts, equipment shelters, cables as well as cable runs and security barrier, if any. Such information shall include the type of materials proposed.
- (e) Photographs and Sight-line Diagrams: Color photographs of the current view shall be submitted from at least two locations to show existing conditions. Appearance of proposed MET tower shall be superimposed to scale on the existing condition photograph to accurately simulate the proposed MET tower. Sight-line diagrams from at least two locations shall be depicted in profile drawings at a scale of one inch equals forty feet. The diagrams shall show the lowest point of the MET tower visible from each location and all intervening trees and buildings.
- (f) Certifications: The following information must be prepared and signed by a registered professional engineer: description of the MET tower and reasons for the proposed location, height and design; confirmation that MET tower complies with all applicable Federal and State standards; and, if applicable, a written statement that the proposed MET tower complies with, or is exempt from, applicable regulations administered by the FAA, the FCC, Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.

3.11.6 Severability

A determination that any portion or provision of this overlay district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

3.12 Elder Services Zoning District

3.12.1 Purposes of District

The purpose of the Elder Services Zoning District is to promote the health, safety and general welfare of the community by encouraging the establishment of housing and other facilities in close proximity to each other primarily serving individuals 55 years or older who wish to live in independent apartments with convenient access to supportive services, while minimizing potential adverse impacts upon nearby residential and other properties. These purposes are to be achieved through establishing controls specifically for the proposed uses at locations where either such uses already exist or they would be appropriate because of access or other locational considerations.

3.12.2 Scope of Authority

The regulations of the Elder Services Zoning District shall govern all new construction, reconstruction or expansion of new or existing buildings, and new or expanded uses, regardless of whether the requirements of Section 3.12 are more or less restrictive than those of the General Residence Zoning District, of which the Elder Services Zoning District was formerly a part. Provisions of Section 3.12 shall supersede those of Section 3.2 Schedule of Use Regulations, Sections 4.2 through 4.10 (Dimensional Regulations) and Section 5.1.2 (Required Parking) except as otherwise specifically provided herein.

3.12.3 Allowed Uses

The following uses are allowed by right:

- a) All uses allowed by right in the General Residence Zoning District as described in Section 3.2.1 of the Zoning By-Law.

3.12.4 Special Permit Uses

The following uses are allowed by Special Permit:

- a) All uses allowed by Special Permit in the General Residence Zoning District, as set forth in Section 3.2.1 of the Zoning By-Law.
- b) Independent Living Apartments.
- c) Assisted Living and/or Alzheimer's/Memory Loss Facilities.

3.12.5 Multiple Buildings and Uses in the Elder Services Zoning District

More than one use may be located on a lot as a matter of right and more than one building may be located on a lot as a matter of right, provided that each building and/or its uses are in compliance with the requirements of Section 3.12 of this By-Law.

3.12.6 Dimensional Regulations For the Elder Services Zoning District

Lot Area, Frontage and Setback Requirements

The following lot area, frontage and setback requirements shall apply to development in the Elder Services Zoning District:

- a) Minimum Lot Area: 10,000 square feet
- b) Minimum Lot Frontage: 80 feet
- c) Minimum Front Setback: 25 feet from the front property line
- d) Minimum Side and Rear Setback: Minimum side and rear setbacks abutting a railroad right of way shall be 10 feet. Minimum side and rear setbacks not abutting a railroad right of way shall be 25 feet except that the minimum setback abutting residential properties on the north side of Putnam Street shall be 35 feet. For side and rear setbacks not abutting a railroad right of way, the Board of Appeals or other Special Permit granting authority may grant a Special Permit reducing the minimum side yard setback to no less than 20 feet and the minimum rear yard setback to no less than 10 feet. In acting upon such applications for such reductions, the Board shall consider, in addition to the criteria for special permits generally (Section 7.5.2), the criteria set forth in Section 4.2.13 (a)-(f).

3.12.7 Building Height Requirements

The maximum building height of buildings in the Elder Services Zoning District shall be 40 feet. The maximum number of stories (exclusive of the basement) shall be three, plus an unfinished, uninhabitable fourth story contained under a pitched roof with gables.

Provided further, however, that the existing nursing home structure shall be further limited so that any expansion of such structure in a northerly direction, the highest point of said structure along Gould Street, shall not be higher than a horizontal line drawn through the highest points of said existing nursing home structure and extended northward to the boundary of the Elder Services Zoning District. Such further limitation shall not be applicable to any future structures to be located to the west of said existing nursing home structure (as it may be extended) regardless of whether a physical connection will be constructed between such other future structures to the west and the existing nursing home structure (as it may be extended).

3.12.8 Building Bulk, Lot Coverage and Other Dimensional Requirements

Except as otherwise provided herein, the maximum floor to area ratio in the Elder Services Zoning District shall be 1.0. Parking garages, interior portions of buildings devoted to off-street parking and all other parking facilities shall not be utilized in computing floor to area ratio.

Buildings developed or re-developed under the regulations of the Elder Services Zoning District shall not be subject to any other limitations on floor to area ratio, lot coverage, building bulk, setbacks or other dimensional requirements as are contained in Sections 4.2 through 4.10.

Notwithstanding anything in the By-Law to the contrary, including but not limited to the preceding two subparagraphs of this Section 3.12.8, the construction of single family detached dwellings, two family detached dwellings or the conversion of a single family dwelling to a two family dwelling, shall be governed by the dimensional and density requirements of the General Residence Zoning District.

3.12.9 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 shall apply in the Elder Services Zoning District.

- a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - 1) The off-street parking requirement for independent living apartments in the Elder Services Zoning District shall be 0.5 parking spaces for each dwelling unit.

3.12.10 Affordable Housing

Independent living apartments, as defined above (i.e. which excludes convalescent or nursing homes, assisted living and Alzheimer's/memory loss facilities) shall include Affordable Housing Units as defined in Section 1.3 of this By-Law. The following requirements shall apply to a development that includes Affordable Housing Units:

- a) For a development with not more than 10 dwelling units, at least one unit shall be an Affordable Housing Unit; and for a development with 11 or more dwelling units, at least 10% shall be Affordable Housing Units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number.
- b) If the Applicant provides at least one-half of the Affordable Housing Units for households with incomes at or below 50% of area median income, the remaining Affordable Housing Units may be sold or rented to households with incomes up to 100% of area median income even if the latter units are not eligible for the subsidized housing inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- c) Affordable Housing Units shall be dispersed within the building or buildings and not concentrated in one area or one floor. They shall generally be comparable in size, energy efficiency, quality, convenience and unit specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit specific real estate related amenities and are excluded from such comparability requirements.
- d) The Affordable Housing Units shall be constructed in proportion to the number of market-rate units in a development. Proportionality shall be determined by the number

of building permits or certificates of occupancy issued for the Affordable Housing Units and market-rate units, as applicable.

- e) The selection of eligible residents for the Affordable Housing Units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the independent living units.
- f) The Affordable Housing Units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.

3.13 Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District

3.13.1 Purpose of District

The purpose of this bylaw is to regulate Large-Scale Ground-Mounted Solar Photovoltaic Installations in an established district(s) where they are allowed. The bylaw provides standards for the placement, design, construction, operation, monitoring, modification and removal of such installations. The standards aim to address public safety, minimize impacts on scenic, natural and historic resources and to provide financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, maintenance and/or repair, and/or modification and/or removal of Large-Scale Ground-Mounted Solar Photovoltaic Installations.

3.13.2 Scope of Authority

The Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District shall be considered as overlying other use districts established by this By-Law. Within the Large-Scale Ground-Mounted Solar Photovoltaic Installation Overlay District, the requirements of the underlying district continue to apply except as may be specifically superseded herein. The scope of authority of this Section 3.13 applies to Large-Scale Ground-Mounted Solar Photovoltaic Installations proposed to be constructed after the effective date of this section. This section also applies to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

3.13.3 Definitions

Designated Location: The locations permitted shall be within the Large-Scale Ground-Mounted Solar Photovoltaic Overlay District, hereinafter referred to as “the Overlay”.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system, including ancillary structures, that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250kW DC.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

3.13.4 Allowed Uses

The following uses are allowed by right:

- (a) All uses permissible and as regulated within the underlying district.
- (b) A Large-Scale Ground-Mounted Solar Photovoltaic Installation.

3.13.5 Special Permit Uses

All uses permitted by special permit in the underlying district at that location may be allowed upon the issuance of a special permit by the designated Special Permit Granting Authority under such conditions as the Board may require.

3.13.6 General Requirements

The following requirements are common to all solar photovoltaic installations to be sited in the Overlay.

3.13.6.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be in compliance with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings, structures and fixtures forming part of a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed in accordance with the State Building Code.

3.13.6.2 Building Permit and Building Inspection

No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

3.13.6.3 Site Plan Review

Large-Scale Ground-Mounted Solar Photovoltaic Installations shall undergo Major Project Site Plan Review by the Planning Board as described in Section 7.4 of the By-Law prior to construction, installation or modification as provided in this section. Application requirements for Site Plan Review shall be as provided below:

- (a) General: All plans and maps shall be prepared, stamped and signed by a Professional Engineer or Professional Land Surveyor licensed to practice in Massachusetts.
- (b) Required Documents: Pursuant to the Site Plan Review process, the project proponent shall provide the following documents in addition to those required under Section 7.4 of the By-Law.
 - 1) A site plan showing:
 - i. Property lines and physical features, including roads, for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening of vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic system signed by a

- Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
- iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation of the major system components to be used, including the PV panels, mounting system, inverter, and associated electrical components. The site plan shall include containment fencing line, power lines and poles, and site access routes;
 - vi. Name, address and contact information for proposed system installer;
 - vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
 - viii. The name, contact information and signature of any agents representing the project proponent.
- 2) Documentation of actual or prospective control of the project site and access thereto (see also Section 3.13.6.4);
 - 3) An operation and maintenance plan (see also Section 3.13.6.5);
 - 4) Zoning district designation for the parcel(s) comprising the site;
 - 5) Proof of liability insurance;
 - 6) Description of financial surety that satisfies Section 3.13.6.13.

The Planning Board may waive documentary requirements as it deems appropriate.

3.13.6.4 Site Control

The project proponent shall submit documentation of actual or prospective control of the project site and access thereto sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

3.13.6.5 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

3.13.6.6 Utility Notification

No Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner's or operator's intent to install an interconnected generator and an interconnection agreement and power purchase agreement (where appropriate) has been signed by the utility. Off-grid systems

shall be exempt from this requirement.

3.13.6.7 Dimension, Density and Parking Requirements

For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks shall be as follows:

- (a) Minimum Lot Area: 20 acres;
- (b) Minimum Front Setback: 50 feet;
- (c) Minimum Side Setback: 50 feet from the property line of residentially used property;
- (d) Minimum Rear Setback: 50 feet;
- (e) Maximum Lot Coverage: 50%;
- (f) Separation Distance: No separation distance is required between structures for ground mounted solar photovoltaic panels;
- (g) Height: Height shall be determined by each individual panel measured to the grade level beneath that panel and shall not exceed 25 feet;
- (h) Transition Areas: As long as the setbacks noted above are respected no further “Transition Area” (per Section 4.2.14) is required. No planting is required within the transition area if the abutting property is controlled by the Town of Needham and/or plantings are constrained by capped landfill requirements;
- (i) Parking Requirement: No additional parking is required for this use as long as there is no full-time on-site system operator required following installation of the Large-Scale Ground-Mounted Solar Photovoltaic Installation.

3.13.6.8 Design Standards

- (a) Lighting: Lighting shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (b) Signage: A sign for the Large-Scale Ground-Mounted Solar Photovoltaic Installation consistent with the Town’s sign bylaw shall be required to identify the owner and provide the business name for the company (ies) that own and operate the installation, their business address, the name of a contact person, and a 24-hour emergency contact phone number.
- (c) Utility Connections: Reasonable efforts, as determined by the Planning Board, shall be made to place cabling and utility connections from the Large-Scale Ground-Mounted Solar Photovoltaic Installation underground, depending on appropriate soil conditions, shape, ledge, wetland resources, and topography of the site and any requirements of the utility provider.
- (d) Conditions: All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures shall be screened from

view by vegetation and/or joined and clustered to avoid adverse visual impacts. Methods such as the use of landscaping, natural features and fencing may be utilized.

- (e) Fencing: A security fence shall be installed along or proximate to the perimeter of the system and shall be maintained for the lifetime of the system.

3.13.6.9 Safety and Environmental Standards

- (a) Emergency Services: The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Needham Fire Chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. The plan shall assure adequate access and staging for emergency services. All means of shutting down the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- (b) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation and in accordance with applicable laws, regulations, and bylaws.

3.13.6.10 Maintenance

The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security and safety measures. Site access for the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be maintained to a level acceptable to the Needham Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

3.13.6.11 Modifications

All material modifications to a Large-Scale Ground-Mounted Solar Photovoltaic Installation made after issuance of the required building permit shall require approval by the Planning Board.

3.13.6.12 Abandonment or Decommissioning

- (a) Removal Requirements: Any Large-Scale Ground-Mounted Solar Photovoltaic Installation which has reached the end of its useful life or has been abandoned consistent with Section 3.13.6.12 (b) of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by

certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- i. Physical removal of all solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave existing vegetation or designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.
- (b) Abandonment: Absent notice to the Planning Board as provided above of a proposed date of decommissioning or written notice requesting an extension due to extenuating circumstances, the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be considered abandoned when it fails to operate or its operations are discontinued for more than one year without the written consent of the Planning Board; or if the Building Inspector has determined that the installation is a hazard to public safety and the conditions have not been corrected within six (6) months.

The Town retains the right, after the receipt of an appropriate court order to enter and remove an abandoned or hazardous Large-Scale Ground-Mounted Solar Photovoltaic Installation that is not removed by the property owner within six (6) months from the date of abandonment, as described above, or the proposed date of decommissioning. As a condition of approval, an applicant shall agree to allow entry to remove an abandoned installation.

3.13.6.13 Financial Surety

Proponents of Large-Scale Ground-Mounted Solar Photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board. Such surety will not be required for municipally- or state owned systems, but may be required for privately-owned systems even if located upon municipally-owned land. The project proponent shall submit a fully inclusive estimate of costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

3.14 Mixed-Use Overlay District

3.14.1 Purpose of District

The purposes of the Mixed-Use Overlay District (hereinafter referred to as the “MUOD”) include but are not limited to:

- (a) Promoting a range and balance of land uses;
- (b) Facilitating integrated physical design and encouraging interaction among activities;
- (c) Permitting mixed use (commercial and residential) on individual development sites that are currently zoned within Mixed Use-128 and the northern Highland Commercial-128, i.e. the northern portion of Highland Commercial-128 abutting the Mixed Use-128 zoning district (hereinafter “the abutting Highland Commercial-128”);
- (d) Permitting mixed use (commercial and residential) within the area currently zoned Mixed Use-128 and the abutting Highland Commercial-128;
- (e) Establishing controls which will facilitate responsible development while protecting the public interest by limiting the aggregate amount of development;
- (f) Permitting flexible development on individual lots;
- (g) Promoting site features and layouts conducive to a variety of uses;
- (h) Promoting a pedestrian-friendly living and working environment; and
- (i) Providing housing in Needham.

3.14.2 Scope of Authority

The MUOD is an overlay district superimposed on the Mixed Use-128 and the abutting Highland Commercial-128 District. All uses permitted by right or by Special Permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to further provisions of this Section. Where the MUOD authorizes uses not otherwise allowed in the underlying district, specifically multifamily residential, the provisions of the MUOD shall control. The Planning Board shall be the Special Permit Granting Authority (“SPGA”) for every MSP (as defined below) and any other Special Permit required for development for a MUOD Project whether permitted by Special Permit in the underlying zoning district or in the MUOD. Nothing herein shall be construed to supersede the provisions of other overlay districts applicable in the MUOD, except as set forth herein.

If the proponent elects to proceed under the zoning provisions of the underlying district, the Zoning By-Laws applicable in the underlying district shall control and the provisions of the Mixed-Use Overlay District shall not apply.

3.14.3 Definitions

Concept Plan: An optional submittal for a Master Special Permit which provides a preliminary site plan for MUOD Projects detailing the proposed character, uses, site layout, impacts and amenities. The requirements of the Concept Plan are set forth in the following sections.

Master Special Permit (“MSP”): The Special Permit that an applicant must obtain prior to or in conjunction with obtaining any Site Plan Review approvals for a MUOD Project as provided in the Section 7.4 Site Plan Review.

MUOD Project: Residential uses alone or in combination with retail, commercial, office, municipal, and/or service establishments, as may be approved by the Planning Board for the MUOD by issuance of the MSP.

MUOD: The Mixed-Use Overlay District (“MUOD”) comprising the land presently part of the Mixed Use-128 District and the abutting Highland Commercial-128 District.

Site Plan Review: The Site Plan Review as provided in Section 7.4 that an applicant must obtain as part of approval for any MUOD Project.

3.14.4 Approval Process

3.14.4.1 Overview

Prior to applying for a building permit for a MUOD Project, the following review sequence is recommended.

- (a) Concept Plan at the discretion of applicant.
- (b) Master Special Permit application and Site Plan Review application.

3.14.4.2 Concept Plan

Prior to the application for approval of any MUOD Project, a Concept Plan may be filed with the Planning Board for review at a scheduled public meeting or meetings. The Concept Plan shall generally define the proposed MUOD Project’s character, uses, site layout, impacts and amenities. The Planning Board shall provide written commentary regarding whether the Concept Plan is in compliance with the provisions of this MUOD. A Concept Plan submission, if chosen to be made by an applicant, at a minimum shall include:

- (a) A preliminary survey plan signed by a registered surveyor;
- (b) A preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, general site grading with finish floor elevations, parking

- locations and total spaces allocated, landscaping concepts, roads, walkways, egress and access roads, open space and wetlands;
- (c) A preliminary utilities plan showing the proposed location of all germane utilities such as water supply, sewer service, storm water, gas, electric and other germane and or similar utilities;
 - (d) A preliminary subdivision plan, if applicable;
 - (e) Proposed buildings as to location, use classification, general architectural design, and size; and
 - (f) A zoning chart detailing uses and dimensional requirements (existing, required and proposed) including the need for special permits and/or waivers.

After review of the Concept Plan, the Planning Board shall provide written comments to the applicant regarding the consistency of the Concept Plan with the objectives and criteria of the MUOD. The Planning Board may, in its written comments, provide suggestions regarding any and all aspects of the Concept Plan. The Planning Board shall advise the applicant of the Planning Board's comments within sixty (60) days following submittal of the Concept Plan, unless such time is extended by written agreement of the Planning Board and the applicant. The comments of the Planning Board on the submitted Concept Plan shall be advisory in nature and shall be without binding effect on either the Planning Board or the applicant. Said comments shall not be subject to appeal.

3.14.4.3 Master Special Permit (MSP)

Every MUOD Project must obtain a MSP issued by the SPGA. The purpose of the MSP is to specify the design, architectural character, site layout and improvements, traffic improvements, traffic impacts and their mitigation, adequate egress and access from and to the site, environmental impacts and their mitigation, specific locations and uses for buildings, public amenities, future division of the property, and other information required for the public and boards of the Town.

No MSP shall be granted unless the proposed project is in compliance with the performance standards set forth in Section 3.14.9.

A MSP shall govern all future development of a particular MUOD Project. All construction and associated improvements in a MUOD Project must be in compliance with the MSP.

The applicant must supply the Planning Board with sufficient copies of the application for a MSP, along with all supporting documents and plans, as are necessary to provide to other local boards, agencies, and officials for review and comment.

Any proposed structure or improvement to the site must be in compliance with the MSP. Anyone seeking in the future to construct any structure, or make any improvement not approved by the MSP, or change to a different use from that approved by MSP, must apply to the Planning Board for approval of such changes in such manner as the Planning Board determines applicable. Such change or modification must meet all the performance standards then in effect.

3.14.4.4 Special Permit and Site Plan Review within the MUOD.

Within the MUOD, the uses permitted by right or by Special Permit in the pertinent underlying zoning district shall be similarly permitted in the MUOD, subject to further provisions of this Section.

In addition to the uses allowed by right or by special permit in the underlying zoning districts, the following residential uses are allowed by MSP in the MUOD: multifamily dwellings (defined herein as four or more dwelling units) and multifamily dwellings above commercial uses. Single, two-family, or three family dwellings are not allowed.

MSP and other special permits must be obtained prior to or in conjunction with the Site Plan Review application for a MUOD Project. In subsequent applications seeking modifications of a MSP to construct any structure or make any improvement to a MUOD Project not approved by the MSP, or change to a different MUOD Project use from that approved by the MSP, those modifications must be obtained prior to or in conjunction with the application to modify the Site Plan Review decision.

The purpose of the Site Plan Review shall be to ensure that any proposed building and site improvements are in compliance with the MSP, the uses approved therein, efficient site flow and improvements, requisite traffic improvements and mitigation of project impacts, adequate egress and access from and to the project, mitigation of environmental impacts, and designation of specific locations and uses for buildings, structures and public amenities. Site Plan Review shall include the following components for review and approval: building design and elevations, directional signage, landscaping, lighting, parking, and compliance with the MSP. The application shall also be reviewed for compliance with performance standards set forth in Section 3.14.9 and with the specific conditions of the proposed MUOD MSP.

The Planning Board shall hold its hearing on a MSP, other special permits, and Site Plan Review application only after receipt of complete applications.

After approval of the Site Plan Review application, special permits (if applicable), and MUOD MSP, no structure previously approved may be changed to a different use or changed structurally, and no exterior features may be changed, unless the Planning Board or its designee approves such changes in such manner as the Planning Board determines applicable to the particular change.

3.14.5 Special Permit Decision Criteria

Any special permits required for uses and/or dimensional requirements in the underlying zoning districts shall be subject to the criteria set forth in other sections of this Zoning By-Law in regards to the granting of special permits.

When the application is for a MSP, the Planning Board shall consider, in addition to the criteria set forth in other sections of the Zoning By-Law with regard to the granting of special

permits, whether the MUOD Project complies with the use regulations, dimensional requirements and performance standards set forth herein. The MSP shall be granted in the MUOD by the Planning Board only upon the Board's written determination that the adverse effects, if any, of the proposed MUOD Project will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site.

3.14.6 Special Permit Conditions

Where the Planning Board grants any special permit and/or MSP, the Board may impose additional reasonable conditions, safeguards and limitations on time and use, including but not limited to the following:

- (a) A phasing schedule for construction of each component part of the project which ensures integration of residential, nonresidential and municipal uses;
- (b) A demolition and construction schedule, including a construction traffic management plan;
- (c) Hours of operation, site maintenance, delivery and waste removal times and lighting schedule;
- (d) Recording of approved special permits, MSP, and Site Plan Review decision in the Norfolk Registry of Deeds, and if registered land, in the Norfolk Registry District of the Land Court prior to the issuance of any building permits.
- (e) All development shall be in compliance with plans approved in the MSP, other special permits and Site Plan Review decision and with all applicable federal, state, and local laws, rules and regulations and By-Laws.
- (f) If circumstances so warrant, with respect to a MSP, continued monitoring of off-site impacts to traffic and the environment in appropriate locations with regard to MUOD development; and
- (g) The Planning Board or its designated representative shall have the right to make inspections during the construction process at the applicant's expense.

3.14.7 Time Limit

Until such time as the MSP and Site Plan Review decision are issued for a MUOD Project, and the appeal period following the Planning Board's decisions has expired with no appeal having been filed, or any filed appeal has been finally determined by a court of competent jurisdiction, the provisions of the underlying zoning shall solely govern the use and development of the property comprising the MUOD. At the time the MSP and Site Plan Review decisions are final, provided that the requirements of the first paragraph of G.L. ch.40A, Section 6 are met, the zoning of the MUOD shall apply. If an applicant has not made effective use of an issued MSP within two years of its issuance, then the MSP shall expire; provided, however, that the Planning Board may, upon application filed prior to such expiration, extend the MSP for one additional time period of up to three years. Nothing in this section is intended nor shall it be construed to affect the protections afforded special permits under G.L. ch.40A, Section 6.

3.14.8 Dimensional Requirements

The dimensional requirements of any MUOD Project shall be governed by the dimensional requirements of the underlying zoning district(s) except as follows:

- (a) Height Limit: 70 feet and up to 84 feet by special permit, except within 350 feet of a river, in which event the building shall be limited in height to 54 feet.
- (b) Maximum Lot Coverage: 65%.
- (c) Minimum set back requirements from all lot boundaries shall be consistent with the setback requirements of the underlying district.
- (d) Maximum FAR: 3.0 (not to include parking garages or below grade parking).
- (e) As to residential units, parking shall be provided at 1.5 parking spaces per unit, except affordable units may be allowed to provide only 1 parking space per unit. Commercial development shall meet off-street parking requirements of the underlying district.
- (f) The Minimum Lot size for development for a MUOD Project shall be two (2) acres.
- (g) Consistent with Section 4.9.3 of the Needham Zoning By-Law, the Planning Board by special permit may waive any applicable dimensional regulation, including the regulations noted above, by 25%. However, this ability to grant waivers shall not include the limits on height and/or lot size. The ability to grant waivers from the parking requirements for residential units shall be governed by the special permit provisions of Section 5.1.1.5 of the Needham Zoning By-Law.

3.14.9 Performance Standards

The development of a MUOD Project in the MUOD shall comply with the following performance standards in lieu of those set forth elsewhere in the Zoning By-Law:

3.14.9.1 Residential Development

- (a) Residential Development Cap: In the MUOD district no more than 250 dwelling units shall be permitted.
- (b) At least 40% but not more than 70% of all dwelling units within any MUOD Project shall be one-bedroom units.
- (c) At least 12.5% of all dwelling units shall be Affordable Units as defined below.

3.14.9.2 Landscaping

The applicant shall prepare a landscaping plan showing that the MUOD Project will meet the landscaping requirements of the Needham Zoning By-Law and the following standards: promote the establishment, protection, and enhancement of the natural landscape; ensure appropriate use of plant material in new construction; preserve natural tree cover; and promote the inclusion of new tree planting in order to reduce visual blights, noise and glare, prevent soil erosion,

reduce stormwater runoff, increase ground water discharge, create shade and reduce solar overheating.

3.14.9.3 Massing

Any buildings proposed for a MUOD Project shall provide visual relief along the façade of each building.

Building design throughout a MUOD Project shall include designs which promote visual relief by varying roof lines, height and other aesthetic features.

3.14.9.4 Screening and Buffer Requirements

A MUOD Project shall provide an appropriate visual barrier, as determined by the Planning Board, between physical features of the MUOD Project and public streets and abutting properties. For example, dumpsters, trash handling areas, mechanical equipment at ground level or roof top, service entrances, utility facilities for building operation, loading docks or spaces and similar components shall be subject to visual barrier as determined by the Planning Board.

3.14.9.5 Stormwater Management

The stormwater management system serving any MUOD Project shall comply with all applicable federal, state and local laws, rules, regulations and By-Laws.

3.14.9.6 Roadways

In order to assure there is adequate access and egress for emergency vehicles and normal traffic expected in the MUOD Project, and safe pedestrian access, the roadways serving the MUOD Project shall comply with the Zoning By-Law. An applicant must demonstrate that the adequacy of the roadways providing access and egress to and from the MUOD Project and within the site itself ensures safe vehicular and pedestrian traffic.

3.14.9.7 Parking and Loading Standards

An application for a MUOD MSP shall include a parking plan setting forth the number of parking spaces and loading areas, the location and design of same, including lighting and landscaping. If required by the Planning Board, the application shall also include a parking and loading study which support such plan. The required off street parking spaces may be accommodated by employing at-grade parking areas, parking garages or below grade parking areas. Further, podium parking, a form of below grade parking, shall be allowed if the parking structure is not more than 4 feet above finished grade and designed and/or landscaped in a manner that the Planning Board deems sufficient to properly buffer the podium parking structure from view.

3.14.9.8 Affordable Units

The following standards shall apply in the MUOD. All MUOD Projects shall include Affordable Units; further at least 12.5% of the dwelling units shall be Affordable Units. The term “Affordable Unit” shall mean a dwelling unit reserved in perpetuity for rental or ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (“DHCD”) for rental or ownership units set forth in 760 CMR56, as amended from time to time, in order that such Affordable Unit shall be included in the DHCD Subsidized Housing Inventory. Affordable Units shall be subject to the following conditions:

- (a) The Affordable Unit shall be affordable in perpetuity.
- (b) Each Affordable Unit must be constructed and an occupancy permit obtained at the rate of at least one Affordable Unit for every seven market rate units.
- (c) In computing the number of required Affordable Units, any fraction of a unit must be rounded up, and the result shall be the number of Affordable Units to be required.
- (d) All required Affordable Units must be built within the MUOD Project and not off-site.

3.14.10 Peer Review

The Planning Board, at the expense of the applicant and pursuant to M.G.L. Chapter 44, Section 53G, may engage qualified peer reviewers, including, but not limited to, traffic engineers, civil engineers, architects, landscape architects, wetlands scientists, lighting technicians, and experts on impacts, to review all Concept Plans, special permit applications, MSP, and Site Plan Review applications.

3.14.11 Rules and Regulations

The Planning Board may adopt rules and regulations for the implementation of this Section.

4. DIMENSIONAL REGULATIONS

4.1 Basic Requirements

4.1.1 Applicability

No building or structure in any district shall be located, constructed, changed, enlarged or permitted and no use of premises in any district shall be permitted which does not conform to the density and dimensional regulations as set forth herein.

4.1.2 Exemptions for Recorded Lots

Nothing contained in Section 4.2 shall prevent the construction or placing of buildings or structures permissible as accessory uses under the provisions of this By-Law, nor shall it prevent the construction or placing of a building or structure upon a lot having less area or frontage, or both, than required in Section 4.2 if, at such time as the minimum area and frontage requirements for the Zone in which such lot is located were established or increased, such lot had less area or frontage, or both than provided by such new or increased requirements; and if such less area or frontage, or both did not result from an attempt to circumvent the intent of the By-Law, and if at the effective date of such new or increased requirements or January 10, 1963, whichever date is later, the owner did not have adjoining land available to increase the area or frontage, or both, of said lot to meet said new or increased requirement, or to make said lot less non-conforming as to frontage or area or both. The minimum area and frontage of any such lot shall be at least 5,000 square feet and 50 feet, respectively.

4.1.3 Reduction of Area, Frontage, and Setback Requirements

No lot shall be reduced in area or frontage if it already has or will be caused to have less area or frontage than required by this section, except by a taking by eminent domain or a conveyance for a public purpose. Such lots reduced in area or frontage by a taking by eminent domain or a conveyance for a public purpose shall be entitled to the protections afforded by statute and in this By-Law to pre-existing nonconforming lots. Further, if an existing structure is rendered nonconforming as to setback (or more non-conforming as to setback) by a taking by eminent domain or conveyance for a public way or access way or by the approval of a subdivision way for a third party, said structure shall be entitled to the protections afforded by statute and in this By-Law to pre-existing nonconforming structures. Notwithstanding the foregoing, the protections afforded by this section shall not apply to vacant lots existing prior to the effective date of this section which are less than 5,000 sq. ft. and/or with less than 50 feet of frontage.

4.1.4 Change of Subdivision Plans

Where the plan of a subdivision has been approved by the Planning Board or by a Board of Survey, or where a plan of the subdivision of land has been recorded in the Registry of Deeds by a

former owner of said land prior to March 26, 1925, and where either a minimum area or frontage for building lots has since been established for the district in which said land lies, or the minimum area or frontage for building lots applicable to said district has since been increased, the Planning Board may, upon the application of the present owner of said land, approve a change in said subdivision plan whereby the area and frontage of the building lots shown thereon may be increased although the area and frontage of said building lots as changed shall not then be as large as the required minimum area of frontage for building lots currently applicable to the zoning district in which said land lies. The approval of such change shall not, however, affect the location or grade of streets as shown on said plan or profile; nor shall it impose additional obligations upon the owner of said land with respect to the development thereof.

4.1.5 Minimum Required Lot Width

Building lots in all zoning districts recorded or endorsed after January 9, 1986 shall be required to have a minimum lot width for a distance that extends from the front line throughout the primary building or structure not less than the applicable minimum frontage for the district in which said lot is located, as specified in Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.3.1, 4.4.1, and 4.6.1; except, however, in the Single Residence A District such minimum required lot width shall be at least 120 feet. To measure lot width, start at a front corner (where a sideline meets the lot's line of frontage) and, at a right angle to that sideline, measure straight across the lot to the other sideline. This measurement need not be at a right angle from more than one sideline but it must cross the lot to meet the opposite sideline. Then take a series of measurements parallel to that first measured line, through the full depth of the primary building or structure on the lot. If any lot line on the side chosen for the starting point is a convex line, draw a straight line connecting the two far points of the convex line, and measure across the lot from that straight line; and if any lot line on the side chosen for the starting point is a concave line, draw a straight line connecting the two far points of that line and begin there, but measure across the lot from the point where the perpendicular line crosses the concave side lot line. For corner lots, the measurement shall be taken from front corners along both frontage lines.

4.1.6 Height and Setback Limitation Exception

4.1.6.1 Special Permit Uses

In all Districts, the Board of Appeals may by special permit approve an application for an increase in the height limits of this By-Law for light poles that illuminate outdoor recreation facilities, such as, but not limited to, playing fields and tennis courts, that are located on land owned by the Town of Needham and which are operated as a recreational or municipal use. In determining whether to grant a special permit, and in determining what conditions should be attached to the grant of a special permit, the Board of Appeals shall take into account the application's compliance with the lighting standards, and other decision standards, set forth in this Section 4.1.6, and its compliance with the provisions of Section 7.5.2 of this by-law.

4.1.6.2 Definitions

Certified Lighting Professional – A lighting professional that is certified by the National Council on Qualifications for Lighting Professionals (NCQLP) or a State licensed professional engineer, architect or landscape architect having at least 3 years of sports lighting-related experience.

Direct Light – Light emitted directly from the lamp, from the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

Foot Candle (fc) – Unit of illuminance; One lumen per square foot.

Full Cutoff (FCO) – A luminaire light distribution, specified by the IESNA, where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at a vertical angle of 80 degrees above nadir. Nadir is the point directly vertically below the luminaire. A FCO luminaire is fully shielded.

Fully Shielded – Constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected above a horizontal plane passing through the lowest direct-light-emitting part of the luminaire.

Glare – The sensation of visual discomfort or loss in visual performance and visibility produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted.

Indirect Light – Direct Light that has been reflected off the surface of any permanently constructed object other than the source luminaire.

IESNA or IES – Illuminating Engineering Society of North America. A professional association of lighting engineers and lighting manufacturers generally recognized as the definitive source for illumination recommendations in the United States. An IES photometric file is defined by IESNA standards.

Illuminance – The luminous flux incident per unit area, expressed in foot-candle (one lumen per square foot). Horizontal or vertical illuminance is that measured with a photometer cell mounted horizontally or vertically.

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

Light Trespass – Direct or Indirect Light produced by an artificial light source and which shines outside the boundaries of the lot containing the luminaire.

Luminaire – A complete outdoor lighting unit or fixture including a lamp or lamps, together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply, but not including a pole on which the luminaire may be mounted.

Outdoor Lighting – The night-time illumination of an outside area or object by a luminaire located outdoors.

Shielded – A luminaire employing a protective device to prevent glare. The luminaire shall have a generally downward distribution of light and must have a top shield to minimize upward light.

4.1.6.3 Exterior Lighting Plan

A Lighting Plan shall be submitted with all applications for a special permit. This Lighting Plan shall be certified to be valid and correct by a certified lighting professional and shall include the following information:

- a) The location, height, shielding type of all existing and proposed outdoor luminaries, and the wattage rating and type of all lamps in each luminaire. Any existing off-site luminaries used to illuminate the lot shall be included in the Lighting Plan.
- b) The manufacturer's specification data and technical drawings, including the luminaire lamp wattage; photometric data showing that the luminaire is fully shielded, including an electronic copy of the IES photometric file, or a reference to the file location on the manufacturer's web site. Manufacturer's photometric specification that the luminaire is rated IESNA Full Cutoff (FCO) is sufficient to show that it is fully shielded.
- c) The data of previous sections a) and b) shall be organized into a table, with one line per luminaire.
- d) A light illumination test, conducted by a certified lighting professional, to demonstrate the pre-development condition. The lighting levels shall be calculated with a photometer positioned at the boundaries of the lot on which the light poles are proposed, at such locations as are needed to adequately determine the level of existing light trespass onto adjacent streets and abutting lots.
- e) A photometric plan of the proposed outdoor luminaries, showing the intensity of illumination expressed in foot-candles at ground level within the interior of the property and at the boundaries of the lot on which the light poles are proposed, at such locations as are needed to adequately determine the level of light trespass onto adjacent streets and abutting lots. The plan shall also include the following illumination information in a table format: Minimum; Maximum; Average; Average to Minimum and Maximum to Minimum.

f) Calculations quantifying the light trespass of the proposed outdoor luminaries, at the property boundaries of each abutting lot and street.

4.1.6.4 Lighting and Light Pole Standards

The following lighting and light pole standards shall apply to illuminated outdoor recreation facilities:

a) The illumination of outdoor recreation facilities shall be by either shielded or fully-shielded luminaries, aimed toward the playing field or court, and shielded in directions away from the playing surface so as to minimize glare, lighting and light trespass onto adjacent areas. Light poles for recreational facilities may be as high as necessary to adequately illuminate the facility but shall be limited to a maximum height of 90 feet and a minimum front, rear or side yard setback of five (5) feet.

b) Additional shields that are installed to control light trespass and glare as required herein shall be designed so that the parts of the shields that are exposed to the direct light of the luminaire and visible from streets, or abutting lots that are in residential or conservation use, shall have a flat-back, low reflectivity finish.

c) Luminaries installed on one lot to illuminate another lot, or installed in a street, railroad, utility, or other right-of-way to illuminate an adjacent lot, are prohibited.

d) Strobe and flashing lights and laser illumination are prohibited.

e) Placement of pennants, streamers, banners, signs, advertising flags or similar items on light poles is prohibited.

f) Placement of speakers, sound systems or similar devices on light poles is prohibited.

g) Hours and method of operation shall be set by the Board of Appeals, as it deems necessary.

h) The luminaries shall be located and shielded so as to prevent undue light trespass onto adjacent streets or abutting lots. In determining undue light trespass the Board of Appeals shall consider the following factors:

- (1) the land use of adjacent properties, and the location of residences and businesses thereon;
- (2) the character of the abutting neighborhood (urban, suburban, rural);
- (3) other existing light sources in the immediate vicinity of the lot;
- (4) distance from the proposed light sources to abutting properties;
- (5) the topography of the site and of adjacent property;
- (6) existing and proposed landscaping, vegetation, and natural and artificial screening; and

(7) existing and proposed direct and indirect light levels on the site and in the immediate vicinity of the site.

i) After the installation of the lights, a post-development light illumination test shall be conducted at the property lines and shall demonstrate that there has been no undue light trespass at the property lines, before the lights can be operated.

j) Submission and subsequent approval of a plan does not relieve the applicant of responsibility to demonstrate conformity to all sections of the bylaw, both in the individual luminaries as built, and for the entire lot as built. The certified lighting professional shall submit an as-built plan that correctly reflects the as-built installation, and shall certify that the as-built installation conforms to the requirements of this By-Law.

4.1.6.5 Special Permit Approval Criteria

In reviewing a special permit application under this section 4.1.6, the Board of Appeals shall make findings regarding the following factors:

a) the effects of extended operational hours, such as noise, traffic, light trespass and celebratory behavior;

b) the benefits that the additional hours of operation will provide;

c) the degree to which the proposal minimizes adverse visual impacts;

d) the extent to which the applicant has mitigated potential adverse effects;

e) compliance with the lighting and light pole standards of sections 4.1.6.4, including a determination as to whether the proposal would result in undue light trespass; and

f) compliance with the provisions of section 7.5.2.

After making findings on the factors set forth above, the Board shall determine whether the benefits, if any, of the proposed project outweigh its adverse impacts, if any. If the Board determines that the proposal would provide a net benefit to the Town, the Board may grant a special permit with or without specific conditions.

4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts.

The terms used in the Table of Regulations in Sections 4.2.1, 4.2.2 and 4.2.3 below are as defined in Section 1.3 of the By-law except as otherwise noted below.

The symbol “NR” means no requirements.

The symbol “1/2” as to maximum stories means Half-story under Story as defined in Section 1.3 of the By-Law.

The term “New Construction” means any one or any combination of the following: (a) Any construction of a structure on a vacant lot; (b) Any construction which involves demolition of more than 50% (fifty percent) of the building shell exclusive of demolition of a single story attached garage. For purposes of calculating the percentages of any demolition under this definition, all demolition shall be taken into account which commenced, or could have commenced, pursuant to an issued permit within two (2) years prior to the date of any request for any permit to construct, re-construct, alter, add, extend or otherwise structurally change any structure.

Front Yard Setback - the minimum horizontal distance from a front lot line of a lot to the nearest portion of the exterior wall sheathing of a building or structure. The following elements are permitted in the front yard setback: (i) uncovered steps; (ii) roof overhangs projecting not more than 2 feet from the wall of a building; (iii) siding and trim projecting not more than 6 inches from the wall of a building; (iv) first floor bay windows that do not have a foundation nor create any floor area nor project more than 2 feet from the wall of a building, provided that the width of a single bay window is limited to 8 feet, total overall area of a bay or bays is limited to 25% of the first floor wall area where the bay or bays are installed, and roofs on bay windows may project an additional 6 inches into the setback; and (v) unenclosed, covered or uncovered landings or entrance porches located on the first floor and having no habitable space directly above, provided that no more than a maximum of 50 square feet of said landing or porch is allowed in the front setback and the maximum porch or landing projection into the front setback is limited to 5 feet.

Side Yard Setback - the minimum horizontal distance from a side line of a lot to the nearest portion of the exterior wall sheathing of a building or structure. The following elements are permitted in the side yard setback: (i) uncovered steps; (ii) roof overhangs projecting not more than 2 feet from the wall of a building; (iii) siding and trim projecting not more than 6 inches from the wall of a building; (iv) unenclosed, covered or uncovered landings which neither exceed a total area of 25 square feet nor project more than 4 feet from the face of a building; (v) first floor bay windows that do not have a foundation nor create any floor area nor project more than 2 feet from the wall of a building, provided that the width of a single bay window is limited to 8 feet, total overall area of a bay or bays is limited to 25% of the first floor wall area where the bay or bays are installed, and roofs on bay windows may project an additional 6 inches into the setback; (vi) attached chimneys and fireplace enclosures projecting not more than 2 feet from the wall of a building; and (vii) covered

basement entrances (bulkheads) which neither exceed a total area of 40 square feet nor a maximum height of 3.5 feet nor project more than 7.5 feet from the wall of a building.

Rear Yard Setback - the minimum horizontal distance from the rear line of a lot to the nearest portion of the exterior wall sheathing of a building or structure. The following elements are permitted in the rear yard setback: (i) uncovered steps; (ii) roof overhangs projecting not more than 2 feet from the wall of a building; (iii) siding and trim projecting not more than 6 inches from the wall of a building; (iv) unenclosed, covered and uncovered landings which neither exceed a total area of 25 square feet nor project more than 4 feet from the face of a building; (v) first floor bay windows that do not have a foundation nor create any floor area nor project more than 2 feet from the wall of a building, provided that the width of a single bay window is limited to 8 feet, total overall area of a bay or bays is limited to 25% of the first floor wall area where the bay or bays are installed, and roofs on bay windows may project an additional 6 inches into the setback; (vi) attached chimneys and fireplace enclosures projecting not more than 2 feet from the wall of a building; and (vii) covered basement entrances (bulkheads) which neither exceed a total area of 40 square feet nor a maximum height of 3.5 feet nor project more than 7.5 feet from the wall of a building.

The term "Floor Area Ratio" means the floor area divided by the lot area. Floor area shall be the sum of the horizontal areas of the several floors of each building on a lot, as measured from the exterior faces of the exterior walls, but excluding basements, attics, half-stories located directly above the second floor, unenclosed porches, and up to 600 square feet of floor area intended and designed for the parking of automobiles whether in accessory buildings or structures, or in main buildings or structures.

Height - Height shall be measured using one of the following two alternative methods, the method to be determined at the discretion of the applicant: (1) the vertical distance from average original grade or finished grade, whichever is lower, of the land surrounding the footprint of the structure to the highest point of a structure or roof of a building. The average height shall be measured starting at one corner of the structure measuring the height of the structure to the highest point above grade, and measurements shall be taken every 10 linear feet. The height limit under this method is 35 feet. For purposes of this alternative, original grade shall be defined as the grade of the lot before any regrading, demolition or development begins. If an existing structure is to be demolished, the original grade shall be the grade determined prior to demolition of the structure. If there is no existing structure on the property, the natural grade of the property, prior to any modification, shall be considered the original grade; except in new subdivisions where the original grade shall mean the approved and recorded grade; or (2) the height of the structure measured from a single point in the street centerline which is the average elevation of the highest 1/3 of the property's street frontage. The height limit under this method is 32 feet.

Lot Coverage - that portion of a lot that is covered or occupied by any building or structure, but excluding unenclosed, covered or uncovered landings or porches (unless such covered landings or porches have habitable space directly above), steps, roof overhangs, bay windows, chimneys and bulkheads as permitted in required setbacks as provided above, as well as outdoor fireplaces, decks, patios and pools.

4.2.1 Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts, for Buildings and Structures on Lots Created by Deed or Plan Endorsed or Recorded Prior to January 9, 1986 and Not Including New Construction

Except as otherwise provided in Section 4.2.4 for public, semi-public and institutional uses, no building or structure that is not New Construction shall be constructed, altered, or relocated on any lot created by deed or plan endorsed or recorded prior to January 9, 1986 except in conformance with these regulations:

District	Min. Lot Area (sf)	Min. Frontage (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Max. Floor Area Ratio (F.A.R.)	Max. % Lot Coverage	Max. Stories	Max. Height (ft)
Rural Residence Conservation	43,560	150	50	25	25	NR	15%	2-1/2	35
Single Residence A	43,560	150	30	15 (a)	15 (a)	NR	NR	2-1/2	35
Single Residence B	10,000	80	20 (g)(h)	14 (e)(f)	10	.36-.38(d)	25%-30% (i)	2-1/2	35 (b)(c)
General Residence	10,000	80	20 (g)(h)	14 (e) (f)	10	NR	30%-35% (j)	2-1/2	35 (b)(c)

(a) *Notwithstanding the foregoing, in the Single Residence A District, a change in the area, frontage or configuration of an existing improved lot created by deed or plan, endorsed or recorded before January 9, 1986, which includes a conforming structure or building shall not change the minimum side or rear line setback requirement of 15 feet provided that (i) no other dimensional violations of the By-Law are created as a result of such change in the area, frontage or configuration of such existing improved lot, (ii) such lot otherwise continues to be a conforming lot in terms of minimum lot area, frontage and build factor following such change in the area, frontage or configuration of such existing improved lot, and (iii) such change in the area, frontage or configuration of such existing improved lot does not result in the creation of any additional building lot. The deed conveying land by reference to a plan showing such change in*

the area, frontage or configuration of such existing improved lot shall contain a restriction affecting the land of both the grantor and the grantee prohibiting the creation of an additional building lot as a result of such conveyance.

- (b) The maximum height at any point of any building or structure shall not exceed 41 feet above the lower of original or finished grade.*
- (c) If all or a portion of a basement wall is exposed for the full height of the wall, dormers in the one-half story above the basement wall shall not be permitted.*
- (d) The maximum floor area ratio shall be as follows: for lots containing less than 12,000 square feet – .38; and for lots containing 12,000 or more square feet – .36.*
- (e) The minimum side yard setback is 14 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback line, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. Notwithstanding the above, the minimum side yard setback requirement for all buildings and structures on any lot that contains less than 80 feet of frontage shall be 12 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback distance, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. In no case shall a side wall extension extend more than 32 linear feet without a 2 foot offset.*
- (f) Existing single family or two-family structures non-conforming for side yard setback and for which the building permit for the existing structure was issued prior to June 1, 2017, may be altered or structurally changed as-of-right to a 10-foot setback, notwithstanding the provisions of Section 1.4.7.2, provided any demolition of the existing structure does not exceed 50% of the building shell exclusive of demolition of a single story attached garage and further provided that the structure shall not be closer to the side lot line than the farthest extent of the existing structure. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these By-Laws shall control.*
- (g) Attached garages shall have a minimum front yard setback of 25 feet. For corner lots the increased front yard setback of 25 feet is required along both frontage streets.*
- (h) Existing single family or two-family structures non-conforming for front yard garage setback and for which the building permit for the existing structure was issued prior to June 1, 2017, may be altered or structurally changed as-of-right to a 20-foot setback, notwithstanding the provisions of Section 1.4.7.2, provided any demolition of the existing structure does not exceed 50% of the building shell exclusive of demolition of a single story attached garage and further provided that the garage structure shall not be closer to the front lot line than the farthest extent of the existing garage structure. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these By-Laws shall control.*
- (i) Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 5,500 square feet – 30%; For lots containing at least 5,500 square feet but less than 6,000 square feet – 29%; For lots containing at least 6,000 square feet but less than 6,500 square feet – 28%; For lots containing at least 6,500 square feet but less than 7,000 square feet – 27%; For lots containing at least 7,000 square feet but less than 7,500 square feet – 26%; and For lots containing at least 7,500 square feet – 25%.*

(j) Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 7,000 square feet – 35%; For lots containing at least 7,000 square feet but less than 7,500 square feet – 34%; For lots containing at least 7,500 square feet but less than 8,000 square feet – 33%; For lots containing at least 8,000 square feet but less than 8,500 square feet – 32%; For lots containing at least 8,500 square feet but less than 9,000 square feet – 31%; For lots containing at least 9,000 square feet – 30%.

4.2.2 Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts, for Buildings and Structures, on Lots Created by Deed or Plan, Endorsed or Recorded on or After January 9, 1986 and Not Including New Construction

Except as otherwise provided in Section 4.2.4 for public, semi-public and institutional uses, no building or structure that is not New Construction shall be constructed, altered, or relocated on any lot created by deed or plan endorsed or recorded on or after January 9, 1986 except in conformance with these regulations:

District	Min. Lot Area (sf)	Min. Frontage (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Max. Floor Area Ratio (F.A.R.)	Max. % Lot Coverage	Max. Stories	Max. Height (ft)
Rural Residence Conservation	43,560	150	50	25	25	NR	15%	2-1/2	35
Single Residence A	43,560	150	30	25	15	NR	NR	2-1/2	35
Single Residence B	10,000	80	20 (f)(g)	14 (a)(e)	10	.36-.38 (d)	25%-30% (h)	2-1/2	35 (b)(c)
General Residence	10,000	80	20 (f)(g)	14 (a)(e)	10	NR	30%-35% (i)	2-1/2	35 (b)(c)

- (a) *The minimum side yard setback is 14 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback line, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. Notwithstanding the above, the minimum side yard setback requirement for all buildings and structures on any lot that contains less than 80 feet of frontage shall be 12 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback distance, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. In no case shall a side wall extension extend more than 32 linear feet without a 2 foot offset.*
- (b) *The maximum height at any point of any building or structure shall not exceed 41 feet above the lower of original or finished grade.*
- (c) *If all or a portion of a basement wall is exposed for the full height of the wall, dormers in the one-half story above the basement wall shall not be permitted.*
- (d) *The maximum floor area ratio shall be as follows: for lots containing less than 12,000 square feet – .38; and for lots containing 12,000 or more square feet – .36.*
- (e) *Existing single family or two-family structures non-conforming for side yard setback and for which the building permit for the existing structure was issued prior to June 1, 2017, may be altered or structurally changed as-of-right to a 12.5 foot setback, notwithstanding the provisions of Section 1.4.7.2, provided any demolition of the existing structure does not exceed 50% of the building shell exclusive of demolition of a single story attached garage and further provided that the structure shall not be closer to the side lot line than the farthest extent of the existing structure. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these By-Laws shall control.*
- (f) *Attached garages shall have a minimum front yard setback of 25 feet. For corner lots the increased front yard setback of 25 feet is required along both frontage streets.*
- (g) *Existing single family or two-family structures non-conforming for front yard garage setback and for which the building permit for the existing structure was issued prior to June 1, 2017, may be altered or structurally changed as-of-right to a 20-foot setback, notwithstanding the provisions of Section 1.4.7.2, provided any demolition of the existing structure does not exceed 50% of the building shell exclusive of demolition of a single story attached garage and further provided that the garage structure shall not be closer to the front lot line than the farthest extent of the existing garage structure. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these By-Laws shall control.*
- (h) *Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 5,500 square feet – 30%; For lots containing at least 5,500 square feet but less than 6,000 square feet – 29%; For lots containing at least 6,000 square feet but less than 6,500 square feet – 28%; For lots containing at least 6,500 square feet but less than 7,000 square feet – 27%; For lots containing at least 7,000 square feet but less than 7,500 square feet – 26%; and For lots containing at least 7,500 square feet – 25%.*
- (i) *Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 7,000 square feet – 35%; For lots containing at least 7,000 square feet but less than 7,500*

square feet – 34%; For lots containing at least 7,500 square feet but less than 8,000 square feet – 33%; For lots containing at least 8,000 square feet but less than 8,500 square feet – 32%; For lots containing at least 8,500 square feet but less than 9,000 square feet – 31%; For lots containing at least 9,000 square feet – 30%.

4.2.3 Table of Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts, for Buildings and Structures Created Through New Construction on any Lot

Except as otherwise provided in Section 4.2.4 for public, semi-public and institutional uses, no building or structure created through New Construction shall be constructed, altered, or relocated on any lot except in conformance with these regulations:

District	Min. Lot Area (sf)	Min. Frontage (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Max. Floor Area Ratio (F.A.R.)	Max. % Lot Coverage	Max. Stories	Max. Height (ft)
Rural Residence Conservation	43,560	150	50	25	25	NR	15%	2-1/2	35
Single Residence A	43,560	150	30	25	15	NR	NR	2-1/2	35
Single Residence B	10,000	80	20 (h)(i)	14 (a)(j)	20	.36-.38 (g)	25%-30% (b)	2-1/2	35 (e)(f)
General Residence	10,000	80	20 (h)(i)	14 (a)(j)	20	NR	30%-35% (c)	2-1/2	35 (e)(f)

(a) The minimum side yard setback is 14 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback line, as measured parallel to the side lot line, provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. Notwithstanding the above, the minimum side yard setback requirement for all buildings and structures on any lot that contains less than 80 feet of frontage shall be 12 feet, and a maximum of 32 linear feet of structure may be built at the minimum setback distance, as measured parallel to the side lot line,

provided that the remaining length of structure along the side yard setback must be offset an additional 2 feet. In no case shall a side wall extension extend more than 32 linear feet without a 2 foot offset.

- (b) Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 5,500 square feet – 30%; For lots containing at least 5,500 square feet but less than 6,000 square feet – 29%; For lots containing at least 6,000 square feet but less than 6,500 square feet – 28%; For lots containing at least 6,500 square feet but less than 7,000 square feet – 27%; For lots containing at least 7,000 square feet but less than 7,500 square feet – 26%; and For lots containing at least 7,500 square feet – 25%.*
- (c) Buildings and structures created on any lot shall not result in lot coverage exceeding the following specified maximum percentages of the area of such lot: For lots containing less than 7,000 square feet – 35%; For lots containing at least 7,000 square feet but less than 7,500 square feet – 34%; For lots containing at least 7,500 square feet but less than 8,000 square feet – 33%; For lots containing at least 8,000 square feet but less than 8,500 square feet – 32%; For lots containing at least 8,500 square feet but less than 9,000 square feet – 31%; For lots containing at least 9,000 square feet – 30%.*
- (e) The maximum height at any point of any building or structure shall not exceed 41 feet above the lower of original or finished grade.*
- (f) If all or a portion of a basement wall is exposed for the full height of the wall, dormers in the one-half story above the basement wall shall not be permitted.*
- (g) The maximum floor area ratio shall be as follows: for lots containing less than 12,000 square feet – .38; and for lots containing 12,000 or more square feet – .36.*
- (h) Attached garages shall have a minimum front yard setback of 25 feet. For corner lots the increased front yard setback of 25 feet is required along both frontage streets.*
- (i) Existing single or two-family structures non-conforming for front yard garage setback where demolition exceeds 50% of the building shell exclusive of demolition of a single story attached garage and for which the building permit for the existing structure was issued prior to June 1, 2017 may be altered, extended or structurally changed (but not reconstructed) to a front yard garage setback of 20 feet upon receipt of a special permit from the Board of Appeals under Section 7.5.2 of the Zoning By-Law provided: (1) the new construction meets all other requirements of the Zoning By-Law; (2) the garage structure is sited no closer to the front lot line than the farthest extent of the existing garage structure; and (3) the Board determines that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Said special permit may be granted notwithstanding the provisions of Section 1.4.7.2. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these Bylaws shall control.*
- (j) Existing single or two-family structures non-conforming for side yard setback where demolition exceeds 50% of the building shell exclusive of demolition of a single story attached garage and for which the building permit for the existing structure was issued prior to June 1, 2017 may be altered, extended or structurally changed (but not reconstructed) to a side yard setback of 10 feet upon a lot created by deed or plan endorsed or recorded prior to January 9, 1986 and to a side yard setback of 12.5 feet upon a lot created by deed or plan endorsed or recorded on or after January 9, 1986 upon receipt of a special permit from the Board of Appeals under Section 7.5.2 of the Zoning By-Law*

provided: (1) the new construction meets all other requirements of the Zoning By-Law; (2) the structure is sited no closer to the side lot line than the farthest extent of the existing structure; and (3) the Board determines that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Said special permit may be granted notwithstanding the provisions of Section 1.4.7.2. For the purposes of this footnote, the definition of “setback” in Section 1.3 of these Bylaws shall control.

4.2.4 Table of Regulations for Public, Semi-Public and Institutional Uses in the Rural Residence Conservation, Single Residence A, Single Residence B and General Residence Districts and for the Institutional District

No building or structure for public, semi-public or institutional use, as listed in Section 3.2 Schedule of Use Regulations, shall be constructed, altered, or relocated on any lot except in conformance with these regulations:

District	Min. Lot Area (sf)	Min. Frontage (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Max. Floor Area Ratio (F.A.R.)	Max. % Lot Coverage	Max. Stories	Max. Height (ft)
Rural Residence Conservation	43,560	150	50	25	25	.30	15%	2-1/2 (g)	35
Single Residence A	43,560	150	35 (a)	25	25 (d)	.30	15%	2-1/2 (g)	35
Single Residence B	10,000	80	25 (b)	25 (c)	25 (d)	.30	15%	2-1/2 (g)	35
General Residence	10,000	80	25 (b)	25 (c)	25 (d)	.30 (h)	15% (i)	2-1/2 (g)	35
Institutional	43,560	150	30	25 (e)	15	NR	15%	2-1/2 (f)	35 (f)

The terms used in the Table of Regulations above are as defined in Section 1.3 of the By-Laws.

The symbol “NR” means no requirements.

- (a) *The setback area shall be kept open and landscaped with grass or other plant materials; such area shall be unpaved except for walks and driveways. The Board of Appeals may grant a special permit reducing the minimum front yard setback required by this footnote to no less than thirty (30) feet. (See Section 4.2.14)*
- (b) *The setback area shall be kept open and landscaped with grass or other plant materials; such area shall be unpaved except for walks and driveways. The Board of Appeals may grant a special permit reducing the minimum front yard setback required by this footnote to no less than twenty (20) feet. (See Section 4.2.14)*
- (c) *The Board of Appeals may grant a special permit reducing the minimum side yard setback required by this footnote to no less than twenty (20) feet. (See Section 4.2.14)*
- (d) *The Board of Appeals may grant a special permit reducing the minimum rear yard setback required by this footnote in a Single Residence A District to no less than fifteen (15) feet and the minimum rear yard setback required by this footnote in Single Residence B and General Residence Districts to no less than ten (10) feet. (See Section 4.2.14)*
- (e) *Buildings or structures on lots created by deed or plan, endorsed or recorded before January 9, 1986, shall have a minimum side line setback of 15 feet in the Institutional Districts.*
- (f) *Buildings and structures located in an Institutional District devoted to educational uses and uses accessory thereto and located at least 800 feet from any public way in the Town of Needham in existence as of September 1, 1998, shall have a maximum height in accordance with the following limitation:*

<u>Roof Type</u>	<u>Average Height (feet)</u>	<u>Maximum Height at any single point (feet)</u>
<i>Flat Roof</i>	63*	68*
<i>Sloping Roof Top of Roof</i>	85	90
<i>Wall, cornice or eave line</i>	63*	68*
<i>Gabled endwalls</i>	63*	68*

There shall be no limit on the number of stories of such buildings. The foregoing limitations are not intended to supersede any of the requirements of the Massachusetts State Building Code.

**The Board of Appeals may grant a Special Permit to allow the average height of a structure to increase as much as an additional seven (7) feet above the average height listed.*

(g) *See the definition of Half-story, under Story in the Definitions section.*

(h) *The Board of Appeals may grant a special permit increasing the maximum Floor Area Ratio required by this footnote up to 0.60 for a municipal building or structure on a lot containing an acre or more of area.*

- (i) *The Board of Appeals may grant a special permit increasing the maximum lot coverage required by this footnote up to twenty-five (25) percent for a municipal building or structure on a lot containing an acre or more of area.*

4.2.5 Build Factor Formula

In order to limit the degree to which a lot may have an irregular shape, the following **build factor formula** shall be used:

$$\begin{array}{ccc}
 \text{Lot Perimeter Squared} & & \text{Actual Lot Area} \\
 \text{-----} & \text{Divided By} & \text{-----} \\
 \text{Actual Lot Area} & & \text{Required Lot Area}
 \end{array}$$

Lots recorded or endorsed after August 22, 1985 shall be subject to a maximum Build Factor of 20 in Single Residence B and General Residence Districts and 30 in Single Residence A and Institutional Districts. Lots recorded or endorsed prior to August 22, 1985 may not be modified such that the Build Factor of the modified lot exceeds 20 in SRB and General Residence Districts or 30 in SRA and Institutional Districts. Lots recorded or endorsed after February 16, 1995 shall be subject to a maximum Build Factor of 30 in a Rural Residence Conservation District. Lots recorded or endorsed prior to February 16, 1995 may not be modified such that the Build Factor of the modified lot exceeds 30 in a Rural Residence Conservation District.

4.2.6 Lot Area Calculation

No portion of a lot which is covered by a water body shall be counted in calculating the area of a lot for purposes of determining the respective minimum lot areas as listed in the Tables 4.2.1, 4.2.2, 4.2.3, and 4.2.4 above. Not more than a combined total of thirty (30) percent of: (a) land located in a Flood Plain District; (b) land area subject to the Wetlands Protection Act and the Inlands Wetlands Act, M.G.L., Ch. 131, S. 40 and 40A (but not including any area defined as a buffer area under said statutes); and (c) land subject to federal flood storage restrictions included within the Charles River Valley Storage Project shall be counted in calculating the area of a lot for purposes of determining the respective minimum lot areas in Single Residence A, Single Residence B, General Residence and Institutional Districts. The provisions of the second sentence of this paragraph (a) shall apply in Single Residence A, Single Residence B and General Residence Districts to any lot created after May 8, 1989.

Not more than a combined total of ten (10) percent of: (a) land located in a Flood Plain District; (b) land areas subject to the Wetlands Protection Act and the Inland Wetlands Act, M.G.L., Ch. 131, S. 40 and 40A (but not including any area defined as a buffer area under said statutes); and (c) land subject to federal flood storage restrictions included within

the Charles River Valley Storage Project shall be counted in calculating the area of a lot for purposes of determining the minimum lot area in a Rural Residence-Conservation District as listed in the Tables 4.2.1, 4.2.2, 4.2.3, and 4.2.4 above.

4.2.7 Special Regulations for Rural Residence – Conservation District

- (a) Lot Coverage No building or structure, or addition to any building or structure, but not including accessory buildings or structures, shall be erected or placed on a lot which will result in the covering by buildings or structures of more than fifteen percent (15%) of the lot area in a Rural Residence-Conservation District.

- (b) Vegetative Buffer In a Rural Residence-Conservation District, the first thirty-five (35) feet of the required minimum front setback of fifty (50) feet, as measured from Chestnut Street and from the designated Scenic Roads of South Street and Charles River Street, shall remain as a natural vegetative buffer not to be cut or cleared except for normal maintenance and vehicular access, including private driveways and subdivision roadways.”

4.2.8 Height Limitation Exceptions

The maximum height regulation in Section 4.2.4 shall not apply to schools and municipal buildings which may contain three (3) stories or may be as high as forty-five (45) feet. In the case of schools and other municipal buildings, structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, solar panels, mechanical equipment, mechanical flues or exhausts, elevator housings or equipment, generators, roof access, stairway enclosures, skylights, and the like may exceed the maximum building height provided that no part of such structure or equipment shall project more than 15 feet above the maximum allowable building height and the total horizontal coverage of all of such structures or projections on the building does not exceed thirty-three percent (33%) of the total roof area of the building. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof. Further provided, subject to the 15-foot maximum height limitation cited above, solar panels shall also be allowed on rooftops of schools and other municipal buildings with no limitation on the roof area coverage provided such panels are set back from the edge of the roof a distance at least equal to the height of the panel.

Notwithstanding the foregoing paragraph, a municipal building or structure located on a lot in excess of twenty (20) acres created by deed or plan, endorsed or recorded before September 1, 2012, may be as high as fifty (50) feet, provided the building or structure contains no more than one story, is used primarily for storage purposes and is located at least two hundred (200) feet from all property lines. Any municipal building which ceases to be a municipal building, because of a change of use or ownership, may continue to be used, maintained and reconstructed so as to contain up to the number of stories and the height which existed at the time of the change to non-municipal use or ownership. Notwithstanding the above, nothing contained herein shall in anyway limit the

rights conferred under footnote (f) of Section 4.2.4 Table of Regulations for Public, Semi-Public and Institutional Uses in the Rural Residence Conservation, Single Residence A, Single Residence B and General Residence Districts and for the Institutional District.

In the case of schools or other buildings devoted to educational purposes and located in an Institutional District, including dormitories and accessory buildings, projections above a roof for housing elevator machinery, chimneys, ventilators, and mechanical flues or exhausts will not be subject to the heights limitations in Section 4.2.4, footnote (f) or this Section 4.2.8. Such projections shall not occupy an aggregate area of the roof exceeding thirty-three percent (33%) of the total ground coverage of the building and no housing for elevator machinery or mechanical equipment (other than chimneys, ventilators and mechanical flues or exhausts), or the equipment itself, shall extend more than fifteen (15) feet above the main roof elevation. At no point shall any such projection exceed 90 feet above grade. The Board of Appeals shall have the authority to grant a Special Permit to permit a height of twenty-five (25) feet above the main elevation over an area of the roof not exceeding twenty percent (20%) of the total ground coverage of the building, to a maximum height at any point of ninety (90) feet above grade. The remaining thirteen percent (13%) of the area of the roof where such projections are allowed shall extend no more than fifteen feet above the main roof elevation.

The Board of Appeals may grant a special permit authorizing the construction of radio and television antennae and antennae towers provided they are accessory to the principal permitted use and do not exceed fifty-five (55) feet in height. Neither the provisions of the previous sentence nor the maximum height regulations contained in Sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 shall apply to radio and television antennae and antennae towers that are accessory to a lawful residential use and fifty-five (55) feet or less in height; the Board of Appeals may grant a special permit authorizing construction of radio and television antennae and antennae towers higher than fifty-five (55) feet, provided they are accessory to a lawful residential use.

Towers, steeples, spires or domes of religious or government buildings or educational buildings located in an Institutional District are not limited by the maximum height regulations contained in this Section or in Section 4.2.4.

4.2.9 Minimum Side and Rear Line Setbacks: Accessory Structures

No accessory building or structure, excepting fences, shall be constructed, altered or relocated so that any part thereof shall be less than ten (10) feet from any other building or structure or less than five (5) feet from the side or rear lines of the lot on which such building or structure is located. Notwithstanding the foregoing five (5) foot setback from the rear or side lines of the lot, any accessory building or structure which exceeds fifteen (15) feet in height must comply with the underlying district's rear and/or side setback requirements. Notwithstanding the foregoing, an accessory pergola need not comply with the requirements of the preceding sentences but said pergola must comply with all dimensional setback requirements from abutting properties and from streets and ways, and said pergola shall not be constructed or placed in a position where it would prevent the use of a designated fire lane or reduce access to any building. For purposes of this paragraph, "pergola" means an open frame structure consisting of colonnades or posts with a

latticework roof designed to support climbing plants, either standing alone or attached to another building or structure. Notwithstanding the foregoing, an accessory building or structure associated with a pool use which is less than eleven (11) feet in height and has less than one-hundred (100) square feet of ground coverage need not comply with the foregoing ten (10) foot distance from any other building or structure requirement as said requirement pertains to the placement of the accessory building or structure from the edge of the pool, provided that such accessory building or structure is placed no less than eight (8) feet from the edge of the pool.

4.2.10 Flexible Development Consistent with the Subdivision Control Law

- (a) **General** -- The intent of Section 4.2.10 is to facilitate sensitive use of Town resources through allowing flexibility in meeting the basic objectives of the intensity of use requirements of Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, 4.2.7, 4.2.8 and 4.2.9. These provisions shall apply in all Single Residence, General Residence, Rural Residence Conservation, and Institutional Districts.
- (b) **Dimensional Requirements** -- Notwithstanding the provisions of Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, and 4.2.7, the Planning Board may by special permit and in accordance with the Subdivision Control Law authorize the division of a parcel into lots to be governed by the following alternative frontage and lot area regulations rather than those otherwise applicable, provided that the parcel being divided has an area of at least four (4) times the minimum lot area requirement in that district.
- (1) **Number of Lots.** The number of building lots allowed on any parcel shall be the number of lots into which the parcel could be divided and built upon under the normally applicable dimensional and waste disposal regulations. That number may, at the owner's option, be determined prior to application by the Building Inspector following consultation with the Planning Board, or by an alternative "conventional" plan certified to comply with normal applicable regulations by both a Registered Land Surveyor and a Professional Engineer. In addition, any number of non-building lots reserved for open space or recreation may be created.
- (2) **Lot Frontage.** Except on existing streets, the minimum frontage for any building lot shall be 2/3 the normally applicable minimum lot frontage. If the building lot width at the building line exceeds 2/3 of the normally applicable minimum lot frontage, the frontage may be further reduced to 40 feet. The frontage for any building lots having frontage only on an existing street shall be not less than the normal frontage requirement.
- (3) **Lot Area.** The area of any individual building lot created shall be at least 70% of the normally applicable minimum lot area requirement.
- (4) **Setback.** A setback shall be provided along all boundaries of the development except along streets where the front setback requirements of Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, and 4.2.7 shall apply. Within the setback, no structure shall be erected and

vision obscuring vegetation shall be preserved or planted. The depth of the setback when Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, and 4.2.7 do not apply shall be 20 feet.

(c) **Special Permit Consideration.** A special permit for flexible development shall be granted only if the Planning Board determines the following:

(1) Such alternative development better serves By-Law purposes than would development under otherwise applicable requirements.

(2) Traffic circulation and safety would be improved through a reduction in length of streets or creation of fewer or better located or designed driveways and street egresses from the development onto existing streets.

(3) Visual intrusion would be reduced by preserving some visual buffering between proposed dwellings and previously existing streets.

(4) At least one of the following three amenities will be provided:

-- protecting natural features by reducing the volume of cut and fill for roads and construction sites or the area of vegetation displaced or disturbed, or the area of environmentally sensitive lands disturbed by construction, or

-- maintaining water quality within Aquifer Protection Districts by reducing the number of on-site disposal systems or the amount of impermeable surfaces within the development, or

-- serving recreation and conservation needs by reserving common land in a condition appropriate to meet those needs.

(d) **Documentation.** All lots created under the provisions of Section 4.2.10 Flexible Development shall be shown on a recorded plan, indicating that Section 4.2.10 applies, and that no additional building lots are to be created through future land division of such lots. A restriction enforceable by the Town shall be recorded at the Registry of Deeds ensuring both the Town and the developer that no additional building lots shall be created and that areas designated for open space or recreational use are to be retained in that use.

(e) **Design Review.** At the time of filing an application for Flexible Development, the applicant shall also file an application and materials for design review in accordance with the procedures described in Subsection 7.7.3 of Section 7.7 Design Review.

4.2.11 Planned Residential Development (PRD)

4.2.11.1 Purpose

To provide an alternative at density levels established by this By-Law to conventional development patterns which foster innovative site planning based on the natural characteristics of the land; to encourage the preservation of significant open space for conservation and recreation; to facilitate the economic and efficient provision of public utilities and services; to promote aesthetic and other amenities; and to insure development which is harmonious and compatible to the surrounding neighborhoods.

4.2.11.2 Standards

- (a) **Minimum Tract Size** – Planned Residential Development (PRD) shall be permitted on a tract of land in the Rural Residence-Conservation, Single Residence A and Single Residence B Districts having an area not less than 10 times the minimum lot area of the zoning district within which it is located and shall have frontage of at least 50 feet on a way.
- (b) **Number of Dwelling Units** – The number of dwelling units shall be determined by one of the two following methods:
 - (1) The Net Usable Land Area within the tract divided by the minimum lot area requirement for the zoning district in which the tract is located. Net Usable Land Area shall equal 85% of the gross tract area minus 100% of all water bodies minus 70% of land located in a Flood Plain District minus 70% of the land subject to M.G.L. Ch. 131, S.40 and 40A and to federal flood storage restrictions included within the Charles River Valley Storage project.
 - (2) Submission of a “conventional” subdivision plan certified to comply with normal applicable regulations by both a Registered Land Surveyor and a Professional Engineer. In this case the number of dwelling units shall equal the number of legal building lots created.
- (c) **Open Space** – No less than 40% of the PRD tract shall be designated as open space and shall not be covered with buildings, roads, driveways, parking areas or service areas, yards, exclusive use areas, patios, and gardens for the residents. Open space shall be available and reasonably accessible to each dwelling unit. No more than 50% of the open space shall be wetland or other land subject to seasonal or periodic flooding unless a greater percentage is specifically authorized by the Planning Board. Land designated as open space shall have a shape, dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the PRD.

Provisions shall be made for the open space to be owned:

- (1) In common by the owners of all units in the PRD; or
- (2) by a trust or association of the owners of all units in the PRD; or

(3) by the Town; or

(4) otherwise as may be authorized by the Planning Board.

In all cases a perpetual restriction running to or enforceable by the Town shall be recorded in respect to such open space land. Such restriction shall provide that the open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. Such restrictions shall be in a form or substance approved by the Planning Board.

- (d) **Permitted Uses** – Single-family detached and attached structures without regard to form of ownership provided no more than 50% of such structures shall be attached and accessory uses incidental to the principal uses.
- (e) **Structure Location** – the location, size, and shape of any structures to be constructed shall be appropriate to the terrain in which they are located and shall not be detrimental to the neighborhood and shall not adversely affect the character of the neighborhood. Structures with attached dwelling units shall contain no more than four units.
- (f) **Height** – The maximum permitted height of any structure in a PRD shall be 35 feet or 2-1/2 stories.
- (g) **Area, Frontage and Setback Requirements** – There shall be a minimum lot area in the case of a subdivision or exclusive use area (an area located adjacent to a dwelling unit and reserved for its exclusive use) in all other cases of 10,000 square feet in the RRC and SRA Districts and 5,000 square feet in the SRB District. Each lot or exclusive use area shall have frontage of at least 50 feet on a paved way or driveway. No structure shall be within 30 feet of another structure other than in the case of attached dwelling units. No building shall be erected within 30 feet of a way on which the PRD tract has frontage or 20 feet from the boundary line of the PRD tract.
- (h) **Parking** – There shall be an adequate arrangement and number of parking spaces in relation to the dwelling units constructed. No more than six (6) parking spaces shall be grouped together.
- (i) **Drainage and Sewage Disposal** – The PRD shall have adequate methods of sewage disposal and drainage. Said methods shall be subject to approval by the Public Works Department and/or the Board of Health.
- (j) **Ways, Interior Drives, and Utilities** – The construction of all ways, interior drives and utilities shall be in accordance with the standards specified in the Subdivision Regulations and Procedural Rules of the Planning Board and subject to the recommendations of the Public Works Department. In the event the applicant chooses not to subdivide the tract under the Subdivision Control Act, the Planning Board shall require nevertheless sufficient security to insure compliance with the installation of

Ways, Interior Drives, and Utilities. Upon the written request of the applicant, the Planning Board may waive or modify the requirements of the Subdivision Rules and Regulations where it is demonstrated that such waiver or modification is consistent with the purpose of this section.

- (k) **Circulation** – The PRD shall provide for the convenience and safety of vehicular and pedestrian movement on the site and for adequate location of driveways in relation to street traffic. Said circulation shall be reviewed by the Fire Department for access by safety vehicles.
- (l) **Prohibition of Future Development** – No tract, lot, or exclusive use area for which a special permit is granted under this section shall be further subdivided and such notation shall be shown on the plan.

4.2.11.3 Procedure

- (a) **Pre-application Review** – To promote better communication and to avoid misunderstanding, the applicant is encouraged, prior to the preparation of a formal application, to meet with the Planning Board and Planning Director for general discussion relative to the site, proposed PRD plan and other issues relative to the proposed project.
- (b) **Application** – The applicant shall submit a completed application form and 7 copies; and a project narrative which shall describe the development concept including in tabular form the number of units, type, size (number of bedrooms, floor area), ground coverage, parking spaces and area, and total ground coverage. Additionally, accompanying the application shall be a filing fee and a set of original development plans and ten (10) copies consisting of:
 - (1) Site plans – meeting, to the extent possible, the requirements set forth for a Definitive Plan in the Subdivision Regulations and Procedural Rules of the Planning Board;
 - (2) Elevations;
 - (3) Typical floor plan;
 - (4) Detailed plans of all entrances to the PRD tract;
 - (5) Detailed plans for disposal of sanitary sewage;
 - (6) Landscape plan;
 - (7) Details of landscape treatment at boundaries of the PRD tract and banks or waterways;
 - (8) Proposed deed restrictions; and

(9) Additional information as required by the Planning Board.

At the same time application materials shall be submitted to the Design Review Board, along with an application for design review, in accordance with the procedures described in Subsection 7.7.3 of Section 7.7, Design Review.

- (c) **Referral** – Upon receipt of an application, the Planning Board shall transmit a set of application materials to the Department of Public Works, Town Engineer, Fire Department, Board of Health (if on-site sewage disposal is proposed) and to any other Town agency as deemed appropriate. Within thirty-five (35) days of receipt of said application materials, each of the Town agencies named above shall review and recommend in writing to the Planning Board regarding the proposed PRD; failure of any such town agency to submit a written report with recommendation within said thirty-five (35) day period shall be deemed lack of opposition thereto.

A preliminary design review report from the Design Review Board, as described in Section 7.7, shall satisfy the above referral requirement, if submitted to the Planning Board within the 35-day period. In addition, the Design Review Board shall also submit a final design review report within seventy-five (75) days of the date of its having received an application for design review related to a Planned Residential Development.

- (d) **Planning Board Review** – a special permit shall be issued by the Planning Board acting as the Special Permit Granting Authority under this Section only if the Planning Board finds that the PRD is in harmony with the purpose of this section and the Planning Board finds the PRD to be sufficiently advantageous to the town and to the residential district in which it is located. In issuing a special permit, the Planning Board may impose such conditions and safeguards as public safety, welfare and convenience may require. Other than the case of a subdivision, copies of all recorded instruments shall be filed with the Planning Board prior to the issuance of a building permit.

4.2.12 Residential Compound

- (a) **Purpose** – To provide limited residential development within large tracts of land in a manner which minimizes Town maintenance, responsibility and cost, and simultaneously preserves the existing character of the Town.
- (b) **Standards** – A group of not more than five single-family dwellings sharing common frontage and private access road may be permitted by Special Permit by the Planning Board in all single-family residential districts subject to the following provisions:

(1) **Tract Frontage** – A Residential Compound may be permitted on a single tract of land in one ownership, having a minimum frontage on a way of 150 feet in the RRC and SRA Districts and 80 feet in the SRB District.

(2) **Density** – A Residential Compound shall contain at least two acres per dwelling unit in the RRC and SRA Districts and 20,000 square feet per dwelling unit in the SRB District. Land which, at the time of submission of an application under this section, is subject to a perpetual restriction of the type described in M.G.L. Ch. 184, S.31 or any restriction similar thereto, shall not be included in the minimum tract size.

(3) **Dimensional Requirements** – No structure shall be closer than 30 feet from any other structure or way and 20 feet from any tract boundary line. No building lot within the Residential Compound shall be reduced in size below the minimum lot area required for the district in which it is located.

(4) **Access** – Each building lot in the Residential Compound shall have adequate and legally enforceable rights of access to a way via a private street or driveway.

(5) **Open Space** – Any land within the Residential Compound, not designated as a building lot, private road or driveway shall be designated as permanent open space. Such land shall have a shape, dimension, character and location suitable for conservation, outdoor recreational facilities of a non-commercial nature, agricultural, preservation of scenic or historic structures, and structures accessory to any of the above uses (including swimming pools, tennis courts, stables, greenhouses). Provisions shall be made for the open space to be owned:

- i. in common by owners of all units in the Residential Compound; or
- ii. by a trust or association of the owners of all units in the Residential Compound; or
- iii. by the Town; or
- iv. by the Needham Conservation Commission; or
- v. otherwise as may be authorized by the Planning Board.

In all cases a perpetual restriction running to or enforceable by the Town shall be recorded in respect to such open land. Such restriction shall provide that the Open Space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. Such restriction shall be in a form or substance approved by the Planning Board.

(c) **Limitation on Subdivision** – No Residential Compound for which a special permit has been issued under this Section may be subdivided or further developed and a notation to this effect shall be shown on the plan.

(d) **Other Restrictions** – The approved plan of the Residential Compound shall contain statements indicating the following: that the land lies within an approved Residential Compound; that development of the land is permitted only in accordance with the land uses indicated thereon; that the town will not be requested to accept or maintain the private

access, drainage, open space or any other improvements within the Compound. Further, all deed restrictions with respect to ownership, use and maintenance of permanent open space shall be referenced on, and recorded with, the plan.

- (e) **Procedure for Approval** – The applicant shall submit to the Planning Board a completed application form, a filing fee, and an original and 10 copies of development plans showing the following:
 - (1) Site Plans – meeting to the extent applicable the requirements set forth in a Definitive Plan in the Subdivision Regulations and Procedural Rules of the Planning Board and including proposed locations of all structures.
 - (2) Detailed plans of all entrances from the public street;
 - (3) Detailed plans of disposal of sanitary sewage;
 - (4) Landscape plan;
 - (5) Proposed deed restrictions;
 - (6) Additional information as required by the Planning Board.
- (f) **Referral** – Upon receipt of an application, the Planning Board shall transmit a set of application materials to the Department of Public Works, Town Engineer, Fire Department, Board of Health (if on-site sewage disposal is proposed) and to any other Town agency as deemed appropriate. Within thirty-five (35) days of receipt of said application materials, each of the Town agencies named above shall review and recommend in writing to the Planning Board regarding the proposed Residential Compound; failure of any such agency to submit a written report with recommendations within said thirty-five (35) day period shall be deemed lack of opposition thereto.
- (g) **Planning Board Review** – A special permit shall be issued by the Planning Board acting as the Special Permit Granting Authority under this section only if the Planning Board shall find that the Residential Compound is in harmony with the general purpose and intent of this section and that it is designed in such a manner to make it sufficiently advantageous to the town and to the residential district(s) in which the Residential Compound is located. If a special permit is granted, the Planning Board shall impose as a condition of approval that copies of all recorded instruments be filed with the Planning Board prior to the issuance of any building permit.
- (h) **Compliance with the Subdivision Control Law** – The Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve a related Definitive Plan for subdivision, nor reduce any time periods for Board consideration under that Law. However, in order to facilitate processing, the Planning Board may, insofar as practical under law, adopt regulations establishing procedures for submission of a combined Special Permit

Application/Subdivision Plan which shall satisfy the Board's regulations under the Subdivision Control Law. Except where the Residential Compound does not constitute a subdivision under the Subdivision Control Law, a Definitive Plan shall be submitted to the Planning Board consistent with their Subdivision Regulations and in substantial conformity with the approved Development Plan.

4.2.13 Reductions in Dimensional Regulations by Special Permit

In Single Residence A, Single Residence B and General Residence Districts, the minimum front setback and the minimum side and rear line setback requirements for a building or structure devoted to a public, semi-public or institutional use, as listed in Section 3.2 Schedule of Use Regulations, may be reduced by special permit granted by the Board of Appeals in accordance with Section 4.2.4. In acting upon such applications for such reductions, the Board shall consider the following, in addition to the criteria for special permits generally (Section 7.5.2):

- (a) Whether, and by how much, building scale will exceed nearby structures,
- (b) whether, and by how much, shadowing on abutting land or streets will be increased, or privacy will be diminished,
- (c) whether any resulting building prominence is appropriate, in light of the functional or symbolic role of the structure,
- (d) whether there are fire protection concerns created by the reduction,
- (e) whether the requested reduction is necessary for the proposal to proceed, and
- (f) what the community benefits are from the proposal, including consideration of taxes, employment, and service.

4.2.14 Screening for Public, Semi-Public and Institutional Uses

4.2.14.1 Transition Areas

Where a building or structure devoted to a public, semi-public or institutional use, as listed in Section 3.2 Schedule of Use Regulations, is to be placed within a Rural Residence-Conservation, Single Residence A, Single Residence B or General Residence District, a landscaped transition and screening area shall be provided along those segments of the lot lines necessary to screen the public, semi-public or institutional use from buildings located on abutting lots. The transition area shall be at least twenty-five (25) feet wide, as measured at its narrowest point, and shall be suitably landscaped as specified at Section 4.2.14.3. The transition area may be provided within the minimum yard required for a building.

4.2.14.2 Use of Transition Areas

Only necessary driveways or interior drives shall be located across a required transition area. No building, structure, parking area, play area or interior street may be located in this transition area. A transition area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided they do not reduce the effectiveness of the transition area as a year-round visual screen. No other uses are permitted in a transition area.

4.2.14.3 Transition Area Standards and Requirements

The following standards shall apply to the installation and maintenance of all landscaping, transition and screening areas required by this section:

- (a) **Composition of Landscaping, Transition and Screening Areas** – A landscaped transition and screening area shall consist of a landscaped strip and may include fences, walls or berms which shall serve to provide an effective year round visual screen at the time of installation.
- (b) **Height of Screening** – Visual screening comprised of a mixed planting of deciduous and coniferous trees and shrubs and walls or fences shall have a minimum overall height of six feet at the time of installation.
- (c) **Type of Plant Materials** – A variety of plant material shall be selected to provide an effective visual screen, to be maintained at a minimum height of six feet. Plantings shall be a mixture of deciduous and coniferous trees and shrubs for the screening to maintain its effectiveness throughout the winter months. Ground cover, grass, mulch or other equivalent landscape treatment, shall be provided in all landscaped transition and screening areas. Where existing vegetation is used as the required planting, no ground cover, grass, mulch or equivalent treatment shall be required, provided all man-made debris has been removed from within the transition area.
- (d) **Size of Plant Materials** – All trees required by this section shall have a minimum caliper of three inches at the time of planting.
- (e) **Maintenance** – The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant material shall be maintained in a healthy growing condition, replaced when necessary and kept free of debris. After the initial planting, all plant materials not surviving after the first winter and through the following growing season shall be replaced in kind.

4.2.14.4 Exceptions, Special Permits

Where, due to the size, shape or topography of a lot, the strict provisions of this section would reduce the usable area of a lot so as to preclude a reasonable use of the lot, the Board of Appeals may grant a special permit to modify the transition area requirements where the side of a building, a barrier and/or the land between the building and lot line has been specifically designed, through a

combination of architectural and landscaping techniques, to minimize potential adverse impacts on abutting lots. The application for a special permit must demonstrate, in detail, the problems imposed by these requirements and provide an effective alternative. Any modification of the required transition areas may be made subject to such conditions as are determined by the Board of Appeals to assure adequate screening and buffering between particular uses. In determining what, if any conditions are necessary, the Board of Appeals shall consider:

- (a) the proximity to a residential development;
- (b) the topography of the site and of adjacent property;
- (c) the nature of the use and/or activity on the site;
- (d) the land use of adjacent property;
- (e) the width and use of all abutting public rights-of-way; and
- (f) the potential for impact of any nuisance activities such as noise, light or glare.

4.3 Dimensional Regulations for Apartment Districts

4.3.1 Table of Regulations

No apartment or multi-family building or group of buildings shall be constructed, altered or relocated on any lot except in conformance with these regulations:

	Min. Lot Area (sf)	Min. Frontage (ft)	Max. Dwelling Units (Per Acre)**	Max. FAR	Min. Setbacks (ft) Front/Side/Rear	Max. Height* (ft)
A-1	20,000	120	18	0.5	25/20/20	3 Stories–40
A-2	43,560	150	8	0.3	40/40/40	3 Stories–40
A-3	43,560	150	4	0.3	40/40/40	2-1/2 Stories–35

* No more than three (3) floors to be used for human occupancy. See height limitation exceptions in Section 4.7.2. Provided further, however, in the Apartment-2 Zoning District, there shall be a maximum of 4 stories, a maximum height of 50 feet, and four (4) floors may be used for human occupancy, if (i) the structure or portion of the structure that is four stories and permitted to be used for human occupancy is utilized as a convalescent or nursing home and uses that are supportive and/or accessory to such convalescent or nursing home, and (ii) the height of the structure that exceeds 40 feet is utilized as a convalescent or nursing home and supportive and/or accessory uses thereto provided further that the maximum square footage of the structure or structures benefitting from the provisions of this section shall be limited to 110,000 square feet. If a structure contains two or more uses, then only that portion of the structure that is utilized as a convalescent or nursing home, and supportive and/or accessory uses thereto, can reach a maximum height of 50 feet.

** The total area used in calculating density shall exclude 100% of all water bodies; 70% of land located in a Flood Plain District; and 70% of land subject to M.G.L., Ch. 131, S. 40 and S. 40A, and to federal flood storage restrictions included within the Charles River Valley Storage Project.

4.3.2 Driveway Openings

- (a) In that portion of a lot between an apartment house or houses and the exterior line of any way upon which the lot abuts, there may be opened not more than two (2) driveway openings onto each such way. Said driveway openings shall not exceed twenty-five (25) feet in width and shall not be less than 150 feet from another such opening or within 50 feet of each other if the driveway openings do not exceed fifteen (15) feet in width. In no event shall a driveway opening be within fifty (50) feet from the sideline of an intersecting way. When there are

two (2) driveways of varying widths, the required distance between them will be governed by the driveway with the greatest width.

(b) In order to preserve the residential character of the Town, an additional driveway opening may be provided if the following conditions are met:

- (1) The lot area shall have a minimum of two acres:
- (2) Such additional openings shall not exceed fifteen (15) feet in width, with the distance between to be recommended by the Planning Board through its Site Plan Review, as per Section 7.4 of this By-Law;
- (3) Such additional openings shall not serve more than four (4) parking spaces, including garages;
- (4) The total number of openings on any given way shall not exceed the quotient of the total lot frontage on such way divided by 1-3/4 of the required lot frontage in that density zone.

4.3.3 Open Space

Except for driveways and walks, the front setback area shall be kept open and in lawn or landscaped, unparked on and unbuilt upon. The area between a lot line and a line five (5) feet from and parallel thereto shall be kept open and in lawn or landscape, unparked on and unbuilt upon.

4.3.4 Building Location

No part of a building or structure shall be located less than twenty (20) feet from any part of any other building or structure on the same lot, provided, however, that (a) any apartment house or other building used for dwelling purposes and permitted in that apartment district may be connected by a covered walkway, corridor, or breeze way to (i) any other apartment house or other such building on the same lot or (ii) any garage on the same lot permitted as an accessory use to the building to which it is so connected, and (b) at least seventy-five (75) percent of the perimeter of each building so connected to another building be accessible.

4.3.5 Setbacks for Other Uses

Front, side, and rear line setbacks for any permitted building or structure, other than an apartment house (or a structure accessory thereto), shall be the same as required in Sections 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.2.5, 4.2.6, 4.2.7 and 4.7.1 and 4.7.3.

4.4 Dimensional Requirements for Commercial Districts

The following regulations shall apply to Business, Chestnut Street Business, Center Business, Avery Square Business, Hillside Avenue Business, and Neighborhood Business districts.

4.4.1 Minimum Lot Area and Frontage

<u>Minimum Lot Area</u>	<u>Minimum Frontage</u>
10,000 Sq. Ft.	80 Feet

4.4.2 Maximum Building Bulk

(a) In a Business District, no building or structure shall be constructed, reconstructed, extended, enlarged or arranged so that it covers more than the percentage of the total lot area as specified in Table 1. No lot or building or structure thereon shall be changed in size as to violate these provisions.

TABLE 1

USES	LOT TYPE	1 Story	2 Story	3 Story
Auditorium,)				
Theaters,)				
Bowling Alleys,)	Interior	25%	N/A	N/A
Skating Rinks,)	Corner	35%	N/A	N/A
Places of Assembly)				
Billiard Rooms,)				
Private Clubs,)				
Restaurants and)	Interior	40%	25%	25%
Other Food)	Corner	50%	35%	35%
Establishments)				
Funeral Parlors)				
Other Uses)				
Permitted in Business)	Interior	40%	35%	25%
Districts)	Corner	50%	45%	35%

N/A – not applicable

- (b) Buildings and structures which are located on property in the Center Business District are not limited to the maximum lot coverage requirements of this Section 4.4.2 as specified in Table 1, but shall have a maximum floor area ratio of 1.0 or the floor area ratio in existence on January 1, 1990, whichever is greater. (See also Section 4.4.5, third paragraph, second sentence.) Notwithstanding the foregoing to the contrary and subject to all other requirements of the district, the Planning Board acting as a special permit granting authority may issue a special permit in the Center Business District that exempts the floor area of an underground parking garage and the floor area of the underground portion of a building devoted in whole or in part to the parking of automobiles from being counted as floor area for purposes of determining maximum floor area ratio.
- (c) Buildings and structures which are located on property in the Chestnut Street Business District are not limited to the maximum lot coverage requirements of this Section 4.4.2 as specified in Table 1, but shall have a maximum floor area ratio of 0.7. Notwithstanding the foregoing to the contrary and subject to all other requirements of the district, the Planning Board acting as a special permit granting authority may issue a special permit in the Chestnut Street Business District that exempts the floor area of an underground parking garage and the floor area of the underground portion of a building devoted in whole or in part to the parking of automobiles from being counted as floor area for purposes of determining maximum floor area ratio.
- (d) Buildings and structures which are located on property in the Neighborhood Business District are not limited to the maximum lot coverage requirements of this Section 4.4.2 as specified in Table 1, but shall have a maximum floor area ratio of 0.5.
- (e) In other Commercial Districts (ASB, HAB) there is no limitation on lot coverage, but buildings shall not be constructed, reconstructed, extended, enlarged or arranged so that the following floor area ratios are exceeded. The limits for mixed uses on the same premises shall be interpolated between the limits below in proportion to their floor areas.
 - (1) For eating establishments, or any use providing service to patrons while in autos, or any use having gas pumps the maximum floor area ratio shall be 0.35.
 - (2) For all other uses in these districts the maximum floor area ratio shall be 0.7.

Notwithstanding the foregoing to the contrary and subject to all other requirements of the district, the Planning Board acting as a special permit granting authority may issue a special permit in the Avery Square Business District and Hillside Avenue Business District that exempts the floor area of an underground parking garage and the floor area of the underground portion of a building devoted in whole or in part to the parking of automobiles from being counted as floor area for purposes of determining maximum floor area ratio.

4.4.3 Height Limitation

In a Business District, the limit of height of a building or structure shall be three (3) stories not to exceed forty (40) feet, provided that in no event shall any building contain more than three floors used for occupancy; in the Center Business District, the limit of height of a building or structure shall be two and one-half (2 ½) stories not to exceed thirty-five (35) feet, provided that in no event shall any building contain more than two floors used for non-residential occupancy other than storage, residential occupancy being permitted on the second floor and in the half-story directly above the second floor consistent with the use and density requirements of Section 3.2.2. Notwithstanding the foregoing story, height and occupancy limitations, and subject to all other requirements of the district, the Planning Board acting as a special permit granting authority may issue a special permit in the Center Business District to permit a municipal building of 3 stories, to permit an increase in the height of a municipal building to a height not to exceed fifty (50) feet and to permit four (4) floors of a municipal building to be used for non-residential occupancy. Such a special permit may be granted only after it is demonstrated by the applicant that: (i) the proposed increased building height and number of stories will not create a significant detrimental impact on existing buildings and uses in the vicinity; and (ii) the proposed building and its occupancy contributes to, and does not detract from, a pedestrian-friendly streetscape.

Notwithstanding the above, no building or structure which is located on property in the Avery Square Business, Hillside Avenue Business, or Neighborhood Business districts shall exceed two and one-half (2 ½) stories, including ground level covered or enclosed parking, no more than two (2) stories of which shall be occupied except for storage, nor shall the building or structure exceed a total height of thirty-five (35) feet.

Notwithstanding the above, in the Chestnut Street Business District, the limit of height of a building or structure shall be two and one-half (2 ½) stories not to exceed thirty-five (35) feet, including ground level covered or enclosed parking, provided that in no event shall any building contain more than two floors used for non-residential occupancy other than storage, residential occupancy being permitted on the second floor and in the half-story directly above the second floor consistent with the use and density requirements of Section 3.2.2.

4.4.4 Front Setback

In a Business District, there shall be a minimum front setback of ten (10) feet for all lots zoned in a business district prior to April 14, 1952 and of twenty (20) feet for all lots changed to a business district thereafter. The setback area shall be kept open and landscaped with grass or other plant materials; such area shall be unpaved except for walks and driveways, as defined in Section 4.4.5. Regulations relative to parking setbacks are governed by Section 5.1.

On both sides of Chestnut Street in the Chestnut Street Business District, there shall be a front setback of twenty (20) feet for all buildings. The landscaping treatment for the setback area shall be consistent with the Chestnut Street Landscape Design Recommendations (April 1988) on file in the office of the Planning Board. No parking shall be allowed in this setback area. Parking shall be on the side or in the back of the building.

In the Center Business District, there shall be a front setback of three (3) feet or a setback consistent with the average of the setbacks of the two adjacent buildings, whichever is smaller.

In the Avery Square Business District, there shall be a front setback of not less than ten (10) feet, or a setback consistent with the setbacks for principal buildings existing on the premises as of the effective date of this provision, or the average of the setbacks of buildings on adjoining lots, whichever is less restrictive. Principal buildings in the Avery Square Business District shall have a front setback of not more than fifteen (15) feet on Highland Avenue, if having frontage upon it. In the Avery Square Business District, the setback, if any, shall be kept open and landscaped with grass or other plant materials and unpaved except for walks and driveways, as defined in Section 4.4.5.

In the Hillside Avenue Business District, there shall be a minimum front setback of twenty (20) feet. The setback shall be kept open and landscaped with grass or other plant materials and unpaved except for walks and driveways, as defined in Section 4.4.5.

In the Neighborhood Business District, there shall be a front setback of not less than twenty (20) feet, or a setback consistent with the setbacks for principal buildings existing on the premises as of the effective date of this provision, or the average of the setbacks of buildings on adjoining lots, whichever is less restrictive. The setback, if any, shall be kept open and landscaped with grass or other plant materials and unpaved except for walks and driveways, as defined in Section 4.4.5.

4.4.5 Driveway Openings

In the Business, Chestnut Street Business, Avery Square Business, Hillside Avenue Business, and Neighborhood Business districts, the following regulations shall apply. In that portion of a lot contained within the required front setback, there may be constructed not more than two (2) driveways for every one hundred fifty (150) feet or less of frontage on each way. Driveways shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. The width of a driveway for one-way traffic shall be a minimum of twelve (12) feet and a maximum of eighteen (18) feet, as measured at its narrowest point. The width of a driveway for two-way traffic shall be a minimum of eighteen (18) feet and a maximum of twenty-five (25) feet, as measured at its narrowest point.

In the Center Business District, where access to the rear of a parcel is available from a public way, private way, common driveway, alley way or parking area, no driveway requiring the crossing of a public sidewalk or that requires a new curb cut on Chestnut Street, Highland Avenue, Great Plain Avenue or Chapel Street shall be allowed. This restriction shall not apply where the new curb cut provides a single driveway opening for two or more properties and constitutes merely the widening of an existing curb cut that already services one of the properties.

In the Center Business District, where access to the rear of a parcel is not available as described above, vehicular access for parking and loading areas shall be from shared or common access driveways, rather than from individual driveways at each parcel. In the Center Business District, the Planning Board acting as a special permit granting authority may issue a Special Permit that increases

the maximum floor area ratio of a specified parcel to 1.2, where the use of a shared access or driveway eliminates the need for providing an individual driveway on that parcel.

In that portion of a lot contained within the required front setback, there may be constructed not more than one (1) driveway for every one hundred (100) feet or less of frontage on each way in the Center Business District. Driveways shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. Driveways shall be located a minimum of fifty (50) feet from the property line at the nearest street intersection in the Center Business District. The width of a driveway for one-way traffic shall be a minimum of twelve (12) feet and a maximum of eighteen (18) feet, except if the driveway opening services two or more properties in which case said driveway opening shall be a maximum of twenty-five (25) feet, all as measured at its narrowest point. A Special Permit granted by the Planning Board shall be required for one-way driveways over twelve (12) feet in width in the Center Business District. The width of a driveway for two-way traffic shall be a minimum of eighteen (18) feet and a maximum of twenty-five (25) feet, as measured at its narrowest point.

4.4.6 Enclosed Parking

Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setbacks as provided herein. The lot coverage of the building may be increased up to 2½% points above the maximum allowed percentage by one square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.

4.4.7 Business Use in Other Districts

Whenever a business use as listed in Section 3.2. Schedule of Use Regulations is to be located or expanded in other than a business district (with the exception of the Industrial-1 District), whether permitted by a Board of Appeals Special Permit or variance or otherwise, the percentage area requirements specified in Table 1 in Section 4.4.2 shall be applicable, unless a variance has also been granted from the provisions of this Section.

4.4.8 Side and Rear Setbacks Adjoining Residential Districts

4.4.8.1 Business District

When an area changed to a Business District after April 15, 1952 adjoins a residential district, no building or structure for business use shall be placed or constructed within fifty (50) feet of the residential district boundary, and within said strip, which shall be suitably landscaped, there shall be no accessory parking or storage, except that the Board of Appeals may grant a special permit for fences, off-street parking or loading, or service drives.

4.4.8.2 Chestnut Street Business District

Where a lot in a Chestnut Street Business District adjoins a residential district, no building or structure for business use shall be placed or constructed within fifty (50) feet of the residential district boundary, and within said strip, the twenty-five (25) feet closest to the district boundary shall be suitably landscaped per specifications outlined below, and there shall be no accessory use. The remaining twenty-five (25) feet may be used for an accessory use not including a building or structure. Where a lot in the Chestnut Street Business District is adjacent to the MBTA commuter railroad right-of-way, the 50-foot buffer requirement shall not apply; however, adjacent to said right-of-way there shall be a 10-foot buffer which shall be suitably landscaped per the specifications outlined below and which shall not be used for any purpose.

4.4.8.3 Center Business District

Where a lot in a Center Business District adjoins a residential district, no building or structure for business use shall be placed or constructed within fifty (50) feet of the residential district boundary, and within said strip, the twenty-five (25) feet closest to the district boundary shall be suitably landscaped per specifications outlined below, and there shall be no accessory use. The remaining twenty-five (25) feet may be used for an accessory use not including a building or structure.

4.4.8.4 Other Business Districts

In an Avery Square Business, Hillside Avenue Business, or Neighborhood Business District no building or structure for a use not allowed in a residential district shall be placed within fifty (50) feet of a residential district boundary, and the ten feet closest to such boundary shall be suitably landscaped as specified at Section 4.4.8.5. The remainder of the setback may be used for an accessory use not including a building or structure.

4.4.8.5 Landscaping Specifications

Where “suitable landscaping” is called for in paragraphs 4.4.8.2, 4.4.8.3, or 4.4.8.4, the following shall be complied with:

- (a) **Materials** – plant materials characterized by dense growth which will form an effective year-round screen shall be planted, or a fence or wall shall be constructed, to form the screen. Where a grill or open-work fence or wall is used it shall be suitable in appearance and materials. Screening may consist of both natural and man-made materials. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section.
- (b) **Height** – screening shall be at least ten (10) feet in height when planted. Height shall be measured from the finished grade.
- (c) **Maintenance** – all required plant materials shall be maintained by the owner in a healthy condition and whenever necessary replaced with new plant materials to insure continued compliance with screening requirements. All required fences and walls shall be permanently maintained by the owner in good repair and presentable appearance and whenever necessary they shall be repaired or replaced.
- (d) **Lighting** -- all artificial lighting used to illuminate a parking or storage area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property

4.4.9 Building Entrances in the Chestnut Street Business, Avery Square Business, Hillside Avenue Business, and Neighborhood Business Districts

First-floor businesses shall have individual entrances accessed from the exterior of the building, except by Special Permit to be granted by the Planning Board in cases where such requirements would restrict redevelopment of an existing building.

Building entrances providing access to first and second-floor space shall be available from one or more streets on which the building fronts. The primary building entrance must be from Chestnut Street, Highland Avenue, Hillside Avenue, Broadmeadow Road, Great Plain Avenue, Central Avenue, Reservoir Street, or South Street unless the premises do not have frontage on one of those streets, or unless lot configuration makes it impractical to place all individual entrances on those streets.

4.4.10 Building Entrances in the Center Business District

First-floor businesses shall have individual entrances accessed from the exterior of the building, except by Special Permit to be granted by the Planning Board in cases where such requirements would restrict redevelopment of an existing building.

Building entrances providing access to first and second-floor space shall be available from one or more streets on which the building fronts and, if the building fronts on Chestnut Street, Highland Avenue, Great Plain Avenue or Chapel Street, the primary building entrances must be located on those streets.

4.4.11

Driveways for the purpose of providing drive-through customer service shall not be allowed in the Center Business District.

4.5 Dimensional Regulations for Highland Commercial-128

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.)	Side Setbacks (Ft.) (1) (6)	Rear Setback (Ft.) (1)(6)	Maximum Height (Ft.) (3)	Maximum Lot Coverage (2) (7)	Floor Area Ratio (4) (5)
15,000	100	5	10	10	54	80%	0.30

- (1) No side or rear setback required for shared parking structures between properties, but only on one side of each lot, leaving the other side- or rear yards open to provide access to the interior of the lot.
- (2) A minimum of 10% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas.
- (3) No buildings shall exceed a height of 54 feet, with one exception. Buildings within 350 feet of Route 128 may reach a height of 68 feet. Provided, however, that no building shall exceed 41 feet in height unless it is more than 150 feet from a General Residence zoning district boundary. Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.
- (4) A floor area ratio up to 1.5 may be permitted subject to a special permit from the Planning Board. See Section 6.8.
- (5) The calculation of floor area in determining floor area ratio shall not include parking areas or structures.
- (6) A 50-foot setback shall be required from a General Residence zoning district line. However, the Planning Board may grant a special permit to reduce said setback, but not to less than 20 feet.
- (7) The provisions of Section 4.4.7 of this bylaw shall not be applicable to the Highland Commercial-128 district.

4.5.1 Supplemental Dimensional Regulations

- (1) Parking structures must have an active ground floor use, such as retail, office, institutional, or display, on sides facing a public way. This requirement may be waived by the Planning Board if the developer can provide a suitable alternative that enhances pedestrian or open space use of the site. Parking structures must be located at least 20 feet from adjacent buildings, but may be attached to the building they are serving if all fire and safety regulations can be met.
- (2) All surface parking shall be located to the side or rear of the building.
- (3) First-floor businesses shall have individual entrances accessed from the exterior of the building, except by special permit to be granted by the Planning Board in cases where such requirements would restrict redevelopment of an existing building.

Building entrances providing access to first and upper level floor space shall be available from one or more of the streets on which the building fronts. The primary building entrance must be from Highland Avenue, unless the premises do not have frontage on Highland Avenue, or unless lot configuration makes it impractical to place all individual entrances on that street.

- (4) Maximum uninterrupted facade length shall be 300 feet; if within 350 feet of a General Residence zoning district or river the uninterrupted facade length may not exceed 200 feet.

4.5.2 Floor Area Ratio, Incentives

In the Highland Commercial-128 District the maximum floor to area ratio (FAR) permitted by right shall be 0.3. However, for projects providing new roadways that are deemed by the Planning Board to be consistent with the Goals of the District Plan, a developer shall be allowed two additional square feet of gross floor area by right for every square foot of land used for roadway right of way purposes, up to a maximum of 15,000 additional square feet. Any additional roadway areas provided by the developer shall be deemed as part of total lot area for FAR calculation purposes. Said areas shall also be considered as impervious surfaces for the purpose of calculating maximum lot coverage.

4.6 Dimensional Regulations for Industrial Districts

4.6.1 Basic Requirements

District	Min. Lot Area	Min. Lot Frontage	Height Limitation
Industrial	10,000 SF	80 ft	3 stories (40 ft.)

4.6.2 Front and Side Setbacks

There shall be a minimum front setback of ten (10) feet for all lots zoned to a manufacturing district prior to April 15, 1952 and of twenty (20) feet for all other lots. (See Section 4.6.3 for further restrictions.)

4.6.3 Maximum Lot Coverage

Buildings or structures on any lot in an Industrial District devoted to a manufacturing use as listed in Section 3.2. Schedule of Use Regulations shall not cover more than sixty (60) percent of the lot area, if it is a corner lot, nor fifty (50) percent of the lot area if it is any other lot. No lot area on which there exists any building or structure shall be so reduced in size as to increase the covered portions thereof in the aggregate above the percentages respectively required.

4.6.4 Height Limitation

The limit of height of a building or structure shall be three (3) stories not to exceed forty (40) feet, provided that in no event shall any building contain more than three (3) floors used for occupancy.

4.6.5 Side and Rear Setbacks Adjoining Residential Districts

Where an area changed to a manufacturing or industrial district after April 15, 1955 adjoins a residential district, no building or structure for a nonresidential use shall be placed or constructed within fifty (50) feet of the residential district boundary, and within said strip, which shall be suitably landscaped, there shall be no accessory use including parking or storage, except that the Board of Appeals may grant a special permit for fences, off-street parking or loading, or service drives.

4.6.6 Driveway Openings

In that portion of a lot contained within the required front setback, there may be constructed not more than two (2) driveways for every one hundred fifty (150) feet or less of frontage on each way. Driveways shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. The width of a driveway for one-way traffic shall be a minimum of twelve (12) feet and a maximum of eighteen (18) feet, as measured at its narrowest point. The width of a driveway for two-way traffic shall be a minimum of eighteen (18) feet, and a maximum of twenty-five (25) feet, as measured at its narrowest point. These maximum widths may be increased in situations where it can be demonstrated to the satisfaction of both the Building Inspector and Town Engineer that vehicles greater than 30 feet in length will be used to access or egress the premises.

4.7 Special Conditions

4.7.1 Specific Front Setbacks

Notwithstanding the front setback provisions herein, in the following locations the front setbacks indicated below shall apply:

- (a) On the northwesterly side of Highland Avenue between Cross Street and Arbor Street, there shall be a twenty (20) foot building setback line;
- (b) On the easterly side of Gould Street from Highland Avenue northerly to land of the New York, New Haven and Hartford Railroad Company, there shall be a fifty (50) foot building setback line;
- (c) On the northerly side of Highland Avenue from Gould Street northeasterly to the property of the Commonwealth of Massachusetts, there shall be a fifty (50) foot building setback line.

4.7.2 Height Limitation Exceptions in Business, Apartment, Industrial, and Industrial-1 Districts.

In Business, Industrial, and Industrial-1 Districts the limitation of height in feet in Section 4.4.3 and 4.6.4 shall not apply to towers, steeples, spires or domes, chimneys, ventilators, skylights, tanks, bulkheads, water tanks or scenery lofts which shall be at every point fifty (50) feet from the center line of any street and shall not cover more than twenty-five (25) percent of the area of the building upon which each is erected. No radio or television antenna or antennae tower shall exceed eighty (80) feet in height except that the Board of Appeals may grant a Special Permit in each instance for a height greater than eighty (80) feet.

In Apartment districts the limitation of height in feet in Section 4.3.1 shall not apply to the structures enumerated herein except that the height shall not exceed fifty-five (55) feet.

4.7.3 Minimum Side Line Setbacks for a Dwelling or Institutional Building in Certain Districts.

No part of any single or two-family dwelling or institutional building hereafter erected in an Apartment, Business, or Industrial District on a lot having a frontage of one hundred (100) feet or more shall be placed or constructed within fifteen (15) feet of the side lines of said lot. No part of any such dwelling or institutional building hereafter erected in an Apartment, Business, or Industrial District on a lot having a frontage of less than one hundred (100) feet shall be placed or constructed within ten (10) feet of the side lines of said lot.

4.7.4 Change in Dimensional Regulations by Special Permit

In Single Residence A, Single Residence B, General Residence Districts, the minimum front setback and the minimum side and rear line setback requirements may be reduced by not more than 10 percent, or the maximum lot coverage allowed may be increased by not more than 10 percent over the square footage allowed, provided that the increase in the area of lot covered may not exceed 150 square feet, by special permit granted by the Board of Appeals where the Board finds that the special permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this By-Law and subject to the provisions of Section 7.5.2.

This Section 4.7.4 shall apply only to buildings and structures that have been constructed pursuant to a building permit issued by the Building Inspector. The purpose of this Section is to allow relief only in those unusual cases where excusable neglect or inadvertence have resulted in the construction of portions of buildings or structures in required setback areas, or in excess of maximum lot coverage requirements.

4.7.5 Historic Preservation Dimensional Special Permit

4.7.5.1 Purpose

The purpose of this by-law is to encourage the preservation and restoration of historic architectural features on existing historic buildings and structures in the community, by modifying certain dimensional standards that might be an impediment to such preservation and restoration efforts.

4.7.5.2 Applicability

Modification of dimension standards per a Historic Preservation Dimensional Special Permit shall be allowable in all zoning districts.

4.7.5.3 Historic Eligibility

For purposes of a Historic Preservation Dimensional Special Permit, the building or structure must be listed on one of the following:

- (a) The National Register of Historic Places;
- (b) The State (Commonwealth of Massachusetts) Register of Historic Places;
- (c) Inventory of Historic Assets of the Commonwealth for the Town of Needham, or designated for inclusion in such inventory, including those buildings listed for which complete surveys may be pending; and

(d) Pending nominations in good standing to the National or State Register.

4.7.5.4 Special Permit

After making the findings required by Section 4.7.5.5 below, the Board of Appeals may, by special permit waive the front, side, and rear setbacks for the zoning district, by relaxing each by up to a maximum of 40%, as necessary.

4.7.5.5 Findings Required

In order to grant a special permit, the Board of Appeals shall find:

- (a) That the purpose of the permit is for the preservation and/or restoration of a historic architectural feature on an existing building and/or structure that is eligible under Section 4.7.5.3 above;
- (b) That the proposed renovation, repair, or addition, to the maximum extent feasible, preserves and/or restores the historical architectural features of the building, or structure;
- (c) That such modification of a dimensional requirement is required to enable the preservation and/or restoration of the historical architectural features of the building or structure and that failure to grant the special permit is likely to result in construction or continuation of an inappropriate physical modification, or the destruction or deterioration of the existing historical architectural features;
- (d) That the proposed renovation, repair, or addition has been determined by vote of the Needham Historical Commission to be a historically accurate architectural restoration;
- (e) That the building or structure will remain on the site on which it was originally constructed; and
- (f) That the proposed use will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated.

4.8 Dimensional Regulations for NEBC

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (4) (5)	Side Setbacks (Ft.) (3) (5)	Rear Setback (Ft.) (3)(5)	Maximum Height (Ft.) (1)	Maximum Lot Coverage (2) (8)	Floor Area Ratio (6) (7)
40,000	100	15	20	20	72	65%	1.00

- (1) If the Planning Board determines that the proposed structure is properly accessible to fire fighting equipment, it may allow by special permit a maximum height of up to 84 feet. Further, all buildings within 350 feet of a river or a lake shall be limited to a height of 54 feet. In no instance shall any building exceed 41 feet in height unless it is more than 350 feet from a General Residence or Single Residence B zoning district boundary. Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height, provided that the Planning Board may by Special Permit increase the height limit by not more than 5 additional feet. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.
- (2) Maximum lot coverage shall be 65% for all projects. However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to 75%.
- (3) No side or rear setback is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side- or rear yards open to provide access to the interior of the lot.
- (4) A 25-foot front yard setback must be maintained for structured parking.
- (5) A 50-foot setback must be maintained from any General Residence zoning district line. However, the Planning Board may grant a special permit to reduce said setback, but not to less than 20 feet.
- (6) A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board. See Section 6.8. Further, the Planning Board may allow a floor area ratio of up to 2.0, by special permit, where the applicant demonstrates, to the Board’s satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area.
- (7) The calculation of floor area in determining floor area ratio shall not include parking areas or parking structures.

(8) The provisions of Section 4.4.7 of this bylaw shall not be applicable to the NEBC district.

4.8.1 Supplemental Dimensional Regulations for New England Business Center

- (1) Parking structures and surface lots may not be located within 50 feet of the intersection of the exterior street lines of a corner lot or fronting on public parks.
- (2) All surface parking shall be located to the side or rear of the principal building(s). A landscaped buffer area, except for approved access ways and walkways, at least 20 feet in width as measured from the layout of the roadway providing frontage, shall be established along the street frontage. The buffer area shall be planted with grass, medium height shrubs, and trees. Where appropriate, street trees shall be planted at least every 40 feet along the frontage. Notwithstanding the provisions of this subsection, the Planning Board may permit a limited number of parking spaces (not more than 2% of total off-street parking required or not more than six spaces, whichever is less) for short term drop-off parking purposes at the main entrance of the building, if the Planning Board finds that the overall facade design, site plan, and operational characteristics of the facility will be improved thereby.
- (3) If a separate structure, any parking structure must be located a minimum of 20 feet from adjacent buildings. However, parking structures may be attached to the primary building they are servicing if all fire and safety regulations are met.
- (4) A minimum of 25% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. Notwithstanding the preceding sentence, open space shall include pervious surfaces used for ways, access streets, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)
- (5) Buildings must have a public entrance facing one or more of the streets on which the building fronts.
- (6) Maximum uninterrupted facade length shall be 300 feet, or 200 feet if within 350 feet of a General Residence district zoning boundary, a river, or a lake.

4.8.2 Floor Area Ratio, Incentives

In the New England Business Center District the maximum floor to area ratio (FAR) permitted by right shall be 1.0. However, for projects providing open space and/or new roadways that are deemed by the Planning Board to be consistent with the Goals of the District Plan, a developer shall be allowed one and one-half (1.5) additional square feet of gross floor area by right for every square foot of land used for the aforementioned purposes, up to a maximum of 15,000 additional square feet of development. Any additional roadway area provided by the developer, consistent with this section, shall be deemed as part of total lot area for FAR calculation purposes and said areas shall also be considered as impervious surfaces for the purpose of calculating maximum lot coverage. Open space areas, consistent with this

section, shall also be deemed part of total lot area for FAR calculation purposes and said areas shall be considered as landscaped areas for the purpose of calculating lot coverage.

4.8.3

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.8 (including sections 4.8.1 and 4.8.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of these Zoning By-Laws, and that such waivers are consistent with the requirements of Section 6.8. This section does not authorize the Planning Board to waive the maximum height regulations. (By way of example, the 15’ front yard setback could be waived to 11.25’; the 65% lot coverage could be waived to 81.25%; or the 40,000 sq. ft. minimum lot area could be waived to 30,000 sq. ft.)

4.9 Dimensional Regulations for Mixed-Use 128

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (1)	Side Setbacks (Ft.) (1) (3)	Rear Setback (Ft.) (3)	Maximum Height (Ft.) (1)	Maximum Lot Coverage (2) (4) (7)	Floor Area Ratio (5) (6)
10,000	100	5	10	10	70	65%	1.00

- (1) All buildings shall be limited to a height of 70 feet, except that, buildings within 350 feet of a river shall be limited to a height of 54 feet. Notwithstanding the forgoing, the Planning Board may allow by special permit a maximum height of up to 84 feet except within 350 feet of a river. If the height of a building is increased above the height of 54 feet, the front setback shall be increased to 15 feet and the side setback to 20 feet. Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.
- (2) Maximum lot coverage shall be 65% for all projects. However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet the maximum lot coverage may be increased to 75%.

- (3) No side or rear yard is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side- or rear yards open to provide access to the interior of the lot.
- (4) A minimum of 20% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. Notwithstanding the preceding sentence, open space shall include pervious surfaces used for ways, access streets, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)
- (5) A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board. See Section 6.8. Further, the Planning Board may allow a floor area ratio of up to 2.0, by special permit, where the applicant demonstrates, to the Board's satisfaction, that the proposed use will not generate peak hour trips in excess of 0.6 trips per 1,000 square feet of total development area.
- (6) The calculation of floor area in determining floor area ratio shall not include parking areas or structures.
- (7) The provisions of Section 4.4.7 of this bylaw shall not be applicable to the Mixed-Use 128 district.

4.9.1 Supplemental Dimensional Regulations

- (1) Parking structures and surface parking lots may not be located such that they front on public parks.
- (2) Parking structures must have an active ground floor use, such as retail, office, institutional, or display, on sides facing a public way. This requirement may be waived by the Planning Board if the developer can provide a suitable alternative that enhances pedestrian or open space use of the site. Structured parking must be located at least 20 feet from adjacent buildings, but may be attached to the building it is servicing if all fire and safety requirements can be met.
- (3) Buildings must have a public entrance facing one or more of the streets on which the building fronts.
- (4) Maximum uninterrupted facade length shall be 300 feet. However, for buildings within 350 feet of a General Residence district zoning line or river, the uninterrupted facade length shall not exceed 200 feet.

4.9.2 Floor Area Ratio, Incentives

In the Mixed Use-128 District the maximum floor area ratio (FAR) permitted by right shall be 1.00. However, for projects providing open space and/or new roadways that are deemed by the Planning Board to be consistent with the Goals of the District Plan, a developer shall be allowed one and one half (1.5) additional square feet of gross floor area by right for every square foot of land used for the aforementioned purposes, up to a maximum of 15,000 additional square feet. Any additional roadway

area provided by the developer, consistent with this section, shall be deemed as part of total lot area for FAR calculation purposes, and shall be considered as impervious surfaces for the purpose of calculating maximum lot coverage. Open space areas, consistent with this section, shall be deemed part of total lot area for FAR calculation purposes and said areas shall be considered as landscaped areas for purposes of calculating lot coverage.

4.9.3

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.9 (including sections 4.9.1 and 4.9.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law or the Goals of the District Plan cited in Section 6.8.1(b) of these Zoning By-Laws, and that such waivers are consistent with the requirements of Section 6.8. This section does not authorize the Planning Board to waive the maximum height regulations. (By way of example, the 15' front yard setback could be waived to 11.25'; the 65% lot coverage could be waived to 81.25%; or the 40,000 sq. ft. minimum lot area could be waived to 30,000 sq. ft.)

4.10 Dimensional Regulations for Industrial-1 District

4.10.1 Basic Requirements

Min. Lot Area	Min. Lot Frontage	Minimum Setbacks	Maximum Height
20,000 SF	100 ft.	Front - 20 ft. Side – 20 ft. Rear – 10 ft.	2 stories – 30 ft.

4.10.2 Floor Area Ratio

In Industrial-1 Districts, the maximum floor area ratio (FAR) shall be 0.5, except that a FAR of 0.625 or 0.75 is permissible under the conditions described as follows:

FAR of 0.625, if at least twice the minimum front setback is provided, and if at least one-half of the required parking is provided in or under a building or structure, and if 15 percent of the parking area is maintained as landscaped area;*

FAR of 0.75, if at least twice the minimum front setback is provided, and if all of the required parking is provided in or under a building or structure, and if 20 percent of the parking area is maintained as landscaped area.*

*For purposes of calculating the required landscaped area, assume all parking spaces are located at grade in exterior parking areas.

4.10.3 Driveway Openings

In that portion of a lot contained within the required front setback, there may be constructed not more than two (2) driveways for every one hundred fifty (150) feet or less of frontage on each way. Driveways shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. The width of a driveway for one-way traffic shall be a minimum of twelve (12) feet, and a maximum of eighteen (18) feet, as measured at its narrowest point. The width of a driveway for two-way traffic shall be a minimum of eighteen (18) feet, and a maximum of twenty-five (25) feet, as measured at its narrowest point. These maximum widths may be increase in situations where it can be demonstrated to the satisfaction of both the Building Inspector and Town Engineer that vehicles greater than 30 feet in length will be used to access or egress the premises.

4.10.4 Gould Street – Highland Avenue Buffer

The special front building setback lines of 50 feet, as provided for in Subsections 4.7.1 (b) and (c), shall be landscaped, vegetative buffer area in the Industrial-1 District.

5. GENERAL REGULATIONS

5.1 Off-Street Parking Requirements

5.1.1 Applicability

5.1.1.1 General Provisions

Paved off-street parking spaces shall be provided for all uses and structures (excluding single and two family structures) as described in Section 5.1.2 in accordance with the provisions of this Section. No change of a structure or use from a use or uses as described in the categories of Section 5.1.2 to another such category that requires additional off-street parking shall be made unless in accordance with Sections 5.1.2 and 5.1.3 for the entire use of structure. Notwithstanding the above, a change of an existing structure or use from a use or uses as described in the categories of Section 5.1.2 to another such category that requires additional off-street parking of 9 or fewer spaces in the Center Business, Chestnut Street Business or Avery Square Business Districts or 3 or fewer spaces in all other Commercial and Industrial Districts may proceed without requiring special permit relief or waivers from Sections 5.1.2 and 5.1.3, unless the parking is not compliant with Section 5.1.3 (c) Handicapped Parking, the first sentence of (d) Driveway Openings, (m) Location, and/or (n) Bicycle Racks in which case special permit relief or waivers is required. The special permit or waiver requirements of this Section 5.1 shall not apply to any project which does not trigger the thresholds set forth in the preceding sentence. This Section shall apply to the cumulative total of all additions and changes in use from May 15, 1985 as to which special permit relief or waiver from Sections 5.1.2 and 5.1.3 was not granted prior to the addition or change in use that requires additional off-street parking.

5.1.1.2 Alterations and Additions

In the event a structure (other than a structure used for parking) is altered with or without a change in use to increase the floor area by 100 square feet or more, off-street parking shall be provided in accordance with Sections 5.1.2 and 5.1.3 for the total building floor area. This Section shall apply to the cumulative total of all additions from May 15, 1985.

5.1.1.3 Mixed Uses

No change or conversion of a use in a mixed use structure to a use which requires additional off-street parking shall be permitted unless off-street parking is provided in accordance with Sections 5.1.2 and 5.1.3 for the entire structure or said change or conversion does not exceed 1,000 square feet or 5 percent of the total building floor area, whichever is greater. Furthermore, a change or conversion of a use in a mixed use structure to a use or uses which require off-street parking of 9 or fewer spaces may proceed in the Center Business, Chestnut Street Business or Avery Square Business Districts without requiring special permit relief or waivers from Sections 5.1.2 and 5.1.3, unless the parking is not compliant with Section 5.1.3 (c) Handicapped Parking, the first sentence of

(d) Driveway Openings, (m) Location, and/or (n) Bicycle Racks in which case special permit relief or waivers is required; and a change or conversion of a use in a mixed use structure to a use or uses which require off-street parking of 3 or fewer spaces may proceed in all other Commercial and Industrial Districts without requiring special permit relief or waivers from Sections 5.1.2 and 5.1.3, unless the parking is not compliant with Section 5.1.3 (c) Handicapped Parking, the first sentence of (d) Driveway Openings, (m) Location, and/or (n) Bicycle Racks in which case special permit relief or waivers is required. The special permit or waiver requirements of this Section 5.1 shall not apply to any project which does not trigger the thresholds set forth in the two preceding sentences. This Section shall apply to the cumulative total of all changes or conversions in use from May 15, 1985 as to which special permit relief or waiver from Sections 5.1.2 and 5.1.3 was not granted prior to the change or conversion in use that requires additional off-street parking.

5.1.1.4 Exception

If a structure is destroyed or damaged by fire or other accidental cause, its replacement or reconstruction, provided the use is the same category of use or a category of use requiring the same or fewer spaces as described in Section 5.1.2, shall not be required to provide any additional off-street parking which might be required under this Section if said reconstruction or replacement does not exceed the floor area of the original building.

If a parking lot is required to be brought into compliance with federal and/or state law mandating creation, restriping, regrading or reconstruction of a handicapped accessible parking space or spaces, then no relief or waivers from this Section 5.1 need be sought to implement state or federal law.

5.1.1.5 Special Permit

The Board of Appeals may grant in all zoning districts excepting the Center Business District a special permit to waive strict adherence to the requirements of Section 5.1.2 and/or 5.1.3 where it can be demonstrated by an applicant with a parking plan prepared and reviewed in accordance with the provisions of Section 5.1.3 that a particular use, structure or lot, owing to special circumstances, does not warrant the number of parking spaces required by Section 5.1.2 and/or the application of certain design requirements contained in Section 5.1.3.

Such a special permit waiving strict adherence to the minimum number of required parking spaces may be granted only after it is demonstrated by an applicant that either:

- (i) special circumstances in a particular use of structure does not warrant the minimum number of spaces required under Section 5.1.2; or
- (ii) the extent of existing building coverage on a particular lot is such that in laying out parking spaces in accordance with the design requirements of Subsection 5.1.3, the requirement for minimum number of spaces under Section 5.1.2 can not be met.

Except in unique circumstances, special permits waiving strict adherence to the application of parking design requirements shall not be granted for Subsections 5.1.3 (c) Handicapped Parking, (e) Compact Cars, (f) Parking Space Size, (I) Width of Maneuvering Aisle.

In reviewing a request for a special permit under this Section 5.1.1.5, the Board of Appeals shall consider the following:

- (a) The issuance of a special permit will not be detrimental to the Town or to the general character and visual appearance of the surrounding neighborhood and abutting uses, and is consistent with the intent of this Zoning By-Law;
- (b) In the case of waiving strict adherence to the requirements of Section 5.1.2 under subparagraph (i) above, the special permit shall define the conditions of the use of structure so as to preclude changes that would alter the special circumstances contributing to the reduced parking need or demand;
- (c) In the Avery Square Business, Hillside Avenue Business, and Neighborhood Business districts, shared parking for uses having peak demands at different times, unusual age or other characteristics of site users, or user-sponsored demand reduction devices, such as car-pooling;
- (d) Provisions to demonstrate the ability to provide for additional parking consistent with Section 5.1.2 and/or parking designed in accordance with the particular requirements of Section 5.1.3; and
- (e) The granting of a special permit under this Section shall not exempt a structure, use or lot from future compliance with the provisions of Section 5.1.2 and/or 5.1.3.

5.1.1.6 Special Permit in the Center Business District

The Planning Board may grant in the Center Business District a special permit to waive strict adherence to the requirements of Section 5.1.2 and/or 5.1.3, if a proposed project satisfies the following conditions:

- Replaces or substantially improves an existing building or site;
- Promotes the goal of preserving and enhancing the CBD as a pedestrian-oriented local shopping and business district;
- Incorporates the recommendations of the Design Review Board; and
- Demonstrates that it is providing the maximum number of off-street parking spaces practicable.

5.1.1.7 Applicability for Parking Area

Except as provided or excepted by Sections 5.1.1.1, 5.1.1.3 and 5.1.1.4, the construction, enlargement, or alteration of a parking area containing 5 or more spaces shall adhere to all of the requirements of Section 5.1.3 Parking Plan and Design Requirements, unless strict adherence to the requirements of Section 5.1.3 is waived by a special permit granted by the Board of Appeals under the provisions of Subsection 5.1.1.5. Constructing, enlarging, or altering a parking area which results in a reduction of an existing non-conformance on the premises is not subject to the requirements of Section 5.1.2, providing that there are no changes to building(s) or use(s) as described in Subsections 5.1.1.1, 5.1.1.2, and 5.1.1.3. In the Avery Square Business District, legal on-street parking may be credited towards meeting these requirements if located between the premises' side lot lines on the same side of the street.

5.1.2 Required Parking

Use

Number of Off-Street Parking Spaces

- | | |
|--|--|
| 1) Theater, gymnasium, auditorium or similar place of public assembly indoor or out-door with seating facilities | One space per three seats of total seating capacity |
| 2) Medical, dental and related health service structures or clinics | One space per 200 square feet of floor area |
| 3) Hospital | One space for each two beds plus one space for each two employees on the largest shift, plus one space for each three seats in a place of public assembly (if available) |
| 4) Nursing home or a residential care institution or facility | One space for every two beds plus one space for each two employees on the largest shift |
| 5) Boarding house, dormitory, fraternity | One space per rental or sleeping unit. Any bedroom or group of two beds in a single room constitutes a sleeping unit |
| 6) Retail or wholesale stores or services | One space per 300 square feet of floor area |
| 7) Offices, office buildings, and banks | One space per 300 square feet of floor area |
| 8) Hotel or motel | One space for each sleeping unit plus one space for each 200 square feet of function or conference area, plus one space for each three employees on the largest shift |
| 9) Restaurant | One space per 3 seats plus ten spaces per take-out service station |
| 10) Laundry or Laudromat | One space per 300 square feet of floor area |
| 11) Bowling alley, tennis or racquet ball court | Four spaces per alley or court |

12) Colleges, vocational and high schools excluding boarding and office facilities which shall be computed separately in accordance with this section

One half of the design or expected enrollment

13) Research facilities, laboratories and company offices not open to the public

One space per 300 square feet of floor area. Occupancy by a single tenant of more than 50,000 square feet of floor area shall provide one space per 300 square feet floor area for the first 50,000 square feet and one space per 400 square feet of floor area in excess of 50,000 square feet

14) Warehouses, excluding retail and/or wholesale, on site sales and office space which shall be computed separately

One space per 850 square feet floor area or one space per every two warehouse employees on the largest shift, whichever is greater

15) Automotive and truck service, and related repair, including body repair

One space for employees and guests per 250 square feet of floor area

16) Automobile and truck sales and lease

One space for employees and guests per 250 square feet of floor area

17) Manufacturing or industrial establishment

One space per 400 square feet of floor area or one per two employees on the largest shift, whichever is greater

18) Indoor Athletic or Exercise Facility or Personal Fitness Service Establishment

One space for each 150 square feet or fraction thereof of gross floor area and one space for each three employees to be employed or anticipated to be employed on the largest shift. Notwithstanding the above, in circumstances where facility size is known and occupancy and parking demand will be controlled by the method of operation, the Planning Board may reduce the number of parking spaces required for a personal fitness service establishment to one parking space per employee and visitor

present on the site at any one time during the peak usage period

19) Mixed uses

Sum of various uses computed separately

20) Any use permitted by this Zoning By-Law

Closest similar use as shall be determined by the Building Inspector

In the event that the Building Inspector is unable to determine if a particular use relates to any use within the table of ‘Required Parking’ (Section 5.1.2), the Planning Board shall recommend to the Building Inspector a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests, or employees of the proposed business, with said recommendations based on the ITE Parking Generation Manual, 2nd Edition, or an alternative technical source determined by the Planning Board to be equally or more applicable.

For purposes of this Section, “floor area” shall mean the sum, in square feet, of all horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or for office buildings from the center line of the glass exterior windows or party wall separating two buildings.

5.1.3 Parking Plan and Design Requirements

All parking areas shall be shown on a plan prepared by a Massachusetts Registered Architect, Landscape Architect, Professional Civil Engineer and/or Land Surveyor indicating the layout of the parking area including access, setbacks, dimensions of typical spaces, location of the trees and other landscaped areas, any proposed lighting, and provisions for surface drainage. Such plan shall be reviewed by the Building Inspector prior to the issuance of a special permit or building permit and shall conform to the following design requirements.

- (a) **Parking Lot Illumination** – All parking areas which are proposed to be illuminated shall provide an illumination level of an average of one foot candle. All illumination shall be shielded so as not to shine directly onto a public or private way or onto any property in a residential district.
- (b) **Loading Requirements** – Adequate off-street loading facilities and space with unimpeded access shall be provided for all new construction and for all building additions greater than 100 square feet of floor area. Facilities shall be so sized and arranged that no trucks shall be parked on a public way while loading, unloading, or waiting to do so.
- (c) **Handicapped Parking** – Parking spaces for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Access Barriers Board, specifically Section 23 thereof.

- (d) **Driveway Openings**—Ingress and egress shall be located so as to minimize conflict with traffic on streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. See Sections 4.4.5, 4.6.6 and 4.10.3 for Driveway Openings Regulations in Business, Industrial, and Industrial-1 Districts.
- (e) **Compact Cars** – Off-street parking areas may be designated to allow up to a maximum of 50% of the total number of parking spaces to be used by compact cars. Compact car spaces shall not be less than 8 feet by 16 feet.
- (f) **Parking Space Size** – Each parking space, except for the allowable percentage for compact cars, shall measure at least 9 feet in width and 18.5 feet in length; however, parallel parking spaces shall be at least 22 feet in length. The required parking space dimensions, including those for compact car spaces, shall not be reduced by obstructions, including, but not limited to, light poles and columns.
- (g) **Bumper Overhang** – The minimum length requirements stated in the above two paragraphs may include no more than one foot of area beyond the curb at the front or rear of a space, used for bumper over-hang.
- (h) **Parking Space Layout** – Required parking areas shall be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. In no case shall spaces be so located as to require the backing or maneuvering onto the sidewalk or into a public or private way upon entering or leaving the space.
- (i) **Width of Maneuvering Aisle** – The minimum width of aisles within parking areas providing access to parking spaces for one-way traffic shall be as follows:

<u>Angle of Parking Space</u>	<u>Minimum Width of Aisle</u>
90 degree	24 feet/25 feet*
60 degree	18 feet/19 feet*
45 degree	14 feet
30 degree	12 feet
parallel	12 feet

* The greater width shall be used where one foot of bumper overhang occurs.

The minimum width of maneuvering aisles within parking areas providing access to spaces for two-way traffic shall be twenty (20) feet or the width required above, whichever is greater. The required width of all maneuvering aisles shall not be reduced by obstructions, including, but not limited to, light poles and columns.

- (j) **Parking Setbacks** – Parking spaces and maneuvering aisles shall be setback a minimum of ten (10) feet from a front lot line or street right-of-way line; except, however, that such setback shall be twenty (20) feet in a Business or Industrial District, if the conditions set forth in Subsection 4.4.4 or 4.5.2 of this By-Law apply. Such parking setback shall also be twenty (20) feet in an Industrial-1 District. Parking spaces, maneuvering aisles and driveways shall be set back a minimum of four (4) feet from the rear and side lot lines. Except in an enclosed structure or in an unenclosed parking facility beneath a structure, no parking space, maneuvering aisle or driveway shall be located within five (5) feet of a building line at the first floor.
- (k) **Landscaped Areas** – Setback areas required under the above paragraph (j) shall be maintained as landscaped areas, except where driveway openings or sidewalks occur. Landscaped areas shall include trees, shrubs, flowers and grass. Planting beds shall be at least 4 feet wide. In any parking area requiring 10 or more spaces, ten (10) percent or more of such area shall be maintained as landscaped area. In parking areas requiring 20 or more spaces, a minimum of one-quarter of this amount shall be located in the interior of the parking area. Required landscape setback areas shall count towards the minimum ten percent requirement; provided, however, that the interior landscaped area requirement shall be met.
- (l) **Trees** – For all parking areas requiring 10 or more spaces, trees shall be required. One tree shall be provided for every 10 spaces or a fraction thereof. Such trees shall be located within or around the parking area so as to screen and soften the visual impact of parked vehicles as much as possible. They shall be at least 2” trunk diameter, with not less than 40 square feet of unpaved soil or other permeable surface area per tree. Planting beds shall be at least 4 feet wide.
- (m) **Location** – Off-street parking required by this Section shall be located on either the same lot as the principal use or uses or on a lot within 300 feet which is under the same ownership. In the Avery Square Business District, required parking for non-residential uses shall be either on the same premises as the activity it serves, or on a separate parcel, which may be shared with other uses, if the parcel is located within five hundred (500) feet (800 feet for employees) walking distance of the building entrance to be served, is located in a zoning district permitting or allowing on special permit the activity it serves, and is permanently committed to serving the use involved. In the Avery Square Business District, no parking shall be located within 10 feet of a street line.
- (n) **Bicycle Racks** – For parking areas of forty or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per twenty parking spaces required, or fraction thereof.

5.1.4 Off-Street Parking Requirements for Multi-Family Structures

On any lot upon which a multi-family structure (three or more dwelling units) is placed, built, or reconstructed, there shall be provided for each dwelling unit in all buildings on the lot not less than one and one-half (1-1/2), paved and readily accessible, off-street automobile parking spaces, covered or open, if the lot is in an Apartment District. In the event a multi-family structure is reserved for special occupancies such as the handicapped or elderly, the Board of Appeals may authorize a smaller number of spaces by special permit.

5.1.5 Applicability for Parking Structures

Parking facilities provided in an enclosed structure shall be subject to the provisions of this Section 5.1, except for the Subsections 5.1.3.k) and l). Unenclosed parking facilities beneath a structure shall be subject to the provisions of this Section, except for Subsection 5.1.3.l), and such parking level shall be deemed to be a story when its ceiling is four feet six inches or more above finished grade. Nothing contained herein shall exempt any parking structure from the requirements of the State Building Code or the applicable C.M.R.

5.1.6 Maintenance

Parking areas shall be kept clean, plowed and free from rubbish, debris and snow. All plant materials shall be maintained in a healthy condition and, whenever necessary, shall be replaced with new plant materials to insure continued compliance with landscaping requirements. All fences, barriers and walls shall be maintained in good repair and whenever necessary, shall be replaced. Whenever necessary, the surfacing, lighting and markings shall be repaired or replaced.

5.2 Earth Removal

The removal or relocation of any earth materials, including but not limited to sod, loam, sand, gravel, and stone, is hereby prohibited except in the following instances:

- (a) For the construction of building foundations or other allowable structures for which building permits have been issued.
- (b) For the construction of streets and the installation of utilities in a subdivision as approved by the Planning Board under General Laws, Chapter 41 and the Subdivision Regulations and Procedural Rules of the Planning Board.
- (c) For regrading a lot, tract, or parcel within the limits of that lot, tract, or parcel under one common ownership located totally within the Town of Needham.
- (d) For engineering works by a government agency.

- (e) For sale on the premises of humus or loam in conjunction with a farm, greenhouse, nursery, truck garden, or other permitted agricultural use.
- (f) In conjunction with a quarry or other extractive use subject to the grant of a special permit by the Board of Appeals.
- (g) For the regrading of a lot, tract, or parcel, requiring removal across a property line or across a Needham Town line subject to the issuance of a permit by the Building Inspector for quantities less than 25 cubic yards in the aggregate in any one year, except as otherwise permitted herein, and subject to the grant of a special permit by the Board of Appeals for quantities of twenty-five (25) cubic yards or more in the aggregate in any one year, except as otherwise permitted herein.

Special permits under paragraphs (f) and (g) of this Section may regulate, among other items, the amount of earth materials to be removed, the hours and periods of operation, the final grading and restoration after removal, the posting of a bond or other security and other related conditions.

5.3 General Design Requirements

The following shall apply to any development, other than single-family or two family dwellings, which creates either five or more off-street parking spaces, or 1500 square feet or more of gross floor area.

5.3.1 Access

Site arrangement and driveway layout shall provide sufficient access for emergency and service vehicles, including fire, police, and rubbish removal.

5.3.2 Drainage

Storm-water and snow melt drainage shall be provided for without causing surface flows across any public sidewalk and without creating more than a 10% increase in peak flows in any off-site drainage structures or water courses in a 25-year storm unless provisions have been made to accommodate that increase without public expense.

5.3.3 Water quality and erosion

Control measures shall be employed to mitigate any substantial threat to water quality or soil stability, both during and after construction.

5.3.4 Light

Off-site glare from headlights shall be controlled through arrangement, grading, fences, and planting. Off-site light over-spill from exterior lighting shall be controlled through luminaries selection, positioning, and mounting height so as to not add more than one foot candle to illumination levels at any point off-site.

5.3.5 Safety

Pedestrian and vehicular movement shall be protected, both within the site and egressing from it, through selection of egress points and provisions for adequate sight distances. Where apt, the design requirements of the then-current Subdivision Regulations of the Planning Board and the Needham Zoning By-Law shall be complied with for driveways.

5.3.6 Environment

Site arrangements and grading shall minimize the number of removed trees 8" trunk diameter or larger, the volume of earth cut and fill, and the area of wetlands vegetation affected.

5.4 Disposal of Low-Level Radioactive Waste

No land within any district in the Town shall be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste, except that on-site produced waste may be temporarily stored pending disposal. For purposes of this By-Law, low-level radioactive waste shall be defined as radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by product material as defined in Section 11 e(2) of the Atomic Energy Act of 1954.

5.5 Signs

Signs within the Town are regulated and controlled by Article 5 of the Town's General By-Laws.

6. SPECIAL REGULATIONS

6.1 Accessory Uses

6.1.1

Accessory uses shall be on the same lot with the building of the owner or occupant and shall not alter the character of the premises on which they are located nor impair the neighborhood.

6.1.2

There shall be permitted as an accessory use on residential property in the Single Residence A, Rural Residence – Conservation, and Institutional districts garage space for not more than three (3) cars and in the Single Residence B, General Residence, Business and Industrial districts garage space for not more than two (2) cars.

Upon application the Board of Appeals may issue a Special Permit for one additional garage space per lot, provided that the premises in questions are reasonably adaptable to such use and will allow proper layout thereof (including adequate separation of buildings or structures and open areas from adjacent premises), and provided further that the proposed use;

- (a) will not alter the character of the premises in which it is located,
- (b) will not have a material adverse effect on the value of the land and buildings or structures in the neighborhood, or on the amenities thereof, and
- (c) will not produce noise, odors or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

In acting upon applications for such Special Permits, the Board of Appeals shall be governed by the provisions of Section 7.2.

6.1.3

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

6.2 Boats, Motor Homes and Trailers

6.2.1 Occupancy

No boat, motor home or trailer, with or without motive power, hereafter put in place upon any land within the Town, shall be occupied for living purposes or business purposes within the Town for a period exceeding thirty (30) days in the aggregate in any one (1) year; provided, however, that the Board of Appeals may grant a special permit for such use on a temporary basis for no more than two (2) additional thirty (30) day periods.

In the event that a residence is destroyed by fire or other natural disaster, the owner or occupier of the residence may place a mobile home, motor home, or trailer on the site of such residence and reside in such mobile home, motor home, or trailer for a period not to exceed twelve (12) months while the residence is being rebuilt. Any such mobile home, motor home, or trailer shall be subject to the provisions of the State Sanitary Code.

6.2.2 Storage

No boat, motor home or trailer shall be placed on a lot closer than five (5) feet to any lot line in any district except that the Board of Appeals may grant a special permit for distances less than five (5) feet, where unfavorable physical conditions, such as topography or the width and the size of the lot, warrant special consideration and where the granting of a special permit would not be detrimental to the public safety.

6.3 Filling Stations and Commercial Garages

6.3.1

Every filling station pump hereafter installed shall be located at least fifteen (15) feet inside the building setback line and no filling shall be done except on the property of the filling station.

6.3.2

No permit shall be issued for a commercial garage or for a filling station, if any portion of the premises to be devoted directly or incidentally to such garage or filling station use would be located within 300 feet of any portion of premises devoted directly or indirectly to church or school use.

6.4 Outdoor Parking of Vehicles

Outdoor parking in conjunction with the sale or leasing of new or used vehicles on applications filed after September 28, 1978 is subject to the requirements as contained within this Section and such further requirements as the Board of Appeals may deem necessary.

6.4.1 Basic Requirements

- (a) The minimum lot area shall be 15,000 square feet.
- (b) The minimum frontage on one street shall conform to the minimum frontage as noted in Sections 4.2.1, 4.2.2, 4.2.3 and 4.2.4 for the zone in which the lot is located.
- (c) The width of a driveway for one-way traffic shall be a minimum of twelve (12) feet and a maximum of eighteen (18) feet; for two-way traffic the width shall be a minimum of eighteen (18) feet and a maximum of twenty-four (24) feet.
- (d) The minimum distance of driveways, measured at the lot line shall be as follows:
 - (1) from corner lot line, 20 feet;
 - (2) from interior side lot line, 10 feet;
 - (3) from other driveway on same lot, 20 feet.
- (e) Properties which are used for residential purposes and which abut an outdoor vehicle sale lot shall be protected from headlight glare by either:
 - (1) a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or
 - (2) a wall, barrier, or fence of uniform appearance at least four (4) feet high either opaque or perforated if not more than fifty (50) percent of the face is open.
 - (3) Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by normal entrances or exits and shall have no signs hung or attached thereto other than those permitted in the district.
- (f) All illumination on outdoor vehicle sales lots shall be shielded so as not to shine directly upon any property in a residential district.
- (g) No repair work of any kind shall be performed.

6.4.2 Review Criteria

In reviewing an application for a special permit under this section, the Board of Appeals shall also consider the following factors:

- (a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
- (b) Off-street parking and loading areas where required with particular attention to the items in paragraph (a) and noise, glare, or odor effects of the use on adjoining properties and properties generally in the district;
- (c) Refuse collection or disposal and service areas, with particular reference to items in paragraphs (a) and (b) above;
- (d) Screening and buffering with reference to type, dimensions, and character;
- (e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, compatibility and harmony with properties in the district;
- (f) Required yards and other open space;
- (g) General compatibility with adjacent properties and other property in the district;
- (h) Reasonable hours of operation.

6.5 Limited Heliports

6.5.1

Unless otherwise prohibited under this Zoning By-Law, Special Permits for Limited Heliports may be granted in accordance with Section 7.5.2 of the By-Law in the Industrial Districts which shall be consistent and in conformance with the standards and criteria enumerated herein and any other conditions that may be required by the Board of Appeals.

6.5.2 Basic Requirements

- (a) The proposed limited heliport is found to be desirable for public convenience and welfare.
- (b) No part of the limited heliport shall be less than 1,000 feet from a residentially zoned district (excluding Commonwealth of Massachusetts land currently devoted to the Route 128 circumferential highway as shown on the Needham Zoning Map), nor less than 800 feet from any part of a television or radio tower that is more than 150 feet in height, nor less than 1,200

feet from the base of a television or radio tower that is more than 150 feet in height, nor less than 4,500 feet from any other limited heliport, nor less than 100 feet from a public way (excluding Commonwealth of Massachusetts land devoted to Route 128 and related ramp areas).

- (c) The limited heliport shall not be utilized by a helicopter craft with a seating capacity of more than five.
- (d) The applicant shall submit a noise assessment consistent with Federal Aviation Administration guidelines contained in Advisory Circular Number 150/5020-2 or any subsequent amendments, to evaluate the acoustic impacts on the environment in the area of the proposed limited heliport.
- (e) The applicant shall submit a site plan certified by an individual possessing qualifications satisfactory to the Board of Appeals showing the direction of prevailing winds, the approach/departure pattern (including the horizontal plan and elevation profile of the flight paths to be used) and the location and height of any structures within the glide path.
- (f) Heliport landing areas at ground level shall have a minimum area of 100 feet by 100 feet which shall be paved and kept free of loose material.

The landing area shall be enclosed by a fence at least four feet in height. Heliport landing areas constructed on buildings and other elevated places shall be of a size and construction consistent with federal and state standards. In no event shall a heliport be constructed on a building or other elevated place if it is determined by the Needham Fire Department to be at a height beyond the fire fighting capabilities of its equipment.

- (g) Heliport landing areas shall be provided with means for safe collection and disposition of fuel spilled in an emergency. Adequate fire protection and firefighting equipment shall be provided in accordance with federal, state, and local requirements and shall be regularly inspected and tested.
- (h) Heliport landing areas shall be provided with lighting and wind direction indications in conformity with Federal Aviation Agency and Massachusetts Aeronautics Commission regulations and recommendations.
- (i) Unless otherwise specified in this section or within the decision of the Board of Appeals, Limited Heliport land areas shall be of a design and construction consistent with the appropriate state and federal standards.
- (j) The Board of Appeals may require evidence of application, certification and/or approval by the Massachusetts Aeronautics Commission, the Federal Aviation Administration, Civil Aeronautics Board, or other appropriate agency prior to the granting of a special permit for a limited heliport.

- (k) The Board of Appeals shall specify the hours of operation of limited heliports and the frequency of use.
- (l) A special permit granted under this section shall be subject to review by the Board of Appeals on an annual basis. The Building Inspector shall report on an annual basis to the Board of Appeals whether or not all conditions of the original special permit for the heliport have been met and if any complaints have been filed concerning the operation of the heliport with the Building Inspector or the Board. The Building Inspector shall respond to any complaints consistent with Chapter 40A.

6.6 Complex Developments

6.6.1 Intent

The intent of Complex Development provisions is to assure that in the Avery Square Business and Hillside Avenue Business districts large-scale developments are carefully tested against the Town's decision criteria relating to locations and uses, and to assure that adequate provisions are made for impacts of development.

6.6.2 Applicability

Uses made subject to Section 6.6 by designation ("SPC") in Section 3.2 Use Regulation Schedule are defined as "Complex Developments", and shall comply with the following.

Complex Developments require authorization through a special permit granted by the Planning Board under this Section, which shall serve in lieu of any special permit otherwise required under Section 3.2 Use Regulations. Application for any other special permits which might be required by the project, such as those under Section 3.4 Aquifer Protection District, regardless of agency designations elsewhere in the By-Law, may be consolidated with the Complex Development application, and acted upon by the Planning Board as Special Permit Granting Authority, proceeding as provided at Sections 7.5.2 and 7.6.1.

6.6.3 Submittal Requirements

The applicant shall submit the following materials, in report format, to allow the Planning Board to determine potential compliance with the decision criteria of Section 6.6.4 and other provisions of this By-Law without need for extensive further analysis by the Planning Board. This will entail:

- (a) Site plans with contents as required for Site Plan Review under Section 7.4, except that only schematic-level detail is required; and schematic building plans.

- (b) Impact analyses on topics which are germane to the case, including identification of public facility improvements anticipated to be made by others and those being committed by the applicant.
- (c) Description of the project timing and phasing.

6.6.4 Decision Criteria

The following shall be the basis for decisions on special permits for Complex Developments. Special permits for Complex Developments shall be granted by the Special Permit Granting Authority only upon its written determination that the proposed use will be in general harmony with the purpose and intent of the Zoning By-Law, and will not have adverse effects which over-balance its beneficial effects for either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following considerations which are applicable, among others. At the time of application, the applicant shall submit complete documentation regarding each of these considerations which are applicable, including description of any discussion efforts made with neighborhood groups or other affected parties.

6.6.4.1 Circulation

- (a) Increases in either average daily or peak hour vehicular traffic are adverse effects, even if coupled with capacity increases maintaining the level of service.
- (b) Causing the diversion of traffic onto residential streets is an adverse effect.
- (c) To avoid adversity, pedestrian and vehicular movement to, from, and within the site should be safe and convenient, and arranged so as not to disturb abutting properties.

6.6.4.2 Utilities and Other Public Services

Any unusual public problem in providing adequate water, sewerage, drainage, public safety, or other public services for a use would be an adverse effect.

6.6.4.3 Environmental Impacts

- (a) Environmental damage due to wetland loss, habitat disturbance, erosion, or damage to valuable trees or other natural assets are adverse effects.
- (b) Damage or risk to air, land, or water resources because of planned processes or unplanned contingencies are adverse effects.

6.6.4.4 Land Use Compatibility

- (a) Preempting land having special qualities suiting it for other uses, such as land having rail access being preempted from use by a non-rail using activity, is an adverse effect.
- (b) Damaging the utility and enjoyment of nearby land uses through off-site impacts is an adverse effect.

6.6.4.5 Visual Compatibility

- (a) Visibility of parking and service areas from nearby public streets is an adverse effect which can be minimized through site arrangement, use of tree cover, and other means.
- (b) Increases above the architectural scale of buildings on abutting and nearby premises is an adverse effect, except where the departure would serve some community design purpose.

6.6.5 Conditions

The Planning Board shall impose appropriate conditions to its approval as necessary to assure implementation of the intent of these provisions.

6.7 Wireless Communications Facilities

6.7.1 Intent

The purpose of this section is to accommodate the communication needs of the general public while promoting the health, safety and general welfare of the community. These purposes are to be achieved by minimizing the adverse visual effect of wireless communication equipment towers, facilities and devices, by providing safeguards for the general public, by avoiding potential damage to adjacent properties, by maximizing the use of existing towers and buildings, by concealing new equipment within or on existing towers or buildings, and by encouraging co-location of equipment to accommodate the needs of wireless communication in order to reduce the number of towers needed to service the community.

6.7.2 Definitions

For the purposes of this section, the following words and phrases shall have the following meanings:

Antenna – a device, usually a metal rod, dish or panel, for receiving and transmitting electromagnetic signals, including, but not limited to radio, video, telephone or data transmissions.

Building-mounted wireless communication equipment – both roof-mounted and façade-mounted wireless communication equipment.

Carrier – a company that provides wireless service.

Co-location – the use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

Environmental Assessment (EA) – the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

Equipment Shelter – an enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

Façade-mounted wireless communication equipment – wireless communications equipment attached to a vertical wall, exterior surface or ornamental feature other than the roof of a building or structure.

Free Standing Device – a monopole wireless service facility not requiring guy wires for support; and any other device mounted on the ground and not mounted on any existing building or structure.

Guyed Tower – a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Height – a distance measured from the average grade of the land surrounding the device to its highest point, surface or projection, in the case of free-standing devices, or a distance measured from the average grade of the land surrounding the exterior walls of a building to the highest point, surface or projection of the device, in the case of devices mounted on existing buildings.

Interior-mounted wireless communication equipment – wireless communications equipment that is wholly within a building or structure, including such equipment within a mechanical penthouse, steeples, bell towers, cupolas or other architectural features which are not completely enclosed.

Lattice-Tower – a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Monopole – the type of mount that is self-supporting with a single shaft of steel or concrete and a platform for antennas arrayed at the top.

Personal Wireless Services – Wireless telecommunications services regulated by the Federal Communications Commission (“FCC”) and defined as “personal wireless services” in Section 704, or other sections, of the Federal Telecommunications Act of 1996 as amended; by way of example but not limitation, personal wireless services include cellular telephone services, so-called personal communications services (“PCS”) and paging services.

Radio Frequency (RF) Engineer – an engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Roof-mounted wireless communication equipment – wireless communications equipment attached to the primary roof of a building.

Security Barrier – A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Wireless Communication Equipment – any device or other apparatus, fixed at a location, for transmission and reception of telecommunication that performs the function of antennas, together with any supporting structures, equipment and facilities ancillary and/or accessory thereto, including, but not limited to panel antennas, whip antennas, free-standing monopoles (not lattice shaped towers except as allowed in sections 6.7.3.1 (b), 6.7.3.1 (c) and 6.7.3.3 (h) below), dish and cone shaped antennas, satellite earth station antennas, personal wireless communication systems facilities, paging service facilities, cellular telephone service facilities, commercial mobile radio service facilities and related equipment boxes serving personal wireless services exclusively.

It is recognized that technology is rapidly changing and the definitions herein are intended to encompass such wireless communication equipment as it evolves over time.

6.7.3 Use Regulations

6.7.3.1 Permitted As of Right

The following wireless communication equipment is allowed as-of-right, subject to the criteria of section 6.7.5 and the review process of section 6.7.6, if applicable:

- (a) Equipment used solely for receiving or transmitting wireless communication customary for private residential use, even if such equipment is used in conjunction with non-residential structures, including but not limited to, a conventional television or radio antenna, fixed wireless personal communication system, direct broadcast satellite antenna one (1) meter or less in diameter, and multipoint distribution service antenna or home satellite dish of not more than two (2) meters in diameter or measured diagonally; provided that in the case of a home satellite dish that is free-standing, such satellite dish shall be installed in the rear yard only.
- (b) Equipment owned and operated by an amateur radio operator licensed by the FCC, which device shall be installed at the minimum height necessary for the functioning of amateur radio communication in accordance with the licensing requirements for that location. Such equipment, which may include a ground-mounted lattice style tower, shall be allowed in accordance with the setback requirements for primary structures in the district in which it is located. No commercial use of equipment or supporting structures which were installed for amateur radio operation is permitted.
- (c) Towers used for the purposes set forth in M.G.L. Chapter 40A, Section 3.
- (d) Antennas attached to an existing utility pole or utility structure, such as the support for an electrical transmission tower or electrical distribution pole, but no higher than ten (10) feet above the existing structure, provided that the total height from the ground to the top of the antenna does not exceed fifty-five (55) feet and provided that all control and operating equipment associated with the antenna shall be camouflaged or completely screened from view in some other manner. Antennas shall be placed on any structure so as to minimize the visual impacts off-site. This provision shall not apply within 150 feet of the right-of-way of any scenic roadway where such use shall not be permitted.
- (e) Roof-mounted wireless communication equipment in the commercial, industrial, and institutional districts (a) which does not extend more than ten (10) feet above the height of an existing building, (b) which is set back from the edge of the roof the distance it is high, and (c) whose equipment will be housed within the existing building or on the rooftop in such a way as to be not visible from the street level or to be constructed in such a way and of such material as to appear as part of the existing structure.
- (f) Façade-mounted equipment located in the commercial, industrial, and institutional districts (a) which does not extend above the face of any wall or exterior surface in the case of structures that do not have walls, (b) which is concealed within or behind existing architectural features or within material consistent with the design features and materials of

the building, (c) which does not obscure any window or other architectural feature, and (d) which has been finished in a color and style to blend with the surface on which it is mounted.

(g) All interior-mounted wireless communications equipment is allowed in commercial, industrial and institutional districts. In residential districts interior-mounted wireless communication equipment shall be permitted in existing steeples, bell towers, cupolas, and spires of non-residential buildings or structures existing on January 1, 2000.

(h) 1) An antenna used solely to receive direct broadcast satellite services, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, or used to receive video programming services via multi-point distribution services, including multichannel multipoint distribution services, instructional television fixed services and local multi-point distribution services, or to receive or transmit fixed wireless signals other than via satellite. The antenna must be one meter or less in diameter or diagonal measurement, not customary for private residential use and to be located on property within the exclusive control of the antenna user where the user has ownership or a leasehold interest in the property, provided that the antenna is not being placed on a site, building, structure or object included in, or eligible for inclusion on the National Register of Historic Places, as set forth in the National Historic Preservation Act of 1966, as amended, 16 U.S. Code 470 and provided that application is made to the building inspector for a building permit which includes sufficient information and documentation to determine that the antenna meets the requirements of this subsection and payment of a permit fee of \$100 is made.

2) In the case of an antenna that is used to transmit fixed wireless signals, a label must be affixed to the antenna that provides adequate notice of radio frequency safety hazards and references the applicable FCC adopted limits for radio frequency exposure specified in 47 CFR 1.1310.

6.7.3.2 Prohibited

Lattice style towers, guyed towers, and facilities requiring three or more legs and/or guy wires for support shall not be allowed except as permitted under 6.7.3.1 (b), 6.7.3.1 (c), and 6.7.3.3 (h). Lattice style towers, guyed towers, and facilities requiring three or more legs and/or guy wires existing or approved on the effective date of this by-law may be used for wireless communications equipment, subject to section 6.7.3.3 (f).

6.7.3.3 Special Permit

The Board of Appeals may issue a special permit under the provisions of section 7.5.2 and subject to the criteria of section 6.7.5 for:

(a) Antennas attached to an existing utility pole or utility structure not otherwise allowed in section 6.7.3.1 (d) hereof.

- (b) Roof-mounted wireless communication equipment in the commercial, industrial and institutional districts not otherwise allowed in section 6.7.3.1 (e) hereof.
- (c) Façade-mounted equipment located in the commercial, industrial and institutional districts not otherwise allowed in section 6.7.3.1 (f) hereof.
- (d) Any interior-mounted wireless communication equipment in non-residential buildings or structures not otherwise allowed in section 6.7.3.1 (g) hereof.
- (e) Satellite earth station antennas not otherwise allowed as-of-right.
- (f) Modification or addition of wireless communication equipment on or to existing free-standing monopoles or towers, except those monopoles and towers constructed for the purposes allowed in section 6.7.3.1 above.
- (g) Any equipment ancillary to antennas otherwise allowed under sections 6.7.3.1 or 6.7.3.3 hereof, which cannot be located in the rear yard and/or does not meet the setback requirements for the district in which it is located. An applicant may apply for a special permit allowing an alternate location by showing that such equipment (i) is required for successful transmission or reception or is otherwise required by the FCC, (ii) cannot due to its size or other health or safety reasons be located within the building, and (iii) cannot be located in the rear yard and/or within applicable setbacks for one or more of the following reasons: the size of the equipment; the size of the rear, front and/or side yards; the location within the rear yard or applicable setbacks would result in the removal of required parking; and the aesthetic purposes of the By-Law would be better served by such alternate location.
- (h) Free-standing monopoles and free-standing lattice towers located in the Wireless Communications Facilities Tower Overlay District which meet the criteria outlined in section 3.7.3.2 (b).

6.7.4 Submittal Requirements

Ten copies of the following information must be submitted for an application to be considered complete:

- (a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicant with original signatures.
- (b) A locus plan at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features, dwellings and other structures within one-hundred (100) feet of the property line.
- (c) Equipment brochures for the proposed wireless communication facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

- (d) Materials of the proposed wireless communication facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (e) Colors of the proposed personal wireless facility showing actual color proposed on a color board. Colors shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any.
- (f) Dimensions of the proposed wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
- (g) Appearance shown by at least two photographic superimpositions of the wireless communication facility with its antennas and/or panels presented to scale. For satellite dishes or antennas, a color photographic imposition illustrating the dish or antenna at the proposed location is required. A color photographic imposition shall also be prepared illustrating a view of the tower, dish or antenna from the nearest street or streets.
- (h) The following information must be prepared and signed by a registered professional engineer:
 - (i) a description of the facility and the technical, economic and other reasons for the proposed location, height and design.
 - (ii) confirmation that the facility complies with all applicable Federal and State standards.
 - (iii) a description of the capacity of the facility including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - (iv) if applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
 - (v) a schedule for periodic (at least annually) maintenance.
- (i) In the case of a special permit application, an application for Site Plan Review as outlined in section 7.4.4.

6.7.5 Decision Criteria

All wireless communication equipment, except that described in section 6.7.3.1 (a) must satisfy the following criteria:

- (a) Wireless communication equipment shall be installed, erected, maintained and used in compliance with all applicable federal and state laws and regulations, including, but not limited to, radio frequency emissions regulations issued pursuant to the Telecommunications Act of 1996 including all successors to such laws and regulations. An applicant seeking to construct or install wireless communication equipment shall submit a report from a qualified engineer or other appropriate professional certifying that the proposed equipment meets the requirements of these regulations. This report shall be submitted prior to any site plan approval or special permit application or at the time of a building permit application if there is no review.
- (b) Wireless communication equipment must at all times be maintained in good and safe condition and comply with all applicable FCC standards and shall be removed within 90 days of the date when all use of such equipment ceases. This provision shall apply to all wireless communication equipment and structures in support of that equipment, including such equipment and structures existing on the effective date of this section. Continued compliance with these conditions shall be maintained by the operator of the equipment and the owner of the structure. Failure to comply with these conditions shall constitute a zoning violation.
- (c) All wireless communication equipment except equipment described in section 6.7.3.1, subsection (h), shall be sited, screened, and/or painted or otherwise colored or finished to blend in with the building or structure on which it is mounted or 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. In certain circumstances, additional architectural features or changes to the façade may be necessary to maintain the balance and integrity of the design of the building or structure with building-mounted wireless communication equipment.
- (d) Wireless communication facilities shall be designed and installed at the minimum height necessary for the proper functioning of the telecommunications services to be provided at that location.
- (e) There shall be no advertising or signs on or in the vicinity of the wireless communication facility, except for no trespassing signs and a required sign, not exceeding four square feet, which shall display a phone number where a person responsible for maintenance can be reached on a twenty-four hour basis, or other signs as may be required by law.
- (f) Any fencing used to control access to wireless communication equipment shall be compatible with the visual character of the structures in the surrounding neighborhood, to the extent possible.

- (g) Equipment boxes for building-mounted wireless communication equipment must be either interior to the building on which it is located, camouflaged, and/or screened from view from the public way to the maximum extent practical.
- (h) All network connections from the communications site shall be via underground land lines except as allowed by special permit.
- (i) All free-standing wireless communication equipment must meet any setback requirements of the district in which it is located and, to the greatest extent possible, shall be screened from the public way by fencing and/or landscaping. Such equipment shall be located in the rear yard of the lot on which it is located.
- (j) No part of any building-mounted wireless communication equipment shall be located over a public way.
- (k) The construction of wireless communication equipment shall avoid major topographic changes and shall minimize the removal of trees and soil in order for any topographic changes to be in keeping with the appearance of neighboring properties.
- (l) Wireless communication facilities shall not be located in wetland.
- (m) No hazardous waste shall be discharged on the site of any wireless communication facilities. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials.
- (n) The installation of wireless communication equipment shall avoid the removal or disruption of historic resources on and off-site. Historic resources shall include designated historic structures or sites, historical architectural elements or archaeological sites.
- (o) There shall be no illumination of the wireless communication equipment except as required by state and federal law. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot candle measurements at the property line shall be 0.0 initial foot candles when measured at grade.
- (p) An applicant seeking to construct or install any external noise producing equipment ancillary to antennas shall use best efforts to minimize noise emanating from such equipment by the use of air-tight seals and noise absorbing materials on the walls and ducts of such equipment. The use of batteries as the back up power source is preferred over generators.

6.7.6 Design Review for Wireless Communication Equipment

Except for wireless communication equipment described in section 6.7.3.1 (a) and 6.7.3.1 (h) hereof, no wireless communication equipment shall be constructed or installed pursuant to section 6.7.3.1 until an application has been submitted to the Building Inspector as described in section 6.7.4.

The applicant shall simultaneously file a copy of said application with the Design Review Board. The Design Review Board shall submit an advisory report to the Building Inspector within three weeks of the application filing date. In making their report, the Design Review Board shall evaluate the application based on the requirements of section 6.7.5 and may seek input from relevant Town departments. The Building Inspector shall not approve wireless communication equipment until the advisory report of the Design Review Board has been received or three weeks have elapsed without receipt of such report, and until all required departmental approvals have been issued. The Building Inspector has the authority to deny any building permit application which the Inspector determines does not comply with the requirements of section 6.7.5.

6.7.7 Modifications

A modification to a wireless communication facility shall be considered equivalent to an application for a new wireless communication facility and will require a special permit when the following events apply:

- (a) The applicant and/or co-applicant wants to alter the terms of the special permit by changing the wireless communication facility in one or more of the following ways:
 - (i) Change in the number of facilities permitted on the site;
 - (ii) Change in the technology used for the wireless communication facility;
 - (iii) Change in the original permitted use of wireless communication.
- (b) The applicant wants to add any equipment or additional height not specified in the original design filing.

6.7.8 Monitoring and Maintenance

Once a year if requested by the Building Inspector, the owner and/or operator of a wireless communication facility shall file with the Building Inspector an updated maintenance schedule as well as evidence that the wireless communication facility complies with the applicable standards of the Federal Communications Commission, the Federal Aviation Administration and the American National Standards Institute, and that the wireless communication facility remains in use.

The applicant and co-applicant shall maintain the wireless communication facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

6.7.9 Abandonment or Discontinuation of Use

At such time that a carrier plans to abandon or discontinue operation of a wireless communication facility, such carrier shall notify the Town by certified mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the wireless communication facility shall be considered abandoned upon such discontinuation of operations.

Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless communication equipment within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- (a) Removal of antennas, equipment shelters and security barriers from the subject property.
- (b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- (c) Restoring the location of the wireless communication facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

6.7.10 Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers and monopoles in existence at the time of the adoption of this By-Law may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Board of Appeals finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Board of Appeals shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

6.7.11 Severability

A determination that any section or portion of this By-Law is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

6.8 Intensity of Use Special Permit Criteria for the NEBC, HC-128, and MU-128 Districts.

6.8.1 Applicability

Development in the NEBC, HC-128, and MU-128 districts that seeks a special permit for an increase in the floor area ratio over what is permitted by right shall be subject to the following additional special permit provisions. Provided, however, that nothing contained herein shall impair the rights conferred by Section 1.4 of this By-Law.

- (a) In granting a special permit the Planning Board (Board) shall consider all the factors noted in item b. below, and any proposed mitigation measures proposed by the applicant. The Board shall make findings as to whether the benefits, if any, of the proposed project outweigh the costs and adverse impacts, if any, to the Town. If the Board, after considering all factors noted below, finds that the proposal would benefit the Town, the Board may grant a special permit with or without specific conditions.
- (b) The Board, at a minimum, shall examine the following factors:
 - The ability of existing public infrastructure to adequately service the proposed facility without negatively impacting existing uses, including but not limited to, water supply, drainage, sewage, natural gas, and electric services.
 - Impact on traffic conditions at the site, on adjacent streets and in nearby neighborhoods, including the adequacy of roads and major intersections to safely and effectively provide access to and from the areas included in the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan, dated June 2001 (District Plan), and the areas immediately adjacent to said areas.
 - The environmental implications of the proposal and the relationship of the proposal to open space and conservation plans adopted by the Town.
 - The short and long term fiscal implications of the proposal to the Town of Needham.
 - The consistency of the project with the goals of the New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan, dated June 2001, as set forth in the document titled “Goals of the June 2001 New England Business Center, Highland Avenue Corridor, and Wexford/Charles Street Industrial District Plan”, as adopted by the Planning Board on December 11, 2001(Goals of the District Plan).
- (c) Consistent with Massachusetts Law, the Board, pursuant to regulations duly promulgated by the Board, may require the applicant to provide financial assistance so that the Board may hire professionals to assist it in the review of any factors noted in items b. and c. above.
- (d) Traffic Improvement Fee. The Board shall determine how many additional square feet of development, above those allowed by right, will be created by the grant of the special permit under this Section 6.8. Applying the Needham Zoning Bylaw Section 5.1.2. Required Parking, the Board shall determine the appropriate number of off-street parking spaces required to service that portion of the development which exceeds that permitted by right. The Board shall then require payment of a one time Traffic Improvement Fee (Fee) of \$1,500

for each such parking space. Said fee shall be paid by the applicant or the applicant's designee to the Town and shall be placed in a special revenue account entitled "Traffic Mitigation Fund" to be used for the purpose of addressing long term traffic improvements clearly related to and directly benefitting the uses within the area covered by the District Plan. The area covered by the District Plan is defined as follows: the districts themselves, the intersections of Kendrick Street and Hunting Road, all portions of the existing intersection of Interstate Route 95 and Highland Avenue, the intersection of Highland Avenue and Needham Street, Highland Avenue between Interstate Route 95 and the city of Newton line, Kendrick Street from the intersection with Hunting Road to the city of Newton line, and any planned or proposed intersection on Interstate Route 95 directly servicing the business zoning districts included in the District Plan.

- (e) Payment of Traffic Improvement Fee (Fee). The applicant may pay the entire Traffic Improvement Fee prior to receipt of the building permit for the project. In the alternative, the applicant may pay in two installments: half prior to receipt of the building permit for the project, and the other half prior to receipt of the occupancy permit for the project, provided, however, that interest on the second installment will accrue at 12% per annum from the date of payment of the first installment and must be paid with the second installment.
- (f) Site mitigation. The payment of the Fee shall not exempt developers from any on-site or access-related traffic improvements required by the special permit, or the site plan review process, and any conditions resulting from said process. Further, payment of the Fee shall not exempt any developer from any costs associated with providing other forms of infrastructure improvements, such as water, sewer, or drainage improvements, in order to provide safe and efficient use of the site.
- (g) The Planning Board shall have the discretion to require at least one or more Transportation Demand Management (TDM) programs to reduce AM peak hour volumes, as listed below:
 - Provide staggered work hours (one hour increments) for at least 10% of the non-management work force.
 - Provide preferential parking locations for all employees arriving in a car pool comprised of at least two licensed drivers.
 - Provide a cash incentive for all car pools of two or more licensed drivers. Said incentive shall be at least 40 dollars per month per car pool.
 - Provide a shuttle or van service to and from public transportation terminals. Said service must have the capacity to accommodate at least 10% of the employees on the largest shift.
 - Provide a work at home option for at least one day per week for at least 10% of the total work force.
 - Provide subsidized public transportation passes of at least 20% of the monthly pass cost.
 - Other programs designed by the applicant and approved by the Planning Board in lieu of or in addition to those listed above.

All TDM plans shall be submitted to the Planning Board as part of the special permit review process relative to this section, i.e., section 6.8. All TDM plans shall be subject to review by the Planning Department every two (2) years for compliance with previously approved TDM program terms and measures. At said time, if a particular TDM program is not being properly implemented, the applicant may revise said TDM program, and the Planning Board may make revisions to maintain or improve its effectiveness. However, to meet the requirements of the special permit all projects must maintain the minimum number of TDM programs required by the Board as long as the development in question is operating under a special permit.

6.9 Outdoor Seating

6.9.1 Applicability

Section 6.9.2 shall apply in any business district in which restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter is permitted under Section 3.2.2 of this By-Law.

6.9.2 Basic Requirements Seasonal Outdoor Seating

Seasonal temporary (i.e. April through October) outdoor seating, including but not limited to tables, chairs, serving equipment, planters, and umbrellas, for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter is permitted during normal hours of operation, subject to minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board in the case of (a) below and the Board of Selectmen in the case of (b) below, provided that:

- (a) It is within the front yard, rear yard, or side yard of the restaurant's owned, licensed, or leased property, but only if said yard abuts a public right-of-way, public property, or other public uses, provided that:
 - (i) Such use is clearly related to the restaurant conducted inside the principal building;
 - (ii) A minimum width of forty-eight inches (48"), or as otherwise provided by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the Planning Board;
 - (iii) Outdoor seating is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
 - (iv) Such use does not obstruct or otherwise interfere with visibility at intersections;
 - (v) Except as otherwise provided in subsection (b), the outdoor seating must be on the same lot as the establishment; and;
 - (vi) During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash.

- (b) It is within the public sidewalk abutting the front, rear, or side yard of the restaurant's owned or leased property so long as there remains no less than forty-eight inches (48"), or as otherwise permitted by law, of unencumbered sidewalk width remaining, or, alternatively, on a public way or other public property abutting the front, rear, or side yard of the restaurant's owned or leased property, provided that:
- (i) No temporary outdoor restaurant seating shall be permitted, unless the Board of Selectman authorizes the placement of temporary outdoor seating within the public right-of-way, public sidewalks and/or on public property;
 - (ii) Such use is clearly related to the restaurant conducted inside the principal building;
 - (iii) A minimum width of forty-eight inches (48"), or as otherwise permitted by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the Board of Selectmen;
 - (iv) Outdoor seating is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
 - (v) Such use does not obstruct or otherwise interfere with visibility at intersections;
 - (vi) The outdoor seating must be adjacent to the restaurant establishment and in front, to the rear, or to the side of, as the case may be, the front face of the restaurant's owned or leased property; and;
 - (vii) During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash.

Items (a)(i), (a)(iii), (a)(v) and (b)(ii), (b)(iv), and (b)(vi) shall not apply during special town-wide festivals or events during the year as designated by the Board of Selectmen.

Where there is authorization for the placement of seasonal temporary outdoor restaurant seating and where such seating could be interpreted to be an increase in the number of seats serving a restaurant, such seating shall not be counted toward the off-street parking or loading requirements, so long as they remain seasonal and temporary and do not increase capacity by more than thirty percent (30%).

6.10 Special Permit Criteria for a Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary

In granting a special permit for a Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 7.5.2 of this By-Law, the Planning Board shall find that the following criteria are met:

- (a) The site on which the Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary is located is at least one thousand (1,000) feet distant from a public or private elementary school, middle school, or secondary school, or a municipal park or playground, or if not located at such a distance, but located at least five hundred (500) feet distant from such protected use, it is determined by the Planning Board to be sufficiently buffered from such protected use such that its users will not be adversely impacted by the operation of the Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary. The distance under this section is measured in a straight line from the nearest point of the property line of the protected use identified in this section to the nearest point of the proposed Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary.

- (c) The Medical Marijuana Treatment Center or Off-Site Medical Marijuana Dispensary is not located in a building that contains a licensed daycare center, or any facility providing educational, recreational or social programs or activities attended primarily by children enrolled in such facility.

6.11 Retaining Walls

6.11.1 Purpose and Intent

The Town of Needham adopts this section to accomplish and ensure the following:

- (a) To allow for the review of retaining walls of a size that may impact surrounding buildings, land, and uses;
- (b) To require the construction of retaining walls in a manner consistent with engineering and construction best practices; and
- (c) To lessen the impact of large retaining walls on abutting properties and the public by encouraging the use of landscaping and aesthetically pleasing design elements.

6.11.2 Applicability

The regulations and requirements contained herein shall apply to all retaining walls erected in the Town of Needham.

6.11.3 General Provisions

- (a) Determining Retaining Wall Height - The height of a retaining wall shall be the distance from the grade at the base of the face of the wall to the top of the finished wall. Terraced walls shall be measured in the same manner.
- (b) Walls Within Yard Setbacks – No retaining wall shall be built within the required yard setback except a retaining wall (i) with a face not greater than four (4) feet in height at any point and a length that does not exceed forty (40) percent of the lot's perimeter, or (ii) as allowed by a Special Permit issued in accordance with Subsection 6.11.5 of this Section. Notwithstanding the above, retaining walls may graduate in height from four (4) to seven (7) feet in height when providing access to a garage or egress entry doors at the basement level, measured from the basement or garage floor to the top of the wall. The wall is limited to seven (7) feet in height for not more than 25% of the length of the wall.
- (c) Walls Outside Yard Setbacks. No retaining wall with a face greater than twelve (12) feet in height shall be built except as allowed by Special Permit issued in accordance with Subsection 6.11.5 of this Section.
- (d) Fall Protection - All retaining walls over four (4) feet in height shall be required to provide fall protection if so determined by the Building Inspector. Fall protection systems may include, but shall not be limited to, permanent landscaping or fencing as approved by the Building Inspector.

- (e) Terracing - Terracing of retaining walls is allowed and encouraged. In a terraced retaining wall system, if two (2) retaining walls are separated by a distance at least one times (1x) the height of the higher of the two (2) walls, the walls shall be considered as separate walls; if two (2) retaining walls are separated by a distance less than one times (1x) the height of the higher of the two (2) walls, the walls shall be considered as a single wall.
- (f) Nonconforming Retaining Walls - Retaining walls legally constructed prior to the adoption of these regulations shall be allowed to remain in their existing state; however, significant changes or alterations to such walls shall be made in conformity with these regulations. The repair and routine maintenance, as determined by the Building Inspector, of nonconforming retaining walls shall be allowed without requiring conformity with these regulations.

6.11.4 Design Review and Permitting

- (a) Design Review - Design Review shall be required for all retaining walls requiring a special permit. The Design Review Board shall review retaining walls in accordance with Section 7.7, Design Review, and shall consider such requests under those criteria contained in Subsection 7.7.4, Design Criteria, of Section 7.7. The Design Review Board shall submit an advisory recommendation to the applicant and the permit granting authority prior to the issuance of a special permit.
- (b) Permitting - A building permit shall be required, consistent with the requirements of the Town of Needham Building Department, for all retaining walls that retain four (4) or more feet of unbalanced fill.

6.11.5 Special Permit Provisions

The Board of Appeals shall consider requests for special permits in accordance with this Section and Section 7.5 of the Zoning Bylaw and a Special Permit for a retaining wall may be issued provided the Board of Appeals finds:

- (a) That the retaining wall will not cause an increase of water flow off the property;
- (b) That the requested retaining wall will not adversely impact adjacent property or the public;
- (c) That the report of the Design Review Board has been received and considered.

7. ADMINISTRATION

7.1 Enforcement

This By-Law shall be enforced by the Board of Selectmen or by a Building Inspector appointed by the Board. Any request for enforcement of this By-Law shall be in writing.

7.2 Building or Use Permit

7.2.1

No building or structure shall be constructed, relocated, added to or demolished without a permit having been issued by the Building Inspector. No such permit shall be issued until such construction, alteration or use, as proposed, shall comply in all respects with the provisions of this By-Law or with a decision rendered by the Board of Appeals. Any application for such a permit shall be accompanied by a plot plan in triplicate, drawn to a scale of one (1) inch = forty (40) feet, showing the actual shape, area and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or structures to be constructed, together with the distance from said areas to the nearest point of the proposed structure, the existing and intended use of each building or structure and all streets and ways on, and adjacent to, the lot.

7.2.2

Simultaneous Issuance of a Demolition Permit and a Building Permit - The building inspector is authorized to issue a building permit either simultaneously with or prior to a permit to demolish a structure on the same lot of land prior to the demolition of the existing structure. No construction of the new structure shall start, including excavation, until the demolition of the existing structure and proper disposal of the resulting debris has been completed and the building inspector has closed out the demolition permit.

7.2.3

Plot plans shall show existing and approved abutting street grades, driveway locations and grades for any new construction, the proposed elevation of the top of the foundation and of existing and proposed buildings or structures and existing sewers, gas, water and other public utilities in the abutting street. Plot plans shall also show such other information as may be necessary to provide for the verification of compliance with the applicable provisions and the enforcement of this By-Law, including, but not limited to, off-street parking, screening and fencing. The building inspector may waive any of the above requirements when they are not applicable. Plot plans shall be certified by a Massachusetts registered land surveyor. A record of all applications, plans and permits shall be kept on file by the Building Inspector.

7.2.4

Construction or operations under a building or special permit shall conform to any subsequent amendment of this By-Law unless the use or construction authorized by this permit is commenced within a period of six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

7.2.5

Permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a Business District, Industrial District, Industrial-1 District, or Institutional District (excluding single and two-family uses), which require a building permit under the Massachusetts State Building Code – but which are not related to construction projects previously reviewed by the Design Review Board as “Major” or “Minor Projects” under Section 7.4 Site Plan Review – shall be reviewed by the Design Review Board. (See Section 7.7 Design Review of this By-Law.) Prior to application to the Building Inspector for such permits, an application to the Design Review Board for design review shall be made in accordance with the procedures described in Subsection 7.7.3. No application for such a building or use permit shall be made by the applicant nor accepted by the Building Inspector, and no such permit shall be issued, until an advisory report has been received from the Design Review Board.

7.3 Occupancy Permit

7.3.1

No premises and no building erected, altered or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without an occupancy permit signed by the Building Inspector. Such permit shall not be issued until the premises, building or structure, and its uses and accessory uses comply in all respects with this By-Law. A record of all applications and occupancy permits shall be kept on file by the Building Inspector.

7.3.2

An occupancy permit shall be conditional on the maintenance of full compliance with the provisions of this By-Law in effect at the time of issuance or with restrictions imposed in a decision of the Board of Appeals or Planning Board and shall lapse if such compliance fails.

7.4 Site Plan Review

7.4.1 Purpose

The purpose of this Section is to provide a comprehensive review procedure for construction projects, herein defined, to insure compliance with the goals and objectives of the Master Plan, and the provisions of the Zoning By-Law, to minimize adverse impacts of such development, and to promote development which is harmonious with surrounding areas.

7.4.2 Definitions

For the purposes of this Section the following definition of terms should apply to any construction project excluding single and two family homes.

MAJOR PROJECT – Any construction project which involves: the construction of 10,000 or more square feet gross floor area; or an increase in gross floor area by 5,000 or more square feet; or any project which results in the creation of 25 or more new off-street parking spaces.

In a Chestnut Street Business District, a **MAJOR PROJECT** is any construction project which involves: the new construction or reconstruction of any amount of gross floor area; or an increase in gross floor area of 1,000 or more square feet; or any project which results in the creation of 10 or more new off-street parking spaces; or any project which results in any new curb- or driveway-cut.

In a Business, Avery Square Business, or Hillside Avenue Business District, a **MAJOR PROJECT** is any construction project which involves a new building; or an addition which increases gross floor area of an existing building by 1,000 or more square feet; or any project which results in the creation of 10 or more new off-street parking spaces; or any project which results in any new curb- or driveway-cut.

In the Center Business District, a **MAJOR PROJECT** is any construction project which creates or adds gross floor area; or any project which involves a change in part or all of an existing building or lot from one use category to another as defined under Subsection 3.2.2 of this By-Law and which results in an increase in the number of required parking spaces by 10 or more new off-street parking spaces or which results in an increase in the required number of loading spaces; or any project which results in the construction of any additional off-street parking spaces; or any project which results in any new curb- or driveway-cut. Notwithstanding the aforementioned, if a special permit is otherwise required under Subsection 1.4 or Subsection 3.2.2 of this By-Law, the Planning Board shall be the Special Permit Granting Authority as to the use.

In the Neighborhood Business District, a **MAJOR PROJECT**, is any construction project which creates or adds gross floor area; or any project which involves a change in part or all of an existing building or lot from one use category to another as defined under Subsection 3.2.3 of this By-Law and which results in an increase in the number of required parking spaces by 4 or more

new off-street parking spaces or which results in an increase in the required number of loading spaces; or any project which results in the construction of any additional off-street parking space; or any project which results in any new curb- or driveway-cut.

In the Needham Center Overlay District, Lower Chestnut Street Overlay District, or Garden Street Overlay District, a **MAJOR PROJECT** shall be as defined above in the Center Business District.

In the Elder Services Zoning District a **MAJOR PROJECT** shall be defined as any construction project which involves the construction of 10,000 or more square feet gross floor area; or increase in gross floor area by 5,000 or more square feet; or any project which results in the creation of 25 or more off-street parking spaces; or any project that results in any new curb or driveway cut.

MINOR PROJECT – Any construction project which involves: the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area, after the increase, is 5,000 or more square feet – and the project cannot be defined as a Major Project.

In a Chestnut Street Business District, a **MINOR PROJECT** is any construction project which involves an increase in gross floor area of less than 1,000 square feet – and the project cannot be defined as a Major Project.

In a Business, Avery Square Business, or Hillside Avenue Business District, a **MINOR PROJECT** is any project which results in the construction of a new parking lot or expansion of an existing lot and the addition of from 1 to 9 new off-street parking spaces – and the project cannot be defined as a Major Project.

In the Center Business District, a **MINOR PROJECT** is any construction project which involves a change in the exterior façade of a building and the project is not a Major Project as defined by this By-Law. Notwithstanding any provision of this Section 7.4 requiring site plan approval by the Planning Board, any construction project which only involves a change in the exterior façade of a building shall be subject to review by and approval of the Design Review Board. Any person aggrieved by a decision of the Design Review Board may seek de novo review of the façade change from the Planning Board, which may approve or disapprove the façade change, by filing an application with the Planning Board within ten (10) days of the Design Review Board's filing of its decision with the Building Inspector. At least seven days prior to the Planning Board's meeting scheduled to review the application (see next sentence), if the aggrieved party is the original applicant, said original applicant shall post a Planning Board approved form of notice of the meeting in a publicly visible location upon the subject building and place a copy of said approved form of notice in a local paper. Within twenty (20) days of receipt of the application, the Planning Board shall hold a meeting, to which the original applicant shall be invited, for the purpose of conducting a review of the proposed façade changes. Within fifteen (15) days of the meeting, the Planning Board shall issue its decision and deliver copies of same to the applicant, the Design Review Board and the Building Inspector.

In the Medical Overlay District, a **MAJOR PROJECT** is any construction project that involves the creation of twenty (20) or more new off-street parking spaces, any project that results in any new curb or driveway cut, or an increase in gross floor area of 5,000 or more square feet. A **MINOR PROJECT** is any construction project that involves an increase in gross floor area of more than 2,500 square feet but less than 5,000 square feet, and the project cannot be defined as a Major Project.

In the Needham Center Overlay District, Lower Chestnut Street Overlay District, or Garden Street Overlay District, a **MINOR PROJECT** shall be as defined above in the Center Business District.

In the Elder Services District a **MINOR PROJECT** shall be defined as any construction project which involves the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet - and the project cannot be defined as a Major Project.

In the New England Business Center, Highland Commercial-128, and Mixed Use-128 Districts a **MAJOR PROJECT** is any construction project that involves: the construction of 10,000 or more square feet gross floor area, an increase in gross floor area of 5,000 or more square feet, or any project that results in the creation of 25 or more new off-street parking spaces. A **MINOR PROJECT** is any construction project that involves the construction of more than 2,500 but less than 10,000 square feet gross floor area, an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet, and the project cannot be defined as a Major Project. Further, projects that require a building permit under the Massachusetts State Building Code, but which are not related to construction projects previously reviewed by the Design Review Board as “Major” or “Minor Projects” under Section 7.4 site plan review, shall be reviewed by the Design Review Board.

7.4.3 Requirements

A Site Plan Review shall be performed by the Planning Board for each major and minor project prior to the filing of an application for a building permit.

MINOR PROJECT WHICH REQUIRES A SPECIAL PERMIT FROM THE BOARD OF APPEALS UNDER SECTION 3.2 – In the case of a minor project which requires a special permit from the Board of Appeals, as identified in Section 3.2. Schedule of Use Regulations, the Planning Board shall perform a Site Plan Review and submit its recommendations to the Board of Appeals within thirty-five (35) days of the date of filing with the Planning Board; otherwise failure to make such recommendations shall be deemed a lack of opposition thereto. In the event the public hearing by the Board of Appeals is held prior to the expiration of the thirty-five (35) day period, the Board of Appeals shall continue the hearing to permit the submission of recommendations within that period. The decision of the Board of Appeals shall contain

explanatory reasons for its action if it is contrary to the recommendations of the Planning Board. The Planning Board may schedule a meeting(s) with the applicant during the review period.

MINOR PROJECTS – In the case of a minor project not requiring a special permit from the Board of Appeals and except as provided otherwise in Section 7.4.2 for a minor project that only involves a change in the exterior façade of a building in the Center Business District, the Planning Board shall conduct the Site Plan Review and issue a report to the applicant with a copy of said report to the Building Inspector within thirty-five (35) days from the date of filing of the Site Plan. Failure of the Board to issue said report within the 35 days shall be construed as satisfying this section.

MAJOR PROJECTS – No building, use or occupancy permit for any improvement to real property which constitutes a Major Project under this By-Law shall be issued, except in accordance with the terms of a special permit for such project, after site plan review as further set forth herein. A special permit shall be required for every Major Project, regardless of whether the contemplated use thereof is designated as permissible, as of right or by special permit, under the table of uses set forth in Section 3.2 of this By-Law. The special permit granting authority for all permits the issuance of which is necessary for the construction or use of a Major Project shall be the Planning Board, which, for such purposes, shall have all the powers conferred upon such special permit granting authorities by General Laws Chapter 40A, and shall conduct its business in accordance with the notice, hearing and decisional requirements there set forth, and in accordance with the requirements of this By-Law.

Prior to issuance of a Certificate of Occupancy by the Building Department, the Building Inspector or his designee shall transmit an approval of the completed project as conforming to the approved site plan special permit to the Planning Board.

7.4.4 Procedure

An application for Site Plan Review and ten (10) copies shall be submitted to the Planning Board concurrent with the submission of a copy to the Town Clerk. At the same time application materials shall be submitted to the Design Review Board, along with an application for design review, in accordance with the procedures described in Subsection 7.7.3 of Section 7.7. Design Review.

The applicant shall include in the application an itemized list of sections of the By-Law under which relief by special permit is or may be required for the construction or use of the project. The applicant shall certify either: (i) that the project can be constructed and/or the proposed use thereof commenced, without need for the issuance of any variance from any provision of this By-Law by the Zoning Board of Appeals, or (ii) that any and all variances necessary for the construction and/or use of the proposed project have been secured, and the period established by law for appeal from the granting thereof has expired without notice of any such appeal having been filed in the office of the Town Clerk.

Upon receipt of an application, the Planning Board shall transmit a set of application materials to the Department of Public Works, Town Engineer, Fire Department, Design Review Board and to any other Town agency as deemed appropriate. Within thirty-five (35) days of receipt of said application materials for Major Projects, each of the Town agencies named above shall review and recommend in writing to the Planning Board regarding the proposed Site Plan(s).

In addition to a preliminary design review report from the Design Review Board, as described in Section 7.7, the Design Review Board shall also submit a final design review report within seventy-five (75) days of the date of its having received an application for design review related to a Major Project.

In the case of Minor Projects, each of the Town agencies named above except the Design Review Board shall review and recommend in writing to the Planning Board within fifteen (15) days of receipt of said application materials regarding the proposed Site Plan. The advisory report of the Design Review Board shall be transmitted directly to the applicant and Building Inspector within thirty-five (35) days of receipt of the application for Site Plan Review.

The application for Site Plan Review shall be accompanied by a site plan with supporting documentation which shall show, among other data, the following:

- (a) locus plan;
- (b) location of structures within 100 feet of property line;
- (c) existing and proposed building showing setback from property lines;
- (d) building elevation, to include penthouses, parapet walls and roof structures; floor plans of each floor; cross and longitudinal views of the proposed structure(s) in relation to proposed site layout, together with an elevation line to show the relationship to the center of the street;
- (e) existing and proposed contour elevations in one foot increments;
- (f) parking areas, including type of space, dimensions of typical spaces, and width of maneuvering aisles and landscaped setbacks;
- (g) driveways and access to site, including width of driveways and driveways openings;
- (h) facilities for vehicular and pedestrian movement;
- (i) drainage;
- (j) utilities;
- (k) landscaping including trees to be retained and removed;

- (l) lighting;
- (m) loading and unloading facilities;
- (n) provisions for refuse removal;
- (o) projected traffic volume in relations to existing and reasonably anticipated conditions;
and
- (p) other information as may be necessary to determine compliance with the provisions of the Zoning By-Law.

Upon request the Planning Board may, at its discretion, waive the submission by the applicant of any of the required information.

7.4.6 Review Criteria

In conducting the Site Plan Review, the Planning Board shall consider the following matters:

- (a) Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light, and air;
- (b) Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;
- (c) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;
- (d) Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;
- (e) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this By-Law; and
- (f) Mitigation of adverse impacts on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection, and streets; and may require when acting as the Special Permit Granting Authority or recommend in the case of minor projects, when the Board of Appeals is

acting as the Special Permit Granting Authority, such appropriate conditions, limitations, and safeguards necessary to assure the project meets the criteria of a through f.

7.5 Board of Appeals

The Board of Appeals consists of three (3) regular members and two (2) associate members as authorized and established by General Laws, Chapter 40A, the Special Home Rule Charter Act and Article VIII of the General By-Laws is the Board of Appeals intended and referred to in this By-Law. Subject to and consistent with all the authority, power and duties imposed upon the Board of Appeals by said General Laws, Special Home Rule Charter Act and the General By-Laws, said Board of Appeals shall exercise and perform the authority, powers and duties set forth therein, elsewhere in this By-Law and the following:

7.5.1 Appeals

To hear and decide an appeal taken by any person aggrieved by reason of his (her) inability to obtain a permit or enforcement action from the Building Inspector under the provisions of General Laws, Chapter 40A and/or this By-Law, by the Metropolitan Area Planning Council or by any person including an officer or board of the Town of Needham or of any abutting city or town aggrieved by an order or decision of the Building Inspector in violation of any provision of the General Laws, Chapter 40A or this By-Law.

7.5.2 Special Permits

To hear and decide an application for a special permit for a use, building, structure, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity where it would not otherwise be permitted but only in those cases where this By-Law specifically refers to a change from the provisions of this By-Law by the granting of a special permit and only in those cases where the Board of Appeals makes the finding and determination set forth in subparagraph 7.5.2.1. An applicant is not entitled to a special permit and the Board of Appeals, in its discretion, may decline to grant a special permit if it is unable to make a positive finding and determination as required in subparagraph 7.5.2.1.

A special permit shall lapse within a specified period of time, not more than two years, and including any time required to pursue or await the determination of an appeal pursuant to General Laws, Chapter 40A, Section 17, and if a substantial use thereof has not sooner commenced except for good cause or in the case of a permit for construction has not begun within the period except for good cause.

7.5.2.1 Finding and Determination

Prior to granting a special permit, the Board of Appeals shall make a finding and determination that the proposed use, building, structure, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity, which is the subject of the application for the special permit:

- (a) complies with such criteria or standards as may be set forth in the section of this By-Law which refers to the granting of the requested special permit;
- (b) is consistent with: 1) the general purposes of this By-Law as set forth in subparagraph 1.1, and 2) the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in this By-Law, such as, but not limited to, those at the beginning of the various sections;
- (c) is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area.

Where the Board of Appeals determines that one or more of the following objectives are applicable to the particular application for a special permit, the Board of Appeals shall make a finding and determination that the objective will be met:

- (d) the circulation patterns for motor vehicles and pedestrians which would result from the use or structure which is the subject of the special permit will not result in conditions that unnecessarily add to traffic congestion or the potential for traffic accidents on the site or in the surrounding area; and
- (e) the proposed use, structure or activity will not constitute a demonstrable adverse impact on the surrounding area resulting from:
 - 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area,
 - 2) emission or discharge of noxious or hazardous materials or substances, or
 - 3) pollution of water ways or ground water.

7.5.2.2 Conditions for Approval of a Special Permit

In addition to the conditions, standards and criteria as may be set forth in the section of this By-Law that refers to the granting of the special permit, the Board of Appeals may impose additional conditions and limitations, as it deems necessary to insure that the finding and determination that it must make under subparagraph 7.5.2.1 is complied with, including but not limited to:

- (a) screening or landscaping of structures or of principal or accessory uses from view from adjoining lots or from a street, by planting, walls, fences or other devices; planting of larger planting strips, with more or larger plant materials or higher walls or fences than that required in Sections 4.2.14 and 4.4.8.5;
- (b) modification of the exterior features or appearance of a building or structure to ensure compatibility with surrounding buildings and uses;
- (c) limitations on the size, number of occupants or employees, method or hours of operation, extent of facilities or other operating characteristics of a use;
- (d) regulation of the number, design and location of access drives or other traffic features of the proposed use;
- (e) provision of a greater number of parking spaces or loading bays with estimates based on the ITE Parking Generation Manual, 2nd Edition, or an alternative technical source determined by the Board of Appeals to be equally or more applicable, but only in such cases that the Board of Appeals makes a finding that the proposed use generates parking demand in excess of that required by the By-Law;
- (f) limitations on construction activities, such as but not limited to, the hours during which construction activity may take place, the movement of trucks or heavy equipment on or off the site, measures to control dirt, dust, erosion and to protect existing vegetation on the site;
- (g) requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Inspector, if necessary to insure continuing compliance with the conditions of a special permit or of this By-Law;
- (h) limitations on the period of time the special permit shall be in effect; and
- (i) such other limitation as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

7.5.2.3 Security for Special Permits

The Board of Appeals, as a condition of granting a special permit may require that the performance of the conditions and observance of the safeguards of such special permit be secured by one, or in part by one and in part by the other, of the methods described in the following clauses (a) and (b). The Board of Appeals shall administer this securing of performance.

- (a) **Bond or Deposit:** By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the Board of Appeals to secure performance of the conditions and observance of the safeguards of such special permit.
- (b) **Covenant:** By a covenant running with the land, executed and duly recorded by the owner of record, whereby the conditions and safeguards included in such special permit shall be performed before any lot may be conveyed other than by mortgage deed. Nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant of the entire parcel of land, the development of which is governed by the special permit.

7.5.2.4 Reduction of Security

Until completion of the development, the penal sum of any deposit or security held under clause 7.5.2.3 (a) above may from time to time be reduced by the Board of Appeals by an amount not to exceed 85% of the value of work originally estimated.

7.5.2.5 Release of Security

Upon the completion of the development or upon performance of the conditions and safeguards imposed by such special permit, security for the performance of which was given, the applicant shall send by registered mail to the Board of Appeals an affidavit that the conditions and safeguards in connection with which such security has been given have been complied with. If the Board of Appeals determines that the conditions and safeguards of the special permit have been complied with, it shall release the interest of the Town in such security, return or release the security to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged. If the Board of Appeals determines that the conditions or safeguards included in the special permit have not been complied with, it shall specify the conditions or safeguards with which the applicant has not complied in a notice sent by registered or certified mail, to the applicant.

7.5.2.6 Board of Appeals Failure to Act

If the Board of Appeals fails to send such a notice within sixty days after it receives the applicant affidavit, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant become void.

7.5.2.7 Applicant Failure to Complete Work

Upon failure of the applicant to complete such work to the satisfaction of the Board of Appeals in accordance with all applicable plans, regulations and specifications, the Town shall be

entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

7.5.3 Variances

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

In the case of every appeal made to the Board of Appeals, every petition for a variance, and every application for a special permit to said Board under the provisions of this By-Law, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting said notice in the Town Hall for a period of not less than fourteen days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line including owners of land in another municipality all as they appear on the most recent applicable tax lists, the Planning Board, and the Planning Board of every abutting municipality. The assessors shall certify to the Board the names and addresses of the parties in interest.

In the case of an appeal from a decision of the Building Inspector and of a variance, a petition shall be filed with the Town Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing, unless said time limits for holding the public hearing or rendering a decision have been extended by written mutual agreement between the petitioner and the board, such agreement(s) having been filed with the Town Clerk. Failure by the Board to take final action upon a petition within the one-hundred day period, or any mutually extended time period, shall be deemed to be a grant of the appeal or the variance applied for. (See M.G.L., Ch. 40A, S.15 as amended for further procedural requirements.)

In case of a special permit, an application shall be filed with the Town Clerk who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing, unless said time limits for holding the public hearing or rendering the decision have been extended by written mutual agreement between the petitioner and the Board, such agreement(s) having been filed with the Town Clerk. Failure to take final action upon an application within the said ninety-day period shall be deemed to be a grant of the permit applied for. (See M.G.L., Ch. 40A, S. 9 as amended for further procedural requirements.)

7.6 Planning Board

7.6.1 Special Permit Granting Authority

The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8 and 7.4 of this By-Law. In all other cases, the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.

7.6.2 Recommendations to the Board of Appeals

Any application filed with the Board of Appeals under Section 7.5 hereof shall be referred upon acceptance of the application by the Board of Appeals to the Planning Board for a report and recommendation relative thereto as provided by General Laws, Chapter 41, Section 81-I, and Chapter 40A, Section 11. The Planning Board shall make its report to the Board of Appeals by the date of the public hearing. Failure to make recommendations within thirty-five (35) days of receipt of the application by the Planning Board shall be deemed lack of opposition thereto.

7.7 Design Review

7.7.1 Purpose

It is the intent of this Section to provide for a detailed design review of structures and that aspect of design related to uses having substantial impact on the Town, upon its traffic, infrastructure and property values, thereby affecting the public health, safety and general welfare; to prevent blight; to enhance the natural and aesthetic qualities of the Town; to conserve the value of land and buildings; and to protect and preserve the historic and cultural heritage of the Town.

7.7.2 Design Review Board

7.7.2.1 Composition

For the purposes of this Section 7.7, there shall be a Design Review Board appointed by the Planning Board and Board of Selectmen and consisting of five regular members plus two alternate members. Three regular members of the Design Review Board shall be appointed by the Planning Board and two regular members plus the two alternate members shall be appointed by the Board of Selectmen. Each of the persons appointed shall be a resident of the Town of Needham. In part, the persons appointed as regular members shall have the following backgrounds and skills:

- (a) Two members qualified by training or education and experience in the art or design professions – one to be appointed by the Planning Board and one by the Board of Selectmen;
- (b) One member qualified by training or education and experience in the fine arts or landscape design to be appointed by the Planning Board;
- (c) One member doing retail business in the Town to be appointed by the Board of Selectmen.

Upon the initial formation of the Board, the Planning Board and Board of Selectmen shall appoint two alternates and one regular member to 1-year terms, two regular members to 2-year terms, and two regular members to 3-year terms; their successors shall be appointed for terms of three years. Three members shall constitute a quorum for meetings, and all actions of the Design Review Board shall require an affirmative vote of three or more members. In the event a regular member is unable or refuses to sit, the Chairman of the Design Review Board shall designate an alternate to sit in place of that absent member.

7.7.2.2 Authority and Specific Powers

The Design Review Board shall review requests for site plan review and approval submitted in accordance with Section 7.4 Site Plan Review and requests for special permits in accordance with Section 4.2.11 Planned Residential Development, Section 4.2.10 Flexible Development and Section 6.11 Retaining Walls and, for a minor project that only involves a change in the exterior façade of a building in the Center Business District, shall review and may approve such façade change.

The Design Review Board shall review permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a Business District, Chestnut Street Business District, Lower Chestnut Street Overlay District, Garden Street Overlay District, Center Business District, Needham Center Overlay District, Avery Square Business District, Hillside Avenue Business District, Neighborhood Business District, New England

Business Center District, Highland Commercial-128 District, Mixed Use-128 District, Industrial District, Elder Services Zoning District, Industrial-1 District, or Institutional District (excluding single and two-family uses), which require a building permit under the Massachusetts State Building Code – but which are not related to projects previously reviewed as “Major” or “Minor Projects” under Site Plan Review. The Design Review Board shall also review requests for all sign permits, as required under Article 5 of the Needham General By-Laws.

It shall evaluate such requests based on Subsection 7.7.4 Design Criteria below. Its findings and recommendations, along with any suggested restrictions and conditions, shall be transmitted to the applicant and Planning Board, acting as a special permit granting authority for “Major Projects” under Site Plan Review, Planned Residential Developments and Flexible Developments and to the applicant and Board of Appeals, acting as a special permit granting authority, under Section 6.11 Retaining Walls. Such advisory reports of the Design Review Board shall be transmitted to the Building Inspector and applicant in all other instances as described in the two paragraphs above for “Minor Projects” under Site Plan Review, building permits in all non-residential districts and sign permits. For a minor project that only involves a change in the exterior of a building in the Center Business District, the Design Review Board shall be the review and approval entity for such façade changes.

7.7.3 Procedure

An application for Design Review shall be submitted to the Design Review Board simultaneously with any application submitted to the Planning Board for Site Plan Review, Planned Residential Development or Flexible Development, or prior to any application for a building permit or any construction activity as described in the second paragraph of Subsection 7.7.2.2 (See Section 7.2 of the By-Law for application procedure for such building permits and Article 5 of the General By-Laws for application procedure for all sign permits.)

Within twenty (20) days of receipt of a Design Review application, the Design Review Board shall hold a meeting, to which the applicant shall be invited, for the purpose of conducting a review of the proposed project or activity. Within fifteen (15) days of the meeting, a preliminary design review report shall be sent both to the applicant and to the Planning Board, when a special permit is required under Sections 7.4, 4.2.11 and 4.2.10. However, if the proposed project or activity involves only a building permit or sign permit from the Building Inspector, or is a “Minor Project” under Site Plan Review (all as described in Subsection 7.7.2.2), no preliminary report is required and the written advisory report of the Design Review Board to the applicant and the Building Inspector shall be a final report.

In connection with the Design Review Board’s authority to review and approve exterior façade changes in the Center Business District pursuant to Section 7.4.2, an application shall be submitted to the Design Review Board. At least seven days prior to the Design Review Board meeting scheduled to review the application (see next sentence), the applicant shall post a Planning Board approved form of notice of the meeting in a publicly visible location upon the subject building and place a copy of said approved form of notice in a local paper. Within twenty (20) days

of receipt of the application, the Design Review Board shall hold a meeting, to which the applicant shall be invited, for the purpose of conducting a review of the proposed exterior façade changes. Within fifteen (15) days of the meeting, the Design Review Board shall issue its decision and deliver copies of same to the applicant, the Planning Board and the Building Inspector.

In the case of a Special Permit for Site Plan Review, Planned Residential Development or Flexible Development, a preliminary design review report shall be submitted to the Planning Board, with a copy to the applicant, within thirty-five (35) days of the date of receipt of the application. A final advisory report shall be issued to the applicant and to the Planning Board within seventy-five (75) days of the date of receipt of the application for Design Review.

In addition to the submission materials listed in Sections 4.2.11 Planned Residential, 7.4 Site Plan Review or 7.2 Building or Use Permit, respectively, an application for Design Review shall contain the requisite number of materials listed in the “Rules and Regulations” of the Design Review Board.

7.7.4 Design Criteria

The Design Review Board shall review requests for site plan reviews and special permits, as well as for building permits for certain construction activities, all as described in Subsection 7.7.2.2, based on the following standards:

- (1) Preservation and enhancement of landscaping – The landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- (2) Relation of buildings to environment – Proposed development shall be related harmoniously to the terrain and to the use, scale and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings with respect to:
 - (a) height
 - (b) street façade
 - (c) spatial relationships of solids and voids
 - (d) spacing of buildings or signs
 - (e) materials, textures and colors
 - (f) roof slopes
 - (g) scale
- (3) Open Space – All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby area properties.

- (4) Signs and advertising devices – The size, location, design, color, texture, lighting and materials of signs and advertising devices shall be in harmony with significant architectural features of existing and proposed buildings and structures and with surrounding properties.
- (5) Heritage – Protection and enhancement of historic, traditional or significant uses, structures, or architectural elements shall be considered insofar as practicable.

In addition, to paragraph (4) above, the Design Review Board shall review requests for sign permits according to the design guidelines listed in Section 3.5 of Article 5 of the General By-Laws.

For requests for site plan reviews and special permits in the Needham Center Overlay District, the Lower Chestnut Street Overlay District and the Garden Street Overlay District, the Design Review Board shall consider, in addition to paragraphs (1) through (5) above, the design guidelines set forth in Sections 3.8, 3.9 and 3.10 of this By-Law.

7.8 Repetitive Petitions

7.8.1

No proposed change in this By-Law which has been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended in the final report of the Planning Board.

7.8.2

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be acted favorably upon within two years after the date of final unfavorable action unless (1) all but one of the members of the Planning Board consent to a repetition after notice is given to parties in interest of the time and place of the proceedings to consider consent and (2) the Board of Appeals finds specific and material changes in the conditions upon which the previous unfavorable action was based, describes such changes in its records and similarly consents.

7.9 Penalties

Any person, firm or corporation violating any section or provision of this By-Law shall be subject to a fine not exceeding one hundred dollars (\$100.00) for the first offense and three hundred dollars (\$300.00) for each subsequent offense. Each day, or part thereof, that any violation continues shall constitute a separate offense.

7.10 Amendment

This By-Law may be amended from time to time at an Annual or Special Town Meeting. An amendment may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, an individual owning land in the Town to be affected by the amendment, registered voters of the Town pursuant to General Laws, Chapter 39, Section 10, the Planning Board and the Metropolitan Area Planning Council. Within fourteen (14) days of the receipt of the proposed change, the Board of Selectmen shall submit it to the Planning Board. A public hearing shall be held within sixty-five (65) days after the proposed change is submitted to the Board.

7.11 Severability

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

7.12 Effective Date

The effective date of an amendment to this By-Law shall be the date on which such amendment was adopted by a favorable two-thirds vote of Town Meeting, subject to its approval by the Attorney General and its publication in a town bulletin or pamphlet and posting or publication in a newspaper pursuant to General Laws, Chapter 40, Section 32.

8. Temporary Moratorium on the Sale and Distribution of Recreational Marijuana

8.1 Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved Chapter 334 of the Acts of 2016, which was amended by Chapter 351 of the Acts of 2016, regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law as amended provides that it is effective on December 15, 2016 and the Cannabis Control Commission is required to issue regulations regarding implementation by March 15, 2018.

Currently under the Zoning By-Law, Recreational Marijuana Establishments and Marijuana Retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Control Commission are expected to provide guidance to the Town in regulating Recreational Marijuana Establishments and Marijuana Retailers. Further, Chapter 334 establishes two important provisions that relate to ballot action that the Town may wish to take prior to the adoption of Zoning By-Law amendments relating to Recreational Marijuana Establishments. First, under Section 3 of General Laws Chapter 94G inserted by Section 5 of Chapter 334 the Town may,

by ballot, determine whether it will adopt a By-Law that will limit the number of marijuana establishments in the Town or govern the time, place and manner of marijuana establishment operations in such a way as to require a vote of the voters of the Town and second, by ballot that cannot occur prior to November 6, 2018, the next biennial state election, on whether to allow on-site consumption of marijuana products.

The regulation of Recreational Marijuana Establishments and Marijuana Retailers raise novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and Marijuana Retailers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning By-Law regarding regulation of Recreational Marijuana Establishments and Marijuana Retailers and other uses related to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments and Marijuana Retailers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning By-Law in a manner consistent with sound land use planning goals and objectives.

8.2 Definitions

“Manufacture”, to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

“Marijuana accessories”, equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

“Marijuana cultivator”, an entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

“Marijuana establishment”, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, not including any registered or medical marijuana dispensary as authorized by Chapter 369 of the Acts of 2012 – An Act for the Humanitarian Medical Use of Marijuana or as regulated by Massachusetts Department of Public Health Regulations 105 CMR 725.000.

“Marijuana product manufacturer”, an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

“Marijuana products”, products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

“Marijuana testing facility”, an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

“Marijuana retailer”, an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers, not including any registered or medical marijuana dispensary as authorized by Chapter 369 of the Acts of 2012 – An Act for the Humanitarian Medical Use of Marijuana or as regulated by Massachusetts Department of Public Health Regulations 105 CMR 725.000.

8.3 Temporary Moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning By-Law to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and Marijuana Retailers and the sale of marijuana, but not including any marijuana sold for medical purposes by a registered or medical marijuana dispensary as authorized by Chapter 369 of the Acts of 2012 – An Act for the Humanitarian Medical Use of Marijuana or as regulated by Massachusetts Department of Public Health Regulations 105 CMR 725.000. The moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and Marijuana Retailers and related uses, determine whether the town shall limit the number of marijuana establishments in the Town or govern the time, place and manner of marijuana establishment operations, determine whether the town will prohibit on-site consumption at Recreational Marijuana Establishments and Marijuana Retailers and shall consider adopting new provisions of the Zoning By-Law to address the impact and operation of Recreational Marijuana Establishments and Marijuana Retailers and related uses.

8.4 Severability.

The provisions of this By-Law are severable. If any provision, paragraph, sentence, or clause of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid.