ZONING BY-LAW

HINGHAM
MASSACHUSETTS

REVISED THROUGH APRIL 2015

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SECTION I

Administration and Procedure

I-A Authority and Purpose

1. This By-Law shall be known and may be cited as the Zoning By-Law of the Town of Hingham and is adopted by virtue of and pursuant to the provisions of Massachusetts General Laws Chapter 40A as amended by Chapter 808 of the Acts of 1975, as amended.

2. The purposes of the By-Law include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the Master Plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and, to preserve and increase amenities. Regulations may be promulgated in accordance with the provisions of Massachusetts General Laws Chapter 40A, as amended, in order to fulfill the purposes of this By-Law.

3. Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting, or regulating the use, alteration, size, bulk height, area, and location of buildings and structures and the use of premises in the Town of Hingham.

I-B Basic Requirements

All buildings or structures hereafter erected, reconstructed, altered, enlarged or moved, or use of premises in the Town of Hingham, shall be in conformity with the provisions of this By-Law. Any building, structure, or land shall not be used for any purpose or in any manner other than is permitted in the district in which such building, structure or land is located.

Any use not specifically provided for in a district herein shall be deemed to be prohibited. In accordance with Massachusetts 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 (1) by the Commonwealth of Massachusetts or any of its agencies, subdivisions, or bodies politic or (2) by a religious sect or denomination, or (3) by a nonprofit 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 areas, setbacks, open space, parking, and building coverage requirements in accordance with the provisions of this By-Law. Such uses shall not be exempt from the general or specific regulations of this By-Law other than use regulations.

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, electrical interference or substantial erosion or flooding which may affect or impair the normal use and peaceful enjoyment of any property, structure, or dwelling in the neighborhood.

No land within any use district in the Town of Hingham may be used for the collection, treatment, storage, burial incineration of radioactive waste, including but not limited to, wastes classified as low-level radioactive waste.

I-C Enforcement

Except as otherwise provided, this By-Law shall be enforced by the Building Commissioner. No application of any kind of plans or specifications or intended uses shall be approved by the Commissioner unless they are in all respects in conformity with this By-Law.

1. No building shall be constructed, altered or moved and no use of land or building shall be begun or changed without a permit having been issued by the Building Commissioner. No such permit shall be issued until such construction, alteration or use, as proposed, shall comply in all respects with this By-Law or with a decision of the Board of Appeals. Any application for such a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the locations of new buildings to be constructed, together with the lines within which all buildings and structures are to be erected, the existing and proposed use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this By-Law. A record of all applications, plans, and permits shall be kept on file by the Building Commissioner. 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 made or commenced within a period of not more than six (6) months after the issuance of the permit and, in cases involving construction, unless such construction is carried through to completion as continuously and expeditiously as is reasonable.

2. 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 a certificate of occupancy signed by the Building Commissioner. Such certificate of occupancy shall not be issued until the premises or building and their uses comply with this By-Law. A record of all applications and certificates of occupancy shall be kept on file by the Building Commissioner.

   In town house, garden apartment and apartment house developments, and/or any other multi-unit residential developments (exclusive of subdivisions) (herein a "development"), certificates of occupancy shall not be issued by the Building Commissioner for more than 85% of the dwelling units within the development of within an approved phase of the development until:

   a) all "site work improvements", as hereinafter defined, shown on the approved development plans for the entire development, or for an approved phase of the development, and required by the applicable permits or approvals for the development, shall have been fully completed. Site work improvements shall not be considered fully completed until a project engineer has submitted to the Building Commissioner as-built plans (for the entire development or applicable phase of the development) and a certification that such site work improvements have been

completed in accordance with the approved development plans or approved phase thereof and the applicable permits or approvals; or

b) the developer has applied for and obtained a Special Permit A1 from the Board of Appeals requesting relief from the 85% limitation on certificates of occupancy. Each application for a Special Permit A1 pursuant to this section shall include, in addition to all other application requirements, a certification of a project engineer as to the status of site work improvements remaining to be completed, the number and percentage of dwelling units remaining to be completed in the development of phase thereof, and such additional information related thereto as may be requested by the Board of Appeals. Upon making a finding that:

(i) a delay in the completion of the remaining site work improvements will not adversely impact the occupants of the completed dwelling units;
(ii) is not required for the safe occupancy of additional dwelling units; and
(iii) the granting of relief from said limitation will not jeopardize the likelihood of full completion of the site work improvements;

said finding to be used in lieu of the special permit approval criteria contained in Section I-F, 2., the Board of Appeals may partially waive the 85% limitation and allow the Building Commissioner to issue certificates of occupancy in a manner consistent with the first paragraph of this Section I-C, 2.

Notwithstanding the foregoing, the Board of Appeals shall not allow, and the Building Commissioner shall not issue, certificates of occupancy for more than 95% of the dwelling units within the development or approved phase of the development until the project engineer has submitted to the Building Commissioner as-built plans and a certification that the site work improvements have been completed in accordance with the approved development plan or approved phase of the development plan and the applicable permits and approvals.

"Site work improvements" as used herein shall include all improvements to be made or constructed in connection with the development (exclusive of dwelling structures), including, but not limited to, roadways, parking lots, sidewalks and walkways, grading, landscaping, utilities, wastewater treatment, drainage and other required infrastructure. For the purpose of this section, the "developer" shall be deemed to include the original applicant and all successors or assigns of the applicant, including any and all parties seeking building permits or certificates of occupancy for the initial construction or initial occupancy of one or more dwelling units within the development or applicable phase thereof. The "project engineer" shall be a licensed engineer working on behalf of the developer and shall include the original project engineer at the time of app0lication to the permit granting authority and all successors to the original project engineer.

3. The provisions of this By-Law may be enforced by the Zoning Enforcement Officer by non-criminal disposition pursuant to the provisions of M.G.L. Chapter 40, Section 21D. Any person who violates the provisions of this By-Law may be subject to a penalty of $100.00 if, after receiving written notice of the violation(s) from the Zoning Enforcement Officer, the person fails to correct the violation(s) within seven (7) days of receipt of such notice, or within such longer time as the Zoning Enforcement Officer may grant in appropriate circumstances. Each day that a violation exists shall be deemed to

be a separate offense from and after delivery of such notice from the Zoning Enforcement Officer.

In the alternative, any person who violates the provisions of this By-Law, or who refuses or neglects to comply with a stop work order or notice of violation by the Zoning Enforcement Officer issued under the provisions of M.G.L. Chapter 40A or the provisions of this By-Law, shall be subject to the enforcement provisions of M.G.L. Chapter 40A, including a fine of $100. Each day that a violation exists shall be deemed to be a separate offense. Nothing in this section shall prohibit the Zoning Enforcement Officer from seeking injunctive relief as a remedy in accordance with M.G.L. Chapter 40A, Section 7.

I-D Board of Appeals

1. Establishment
In accordance with the provisions of Chapter 40A of the Massachusetts General Laws, a Board of Appeals consisting of three (3) citizens of the Town who shall be qualified by education or experience to pass upon matters which may be brought before them shall be appointed by the Selectmen for a term of three years, the term of one member expiring each year. At least two associates shall be appointed in a like manner. No member of the Board of Appeals shall act on any matter in which the member may have a personal or financial interest, and in such event, an associate member shall be designated to serve on the Board and to act upon the matter.

2. Powers
The Board of Appeals shall have the following powers which shall in no way conflict with the regulations as contained in this By-Law.

   a. Appeals - To hear and decide an Appeal taken

      1. by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Building Commissioner under the provisions of Massachusetts General Laws Chapter 40A, or of this By-law,

      2. by the regional planning agency in which area the Town is situated, or

      3. by any person, including an officer or board of the Town of Hingham or of any abutting municipality, aggrieved by an order or decision of the Building Commissioner, in violation of any Provision of Massachusetts General Laws Chapter 40A, or of this By-Law.

   b. Special Permits - To hear and decide an application for a Special Permit as provided in this By-Law, only for uses in specified districts which are in harmony with the general purposes and intent of this By-Law and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use. A Special Permit shall lapse within a two (2) year period or a shorter period if so specified by the Board, which shall not include any time required to pursue or await the determination of an appeal pursuant to Massachusetts 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, if construction has not begun within the period except for good cause.

c. 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 this provision of this 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 of time and of use, including the continued existence of any particular structure 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 the one (1) year of the date of the authorization, they shall lapse and may be re-established only after a new notice and hearing.

3. Procedure

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 (14) days before the day of the hearing, and by posting said notice in the Town Hall for a period of not less than fourteen (14) 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 street or way, abutters of abutters within three hundred (300) feet of the property line of the petitioner, as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board and the Planning Boards of every abutting municipality. The Assessors shall certify to the Board the name and addresses of the parties in interest. In the case of an Appeal from a decision of the Building Commissioner and in the case 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 the receipt of the petition from the Town Clerk and shall render a decision within one hundred (100) days from the date of filing. Failure by the Board to take final action upon a petition within the said one hundred (100) day period shall be deemed to be a grant of the Appeal or Variance applied for.

In the 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 and shall render a decision within ninety (90) days from the close of the public hearing. Failure to take action within the said ninety (90) day period shall be deemed to be a grant of the permit applied for.

4. Repetitive Petitions

Board of Appeals Decisions - 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 (2) years after the date of final unfavorable action unless (1) all but one of the members of the Planning Board consent to a re-petition 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 by unanimous vote 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.

I-E Zoning Administrator

In accordance with such qualifications as may be established by the Board of Selectmen, the Board of Appeals shall appoint, from time to time, a Zoning Administrator, to serve at its pleasure, which appointment shall be subject to confirmation by the Board of Selectmen. Said Administrator shall be empowered to carry out such duties and powers as may be delegated by the Board of Appeals in accordance with Massachusetts General Laws Chapter 40A, Section 13, which statute shall govern the rights of aggrieved persons.

I-F Special Permits A1 and A2

1. Procedures for Application, Hearing and Decision
Each application to the Board of Appeals for a Special Permit A1 or A2 shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Board of Appeals. The Board of Appeals shall hold a public hearing on the application, as provided in Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The Board of Appeals may grant, grant with conditions, deny, or grant leave to withdraw an application for a Special Permit. A copy of the decision shall be filed with the Town Clerk and the Planning Board, and shall be furnished the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such recording.

2. Approval Criteria
An applicant is not entitled to a Special Permit or a Special Permit with site plan review. The Board of Appeals may approve such application for a Special Permit A1 or A2 if it finds that, in its judgment:
a. use of the site is in harmony with the general purpose and intent of this By-Law;

b. the proposed use complies with the purposes and standards of the relevant specific sections of this By-Law;

c. the specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area;

d. the use as developed and operated will create positive impacts or potential adverse impacts will be mitigated;

e. there will be no nuisance or serious hazard to vehicles or pedestrians;

f. adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use; and

g. the proposal meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.

3. Costs
The costs of professional consultants, experts or assistance incurred by the Board of Appeals or Planning Board shall be borne by the applicant. However, the costs to be paid by the applicant shall not exceed the reasonable and usual charges of said consultants or other experts for such services nor shall they exceed the greater of $10,000 or one percent (1%) of the total projected cost of the project (inclusive of engineering, architectural, and legal fees and other soft costs). The applicant shall deposit with his application an appropriate portion of the anticipated review costs as determined by the Boards' administrators as security for payment on such costs. No occupancy permit may be issued in accordance with Section I-C of this By-Law until the applicant has paid or reimbursed the Town for all such costs.

I-G Special Permits with Site Plan Review

Site plan review is required for all Special Permits designated A2 and A3 in this By-Law or any modifications of a Special Permit A-2 or A-3. Such site plan review is conducted by the Planning Board in accordance with Section I-I. Joint hearings of the Board of Appeals and the Planning Board may be held at the discretion of the Boards.

I-H Building Permits with Site Plan Review

All building permit applications for work subject to Special Requirement 6 of Section IV-B shall first be submitted to the Planning Board and shall be subject to site plan review. The Planning Board shall review and investigate each such application in accordance with the criteria and standards for site plan review listed in Section I-I. The provisions of Section I-D, 4 and I-F, 3 of this By-Law shall apply to all applications for Site Plan Review under this Section I-H.

I-I Site Plan Review

1. Purpose
The purpose of this Section is to provide a comprehensive procedure for development projects to ensure compliance with the provisions of the Zoning By-Law, to minimize adverse impacts of such development, and to promote development which is harmonious with surrounding areas.

2. Procedures
Applicants for site plan approval shall submit seven (7) copies of the site plan to the Planning Board for review, and shall at the same time also submit a copy of the site plan to each of the Board of Health, Building Commissioner, Conservation Commission, Department of Public Works, Fire Department and Police Department for their advisory review and comments. Notice of a site plan review hearing in connection with any application also requiring a Special Permit A2 from the Board of Appeals shall be given in accordance with M.G.L. c. 40A, Section 11.
The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, and notify the applicant of its decision. The decision of the Planning Board shall require an affirmative vote of three members and shall be in writing. If public notice is required, the Planning Board shall act within seventy-five (75) days of its receipt of the Site Plan Review application, provided that, if the Planning Board or its

review consultants have requested (no later than forty (40) days after receipt of the application) additional information or submittals from the applicant, such supplemental information shall be delivered no later than sixty (60) days after receipt of the application. If such additional information is not received by such sixtieth day, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. If public notice is not required, the Planning Board shall act within forty-five (45) days of its receipt of the Site Plan Review application, provided that, if supplemental information requested by the Planning Board or its review consultants (no later than twenty days after receipt of the application) is not delivered to the Planning Board by the thirtieth day after receipt of the application, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. The foregoing timeframes do not preclude the Planning Board from requiring (after such fortieth or twentieth date, as applicable) submission of supplemental information not previously requested.

a. Application for Building Permit. An application for a building permit to perform work as set forth in Special Requirement 6 of Section IV-B shall be accompanied by an approved site plan unless the Planning Board's review (including any extensions thereto) has expired without any action by the Planning Board.

b. Application for Special Permit A2. Applications for a Special Permit A2, or any modification of a Special Permit A2, and for site plan review shall be filed simultaneously. The Board of Appeals shall not make a decision on a Special Permit A2 application until it has received the Planning Board's site plan review decision, or until the Planning Board's review period (including any extensions thereto) has expired without any action by the Planning Board.

c. The conditions imposed by the Planning Board shall be incorporated in any Special Permit A2 issued by the Board of Appeals. The Board of Appeals may add additional conditions to the issuance of a special permit, but may not remove any conditions imposed by the Planning Board or modify any condition except as follows. The Board of Appeals may propose to the Planning Board the modification or removal of a site plan condition imposed by the Planning Board. Failure of the Planning Board to issue a revision to the site plan conditions within twenty-one (21) days shall be deemed a denial of that proposal.

d. Application for Special Permit A3. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

e. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

f. A final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions to the Special Permit A2 or, in the case of building permits with site plan review, all conditions of the site plan review decision, except for those conditions which by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.

3. Pre-Application Submittal

Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning

Board.

4. Submittal Requirements
Each application for a Building Permit or Special Permit with site plan review shall include the following information prepared by qualified registered professionals, either shown on wet-stamped and signed plans or other supporting documentation:
a. locus plan; diagram and statement of the ownership, area, dimensions, boundaries and principal elevations of the subject property; location of structures within 100 feet of property line;

b. scaled and dimensioned plan of the location and footprint of existing and proposed buildings and structures; if applicable, building elevations and floor layouts;

c. if applicable, plan showing proposed circulation of traffic within the development and in all adjacent public ways; dimensioned plan of loading and parking areas, aisles and driveways; plan with detail sheets if appropriate, profile and representative cross sections of proposed driveways and parking areas;

d. analysis of compliance with all relevant dimensional provisions of this By-Law;

e. detailed information on utilities, landscaping, refuse storage and removal;

f. grading plan, drainage analysis and traffic analysis, as applicable;

g. analysis of the capacity of Town soils, water supply, ways and services to absorb the impact of the proposed development;

h. analysis of compliance with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Policy and Standards, and Massachusetts Erosion Sediment and Control Guidelines; and

i. Site Lighting Plan showing the location, height, photometrics, orientation, and specifications for all outdoor site lighting, including information on the intensity and range of illumination for each source of light proposed.

j. such other materials necessary to enable Town boards to make a positive determination on the proposed development.

5. Upon written request of the applicant, the Planning Board may waive any of the submittal requirements set forth in Section I-I, 6 deemed by the Planning Board to be not necessary for its review of the application. In addition, the Planning Board may waive other such requirements of this Section I-I, including the requirement for a public hearing, where the Planning Board determines that the project constitutes a minor site plan. In order to constitute a minor site plan, the proposed work must be limited to (a) interior renovations to a building or structure which do not include a change of use for which a Special Permit A2 or A3 is required and/or (b) modifications to the site which, in the Planning Board's determination, do not materially or adversely affect conditions governed by the site plan review standards set forth in Section I-I, 6 below.

6. Review Standards and Approval
Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the objectives of this with subsection 6. In reviewing each such application the Planning Board shall study the site plan with reference to the health, safety and

welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally, including its amenities. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

The Planning Board shall limit the proposed development so that its impact on each of the municipal services, ways, utilities and other resources does not exceed its existing design capacity. This limitation shall be imposed upon the proposed development regardless of the intensity of development otherwise permitted by this Zoning By-Law.

In conducting a site plan review, the Planning Board shall consider the following:
a. protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting.

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, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;

c. adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;

d. adequacy of open space and setbacks, including adequacy of landscaping of such areas;

e. adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;

f. prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;

g. assurance of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Stormwater Management Policy and Standards, and Massachusetts Erosion and Sediment Control Guidelines.

h. protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations: and
i. minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.

7. Lapse
Site plan approval shall lapse after two years from the grant thereof if a substantial construction or use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the

written request of the applicant.

8. Regulations
The Planning Board may adopt and from time to time amend reasonable regulations for the administration of this Section I-I.

I-J Planning Board - Special Permit A3

1. Powers
The Planning Board shall have the power to hear and decide an application for a Special Permit A3 for uses in specified districts that are in harmony with the general purposes and intent of this By-Law. A Special Permit A3 shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use. One associate member of the Planning Board shall be appointed in the manner herein provided for a term of one (1) year to act on Special Permit A3 applications if necessary. The associate member of the Planning Board shall be appointed by the following procedure: (a) the Planning Board shall appoint a then current associate member of the Board of Appeals; or (b) if no then current associate member of the Board of Appeals is appointed by the Planning Board, the Planning Board and the Board of Selectmen shall jointly appoint an associate member to the Planning Board, provided that preference shall be given to former Planning Board members and former regular or associate members of the Board of Appeals. No member of the Planning Board shall act on any matter in which the member may have a personal or financial interest, and in such event, the associate member shall be designated to serve on the Planning Board and to act upon the matter.

2. Peer Review and Consulting Fees:
The provisions of Section I-F, 3 shall apply to all applications for a Special Permit A3.

3. Repetitive Petitions
The provisions of Section I-D, 4 of this By-Law shall apply to all applications for a Special Permit A3, provided, however, that in connection with an application for a Special Permit A3, all references to the Board of Appeals in such Section shall be deemed to refer to the Planning Board.

4. Procedures for Application, Hearing and Decision
Each application to the Planning Board for a Special Permit A3 shall be filed with the Town Clerk, with duplicate copies submitted in accordance with the regulations of the Planning Board. The Planning Board shall hold a public hearing on the application, as provided in the Massachusetts General Laws Chapter 40A, within 65 days of the filing of a complete application.

The Planning Board may grant, grant with conditions, deny, or grant leave to withdraw, an application for a Special Permit A3. A copy of the decision may be filed with the Town Clerk and the Planning Board, and shall be furnished the applicant and property owner, in accordance with Massachusetts General Laws Chapter 40A.

The applicant shall be responsible for filing a certified copy of the decision in the Registry of Deeds or, where applicable, in the Land Court. Prior to the issuance of a Building Permit, the applicant shall present to the Building Commissioner evidence of such recording.

5. Approval Criteria
An applicant is not entitled to a Special Permit A3. The Planning Board may approve such application for a Special Permit A3 if it finds that, in its judgment, the proposed use is consistent with the criteria set forth in Section I-F, 2 (a) through (g) of this By-Law, with the exception of Special Permit A3 Parking Determinations. The approval criteria for Special Permit A3's related to off-street parking are described in Section V-A 6.

6. Lapse
Except for good cause, a Special Permit A3 shall lapse in two (2) years after the date of issue, or such shorter period as may be specified by the Planning Board, which shall not include any time required to pursue or await the determination of an appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17.

I-K 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 Massachusetts General Laws Chapter 39, Section 10, the Planning Board, or the regional planning agency. Within fourteen (14) days of the receipt of a proposed change, the Board of Selectmen shall submit it to the Planning Board for review and a report. A public hearing is held by the Board within sixty-five (65) days after the proposed change is submitted to the Board.

1. Repetitive Amendments
No proposed change in this By-Law which has been unfavorably acted upon at the Town Meeting shall be considered by the Town Meeting within two years after the date of such unfavorable action unless adoption of the proposed change is recommended in the final report of the Planning Board to the Town Meeting.

I-L Validity

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

I-M 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 (2/3) vote of Town Meeting subject to its publication in a Town bulletin or pamphlet and posting or publication in a newspaper as provided in Massachusetts General Laws Chapter 40, Section 32.

SECTION II

Districts

II-A Zoning Districts

For the purposes of the By-Law, zoning districts are established and designated as follows:

1. Residence District A
2. Residence District B
3. Residence District C
4. Business District A
5. Business District B
6. Industrial District
7. Industrial Park District
8. Limited Industrial Park District
9. Waterfront Business District
10. Office Park District
11. Residence District D
12. Residence District E
13. Waterfront Recreation District
14. Business Recreation District
15. Official and Open Space District

II-B Overlay Districts

For the purposes of this By-Law, overlay districts are established and designated as follows:

1. Flood Plain and Watershed Protection District
2. Accord Pond Watershed and Hingham Aquifer Protection District
3. South Hingham Development Overlay District
4. Personal Wireless Services Overlay District
5. Downtown Hingham Overlay District
6. Hingham Harbor Overlay District

All requirements of the underlying zoning districts remain in full force and effect, except as superseded by the specific overlay district regulations.

II-C Zoning Maps

1. Zoning Districts and Accord Pond and Hingham Aquifer Protection District
The Zoning Map of the Town of Hingham Massachusetts, Parts A (April 2, 1983) and C (November, 1986), filed in the office of the Town Clerk, is made a part of this Zoning By-Law, and locations and boundaries of the several districts shall be as indicated, respectively, on said Zoning Map.

2. Flood Plain and Watershed Protection District
The Zoning Map of the Town of Hingham Massachusetts, Part B (1975), as amended, filed in the office of the Town Clerk, is made a part of this Zoning By-Law, and locations and boundaries of the district shall be as indicated on said Zoning Map.

3. South Hingham Development Overlay District
As shown on the plan adopted with the creation of the District in 1991, the District

includes Industrial Park- and Office Park-zoned land in Hingham south of Whiting Street (Route 53).

4. Personal Wireless Services Overlay District
As specified when the District was amended in 2002, it includes the Hingham Landfill (Assessors' Map 106-3, 4 and 7), the Hingham Town Hall (Assessors' Map 80-95), Aquarion Water Company, 900 Main Street (Assessors' Maps 147-8 and 158-36), South Shore Country Club (Assessors' Map 70-14) and the Town Forest (Assessors' Maps 148-11 and 170-9).

5. Downtown Hingham Overlay District
Business District A extending from the intersection of South Street and Bates Way to the west and the intersection of Summer Street, Green Street and Justice Cushing Highway to the east, as shown on the Zoning Map, Parts A and C, of the Town of Hingham (2003).

II-D District Boundary Lines

Unless otherwise indicated on the zoning map, the boundaries between districts are to be determined according to the following criteria:

1. where a boundary is shown following a street, railroad, or utility, the boundary shall be the center line thereof unless otherwise indicated;

2. where a boundary is shown outside 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 unless otherwise indicated;

3. where a boundary is shown following a water course, the boundary shall coincide with the center line thereof as said line existed at the date of the zoning map;

4. where the location of a district boundary is otherwise uncertain, the Building Commissioner shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the map;

5. where a district boundary line divides any parcel existing at the time such line is adopted, the regulation for the less restricted portion of such parcel shall extend not more than thirty (30) feet into the more restricted portion, provided the parcel has frontage on a street in the less restricted district;

6. where a boundary is shown as the shoreline, the boundary shall coincide with the shoreline as that shoreline existed at the time of the zoning map; and

7. where a boundary is shown as a contour line including a numerical figure in feet, the boundary shall be at that number of feet above mean sea level at every point throughout its entire length. The basic source for determining such a line shall be the U.S. Geodetic Survey quadrangle sheets or refinements by subsequent detailed field surveys.

SECTION III

Use Regulations

III-A Schedule of Uses

No building, structure, or land shall be used for any purpose or in any manner other than as set forth in the Schedule of Uses, Section III-A of this By-Law. The symbols "P", "A", and "O" as therein used having the following application:

P - Use permitted
A1 - Use allowed under a Special Permit by the Board of Appeals as provided in Section I-F
A2 - Use allowed under a Special Permit by the Board of Appeals as provided in Section I-G and subject to a site plan review as provided in Section I-I
O - Use prohibited

Permitted uses and uses allowed by the Board of Appeals shall be in conformity with all dimensional requirements, off-street parking requirements, and all other applicable requirements of this By-Law. Allowed uses for projects authorized by a Mixed Use Special Permit under Section IV-G are set forth in Section IV-G.

III-B Special Conditions to Schedule of Uses

Special conditions shall apply as shown in Section III-A to such uses as are designated therein as being subject to one or more of the following special conditions:

1. The minimum lot size on which such use will be permitted shall be 2 acres. All buildings not used for residence shall be placed a minimum of 40 feet from the front, side and rear lot lines.

2. No part of such use shall be located within 1,000 feet of any residence district.

3. All setback requirements of the district in which the use subject to this special condition is located shall prevail and, in addition, no filling pump or any structure may be located within 25 feet of a property line or public way. A minimum of 1,000 square feet of paved area shall be provided for each filling pump. No more than two driveways of 26 foot width each shall be permitted per street. Curbing shall be installed along each line except at driveways.

4. Intentionally left blank.

5. For properties zoned Industrial Park or Office Park that are included in the South Hingham Development Overlay District, refer to Section III-E, South Hingham Development Overlay District, for additional information regarding uses and dimensional criteria.

6. Subject to issuance of a temporary permit by the Building Commissioner pursuant to published regulations establishing hours of operation, size of lot, number and location of parking spaces, lighting, access and signage.

7. For parcels zoned Business A included in the Downtown Hingham Overlay District, refer to Section III-G, Downtown Hingham Overlay District, for additional information regarding permitted and prohibited uses and Design Review. Leased parking for Commercial/Residential Buildings is permitted only in conjunction with a Special Permit A2 for a Commercial/Residential Building and subject to the requirements of Section III-G, 7(a).

8. The following uses shall be allowed as of right to the extent required by M.G.L. c.40A, §3 but shall be subject to Site Plan Review in accordance with Section I-I of this By-Law, provided that the requirements of Section I-I may only be applied to such uses in a manner consistent with the provisions of M.G.L. c.40A, §3.

   i. The uses set forth in Section III-A, subsections 2.1, 2.3, 4.5, 4.6 and 4.7.

   ii. To the extent included within the uses listed in Section III-A, subsections 3.1 through 3.4, inclusive 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 nonprofit educational corporation, and the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility, all as set forth in M.G.L. c.40A, §3. Site Plan Review of these uses shall be limited to reasonable regulations concerning the bulk and height of structures, and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, or such other matters which may be subject to regulation under M.G.L. c.40A, §3 as the same may be amended from time to time.

9. Registered Marijuana Dispensaries shall be allowed by Special Permit A2, subject to Section V-H, only for properties zoned Industrial Park or Office Park which are located in the South Hingham Development Overlay District.

III-A SCHEDULE OF USES

DISTRICTS

LEGEND
R=Residence B=Business OP= Office Park WB=Waterfront Business WR=Waterfront Recreation
I=Industrial IP=Industrial Park LIP=Limited Industrial Park BR=Business Recreation
OO=Official and Open Space

READ DOWN USING HEADINGS AT THE TOP OF THE PAGE

Residence					Business		Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space
A	B	C	D	E	A**	B								
1. RESIDENTIAL														
1.1 Single-Family Dwelling, together with such accessory buildings and structures as are customarily incidental thereto.														
P	P	P	O	P	O	O	O	O	O	O	O	O	O	O
1.2 Alteration and conversion of a Single-Family Dwelling containing at least 6 rooms exclusive of hall and bathroom existing prior to March 10, 1941, to accommodate not more than two families, provided that the exterior design of the structure is not changed from the character of a Single-Family Dwelling.														
A1	A1	A1	A1	A1	A1	A1	O	O	O	O	O	O	O	O
1.3 House trailer or mobile home, if approved by the Board of Health. The required authorization by the Board of Appeals may be granted for a period of not more than six months and shall be subject to renewal for only one additional six-month period.														
A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	O
1.4 Apartment House, subject to the provisions of IV-E, Multi-Unit Development.														
O	O	O	O	O	A2	A2	O	O	O	O	O	O	O	O
1.5 Buildings containing multiple dwelling units, and community and other buildings accessory thereto, constructed and operated pursuant to the provisions of Section 38, 39, 40, and 41 of Chapter 121B of the Massachusetts General Laws, providing housing for elderly persons of low income, or constructed and operated pursuant to the provisions of Sections 25-32 of Chapter 121B of the Massachusetts General Laws, providing housing for persons of low and moderate income, subject to the provisions of IV-E, Multi-Unit Development. This use shall be exempt from paragraph 4 of Section IV-C.														
A2	O	O	A2	A2	A2	A2	O	O	O	O	O	O	O	O
1.6 Town House – Not less than four nor more than ten connected dwelling units, subject to the provisions of IV-E, Multi-Unit Development.														
O	O	O	A2	A2	O	O	O	O	O	O	O	O	O	O
1.7 Garden Apartments not less than four nor more than 10 connected dwellings, subject to the provisions of IV-E, Multi-Unit Development.														
O	O	O	O	A2	O	O	O	O	O	O	O	O	O	O

Residence					Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space
1.8	Accessory Uses when in conjunction with Single-Family Dwelling and Two-Family Dwelling (subject to Section III-J):													
1.8.1	Garaging of not more than 3 private-passenger vehicles provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).													
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
1.8.2	Garaging or parking of one non-private passenger vehicle with a maximum gross weight of 10,000 lbs. provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).													
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
1.8.3	Garaging or parking of a non-private passenger vehicle in excess of 10,000 lbs or more than one non-private passenger vehicle, provided that the total number of garage bays permitted per property under 1.8.1, 1.8.2 and 1.8.3 does not, in combination, exceed three (3).													
A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
1.8.4	Professional office or studio of a resident physician, dentist, attorney, architect, artist, musician, engineer, real-estate or insurance broker, or member of another recognized profession, provided that no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time, and further provided that any display or advertising shall be in accordance with provisions of Section V-B.													
P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O
1.8.5	The office or studio of a resident art dealer, interior decorator, or appraiser, provided that said office or studio is open to clients by appointment only, that no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time, and that there shall be no display or advertising visible from the street and no exterior signs.													
P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O
1.8.6	Customary home occupation such as dressmaking and millinery conducted by a resident on the premises, provided that no more than one other person is regularly employed therein in connection with such use, and that there is no exterior storage of material or equipment, and that no display of products is visible from the street, and that any display or advertising is in accordance with Section V-B.													
P	P	P	P	A1	P	P	O	O	O	O	O	O	O	O
1.8.7	In accessory buildings incidental to a Single-Family Dwelling or a Two-Family Dwelling, the following uses are permitted: (a) the accessory uses listed in subsections 1.8.1 through 1.8.6 above; and/or (b) such other uses as are customarily incidental to a residential use, including, but not limited to, barns, garages, workshops, artist studios and the like, living rooms, eating areas, cooking facilities and sanitary facilities (excluding bathing facilities) , as long as, in combination, these uses do not create a detached dwelling unit with complete living facilities for one or more households. Notwithstanding the foregoing, bathing facilities shall be permitted within a pool house located directly adjacent to and serving an in-ground swimming pool.													
P	P	P	P	P	P	P	O	O	O	O	O	O	O	O

Residence					Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space

2. AGRICULTURE

2.1 Agricultural Use protected under M.G.L. c. 40A §3 (including, without limitation, single-family dwelling for resident proprietor), subject to Special Condition 8 of Section III-B.

P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

2.2 Agricultural Use not protected under M.G.L. c. 40A §3 (except uses governed by subsections 2.3, 4.5, 4.6, and 4.7), subject to Special Condition 1 of Section III-B.

A2	A2	A2	A2	A2	O	O	A2	O	O	A2	A2	A2	A2	A2

2.2.1 Single-family dwelling for resident proprietor of use governed by subsection 2.2

P	P	P	A2	A2	O	O	A2	O	O	A2	A2	A2	A2	A2

2.3 Seasonal sale of cut Christmas trees (unless governed by subsection 2.1), subject to Special Permit Condition 6 of Section III-B.

O	O	O	O	O	P	P	P	O	O	P	P	P	O	P

3. INSTITUTIONAL, EDUCATIONAL, AND RECREATIONAL USES

3.1 Church or other place of worship, parish house, rectory, convent, and other religious institutions, subject to Special Condition 8 of Section III-B.

P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

3.2 Schools or Playgrounds - Public, religious, sectarian, or denominational, subject to Special Condition 8 of Section III-B.

P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

3.3 Schools - Private, including dormitories accessory thereto, subject to Special Condition 8 of Section III-B.

A2	A2	A2	A2	A2	A2	A2	A2	O	O	A2	A2	A2	O	A1

3.4 Nursery school or other use for the day care of children, other than as exempted under Massachusetts General Laws Chapter 40A, Section 3, or a privately organized camp, providing any outdoor play area is at such a distance and so screened from any residential structure on an adjoining lot as to avoid a noise nuisance, subject to Special Condition 8 of Section III-B.

A1	A1	A1	A1	A1	A2	A2	A2	O	O	A2	A2	A2	O	A1

3.5 Public buildings and premises for government use, including public libraries, museums and parks

P	P	P	P	P	P	P	P	A2	A2	P	P	P	A2	A2

Residence A	B	C	D	E	Business A**	B	Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space
3.6 Private non-profit library, museum, or community center.														
A2	A2	A2	A2	P	P	P	A2	A2	O	A2	A2	A2	A1	A1
3.6A Local Cable Access Broadcasting Studio														
O	O	O	O	O	P	P	O	O	O	O	O	O	A2	A2
3.7 Country, golf, swimming, skating, yacht, or tennis club, or other social, civic, or recreational lodge or club-- not conducted as a business														
A2	A2	A2	A2	P	A2	A2	A2	A2	O	A2	A2	A2	P	A1
3.8 Hospital														
O	O	O	O	O	O	A2	A2	O	O	A2	A2	A2	O	O
3.8A Clinic														
O	O	O	O	O	A2	A2	A2	O	O	A2	A2	A2	O	O
3.8B Nursing home, rest home, convalescent home, congregate living facility, charitable institution or other non-correctional institutional use.														
A2	A2	A2	A2	A2	A2	A2	A2	O	O	A2	A2	A2	O	O
3.9 Cemetery														
A1	A1	A1	A1	O	O	O	O	O	O	O	O	O	O	A1
3.10 Public-utility buildings and structures														
A1	A1	A1	A1	A1	P	P	P	A2	O	P	P	P	O	A1
3.11 Outdoor Concession as an accessory use when supporting outdoor athletic field uses permitted or allowed under Sections 3.2, 3.3, 3.5 and 3.7 (subject to Section III-J).														
O	O	O	O	O	O	O	O	O	O	O	O	O	A1	A1
4. COMMERCIAL														
4.1 Retail store (other than those specified elsewhere on this Schedule) distributing merchandise to the general public.														
O	O	O	O	O	P	P	O	A2	O	O	O	O	O	O

Residence					Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space
4.2 Craft, consumer, or commercial service establishments dealing directly with the general public														
O	O	O	O	O	P	P	O	A2	O	O	O	O	O	O
4.3 Undertaking establishment or funeral home.														
O	O	O	O	O	A2	A2	O	O	O	O	O	O	O	O
4.4 Animal or veterinary hospital, subject to special condition 1 of Section III-B, except in the Industrial Park District.														
A2	A2	A2	A2	O	A2	A2	A2	O	O	A2	A2	A2	O	O
4.5 Commercial breeding, sale, or boarding of dogs, cats, or fur-bearing animals (unless governed by subsection 2.1), subject to special condition 1 of Section III-B, except in the Industrial Park District.														
A1	A1	A1	A1	O	A1	A1	O	O	O	A2	A2	A2	O	O
4.6 Commercial greenhouses (unless governed by subsection 2.1).														
O	O	O	O	O	P	P	P	O	O	P	P	P	O	O
4.7 Riding stable (unless governed by subsection 2.1), subject to special condition 1 of Section III-B.														
A2	A2	A2	A2	A2	O	O	O	O	O	O	O	O	A1	O
4.8 Newspaper or job printing.														
O	O	O	O	O	P	P	O	O	O	P	P	O	O	O
4.9A Sit-down restaurant														
O	O	O	O	O	A2	A2	A2	A2	O	A2	A2	O	A2	O
4.9B Fast-food/Take-out restaurant														
O	O	O	O	O	A2	A2	A2	A2	O	A2	A2	O	A2	O
4.10 Business or professional offices or agencies.														
O	O	O	O	O	P	P	P	A2	O	P	P	P	O	O
4.11 Bank or other financial institution.														
O	O	O	O	O	P	P	P	A2	O	P	P	P	O	O
4.11A A drive-up bank teller or automated teller machine (ATM) operated by a bank or financial institution for the convenience of its customers.														
O	O	O	O	O	A2	A2	A2	A2	O	A2	A2	A2	O	O

	Residence					Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
	A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space
4.12	Commercial indoor amusement or recreation place or place of assembly.														
	O	O	O	A2	O	P	P	O	O	O	O	O	O	A1	O
4.12A	Health Club														
	O	O	O	A2	O	P	P	A2	O	O	A2	A2	A2	O	O
4.13	Commercial outdoor amusement or recreation place not including an outdoor movie theater.														
	O	O	O	O	O	O	A1	O	O	O	O	O	O	A1	O
4.14	Freight terminal or storage warehouse.														
	O	O	O	O	O	O	P	O	O	O	P	P	O	O	O
4.14A	Storage trailers/containers (except for (i) dumpsters or other trash receptacles, and (ii) construction trailers approved under site plan review) subject to the renewal of the Special Permit on an annual basis. All storage trailers/containers must otherwise comply with dimensional, parking and other provisions of the Zoning By-Law.														
	O	O	O	O	O	O	A2	O	O	O	A2	A2	A2	O	O
4.15	Heliport, subject to special condition 2 of Section III-B.														
	O	O	O	O	O	O	O	A1	O	A1	A1	A2	A2	O	O
4.16	Hotel or Motel														
	O	O	O	O	O	O	O	A2	O	O	A2	A2	A2	O	O
4.17	Shopping Center consisting of three or more businesses described in Sections 4.1, 4.2, 4.9A, 4.9B (subject to Special Permit A2), 4.10, 4.11, 4.12, 4.12A, 4.16, and 5.1 of this Schedule.														
	O	O	O	O	O	O	O	O	O	O	A2	A2	O	O	O
4.18	Parking area for employees, customers, or guests of a use abutting or across the street from it, provided that service operations are not performed at the parking area.														
	A2	A2	A2	A2	A2	A2	A2	A2	O	O	A2	A2	A2	A2	A2
4.19	Marine-oriented retail stores and consumer service establishments dealing directly with the general public.														
	O	O	O	O	O	P	P	O	A2	A2	O	O	O	O	O
4.20	Adult uses, subject to Section V-F														
	O	O	O	O	O	O	O	O	O	O	O	A2	O	O	O

	Residence				Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space
4.21	Body Art Establishment as defined by the Hingham Board of Health.													
O	O	O	O	O	O	O	O	O	O	A2	O	A2	O	O
4.22	Commercial/Residential Building (Subject to Section III-B, 7)													
O	O	O	O	O	A2	A2	O	O	O	O	O	O	O	O
4.23	Leased Parking for Commercial/Residential Buildings (Subject to Section III-B, 7)													
O	O	O	O	O	P	O	O	O	O	O	O	O	O	O
4.24	Farmers' Market													
O	O	O	O	O	A2	A2	O	O	O	O	O	O	A2	A2
4.25	Retail, or Consumer Service or Commercial Service Establishment permitted as an accessory use for up to 15% GFA within any single building.													
O	O	O	O	O	O	O	A2	O	O	A2	A2	A2	O	O
4.26	Registered Marijuana Dispensary, subject to Special Condition 9 of Section III-B (except for agricultural uses governed by Section 2.1).													
O	O	O	O	O	O	O	A2	O	O	O	A2	O	O	O
5. AUTOMOTIVE AND MARINE SALES AND SERVICE														
5.1	Automotive "filling" or service station, subject to special condition 3 of Section III-B.													
O	O	O	O	O	A1	A1	O	O	O	O	O	O	O	O
5.2	Repair or storage garage for motor vehicles or trailers, which may include body, repair, welding, or soldering shop for motor vehicles or trailers, provided such operation shall be sufficiently insulated so that any noise, flashing, fumes, gases, smoke, or vapor shall be confined to the premises.													
O	O	O	O	O	A2	A2	O	O	O	P	A2	A2	O	O
5.3	Salesroom for franchised dealer or recognized agent of motor vehicle manufacturer whose principal business is the sale of new motor vehicles (the purchase and sale of second-hand motor vehicles being incidental thereto), together with indoor storage and service facilities reasonably incidental to such salesroom, provided that the principal display visible from the street shall not be second-hand motor vehicles; subject to site plan review in accordance with Section I-I.													
O	O	O	O	O	P	P	O	O	O	P	P	O	O	O
5.4	Marina; boat livery; sales, storage, and repair of boats, boat trailers, and marine accessories.													
O	O	O	O	O	P	P	O	P	P	P	P	A2	O	O
6. WHOLESALE AND INDUSTRIAL USES														

6.1 Wholesale warehouse, including office or showroom facilities.

O	O	O	O	O	P	P	A2	O	O	P	P	A2	O	O

Residence					Business		Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space
A	B	C	D	E	A**	B								

6.2 Light industrial uses, including manufacturing, storage, processing, fabrication, packaging, and assembly.

O	O	O	O	O	O	O	A2	O	O	P	P	A2	O	O

*(Subject to special condition 5 of Section III-B)

**(Subject to special condition 7 of Section III-B)

III-C Flood Plain and Watershed Protection District

1. The Floodplain and Watershed Protection District shall be shown on a map entitled "Zoning Map of the Town of Hingham, Massachusetts Part B Flood Plain and Watershed Protection District dated 2012, as may be amended from time to time." The district includes all special flood hazard areas within the Town of Hingham at or below 10 feet above Mean Sea Level (MSL) as well as all special flood hazard areas designated as Zone A, AE or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Hingham are panel numbers 25023C0018J, 25023C0019J, 25023C0038J, 25023C0081J, 25023C0082J, 25023C0083J, 25023C0084J, 25023C0091J, 25023C0092J, 25023C0101J, 25023C0102J, 25023C0103J, 25023C0104J, and 25023C0111J, dated July 17, 2012. The FIRM and Flood Insurance Study (FIS) report are incorporated herein by reference and are on file with the Town Clerk, Building Department, and Conservation Commission.

   The Floodplain and Watershed Protection District is established as an overlay district and shall be superimposed on all other districts established by this By-Law.

   All regulations in the Hingham Zoning By-Law applicable to such underlying districts shall remain in effect; except that, where the provisions of this Section III-C impose additional regulations, those additional regulations shall govern.

2. Except as provided herein and in paragraphs 4 and 5 of this Section III-C:

   a. No building, wall dam, or other structure shall be created, constructed, altered, enlarged or otherwise created or moved for any living or other purposes provided that fences, wildlife management shelters, footpaths, bicycle paths, horse paths and footbridges are permitted if they do not affect the natural flow patterns of any water course.

   b. Dumping, filling, excavating or transferring of any material which will reduce the natural flood-water storage capacity or interfere with the natural flow patterns of any water course within this District is prohibited.

3. The following uses are permitted as a matter of right, subject to the provisions of paragraph 2 of this Section III-C and provided that said uses comply with the standards and requirements of Sections 60.3(d) and (e) of the National Flood Insurance Program (Title 44, Code of Federal Regulations):

   a. Conservation of soil water, plants and wildlife;

   b. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting where otherwise legally permitted;

   c. Proper operation and maintenance of dams and other water control devices, including temporary alteration of water level for emergency or maintenance purposes;

   d. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops; and

e. Accessory uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.

4. Upon the issuance of a Special Permit A1 for an exception by the Board of Appeals, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of this Section, the following uses as permitted in single residence districts are permitted:

   a. Duck walks and boat landings;

   b. Appropriate municipal use, such as water-works pumping stations and parks;

   c. Temporary storage of materials or equipment;

   d. Dams, excavations, or changes in watercourses to create ponds or pools for swimming or other recreation or agriculture use, scenic features or for drainage improvements consistent with the purpose of this Section; and

   e. Driveways and roads where alternative means of access are impractical.

5. The following are specifically exempt from the provisions of this Section III-C:

   a. All residential dwellings, and those portions only of the lots therefore needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this paragraph 5, existing in the Flood Plain and Watershed Protection District on January 1, 1969.

   b. All industrial, commercial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this paragraph 5, existing in the Flood Plain and Watershed Protection District on January 1, 1969.

   c. All residential, commercial, industrial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargements of buildings as is permitted under this paragraph 5, the Building Permits for which were issued prior to January 1, 1969.

   All dwellings and buildings referred to in this paragraph may be repaired, rebuilt, modified, or enlarged including but not limited to the addition of garages, additional living space, and construction of appurtenant outbuildings, together with such filling, diking, and/or draining as may be necessary therefor or for the protection of said structures from flood water inundation, consistent with the laws of the Commonwealth of Massachusetts, and compliance with all other zoning requirements, and provided such construction does not affect the natural flow patterns of any water course.

6. The portion of any lot in the Flood Plain and Watershed Protection District may be used to meet the area and yard regulations for the district in which the remainder of the lot is situated, unless otherwise restricted in this By-Law.

7. All salt water areas within the limits of the Town including Hingham Harbor, Hingham Bay, Weir River and Back River and all other water bodies encircled by the Flood Plain and Watershed Protection District are hereby included within said District.

8. If any land in the Flood Plain and Watershed Protection District is proven to the satisfaction of the Board of Appeals as being in fact not subject to the flooding or not unsuitable because of drainage conditions for a use or structure which would otherwise be prohibited by the provisions of this Section and the Board of Appeals determines that the use of such land for such use will not interfere with the general purposes for which the Flood Plain and Watershed Protection District has been established and will not be detrimental to the public health, safety and/or welfare, the Board of Appeals may grant a Special Permit A1 for such use or structure which will comply in all respects with the provisions of this By-Law, provided that any and all necessary permits, orders or approvals required by local or state law, except for Massachusetts General Laws Chapter 131, Section 40, or federal law have first been obtained. The Board of Appeals shall refer each question to the Planning Board, Conservation Commission and Board of Health 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.

9. All those lands along the following named streams and their tributaries: Weir River, Accord Brook, Back River, Eel River, Plymouth River, Crooked Meadow River, Fresh River, Tower Brook, Fulling Mill Brook and by other brooks and streams that lie within a horizontal distance of twenty-five (25) feet from the mean high water line along each bank thereof except as otherwise defined on said Part B of the Zoning Map are hereby included within the Flood Plain and Watershed Protection District.

10. Whenever an application is made for a Building Permit on a lot of land which the Building Commissioner believes may contain a Flood Plain and Watershed Protection District boundary, said Commissioner shall require the applicant for such permit to provide as part of such application a plan, certified by a registered land surveyor, of the lot showing the exact location of the Flood Plain and Watershed Protection District boundary.

III-D Accord Pond Watershed and Hingham Aquifer Protection District

1. This By-Law is adopted by the Town under its home rule powers, its police powers to protect public health and welfare, and its authorization under Chapter 40, Section 21 of the Massachusetts General Laws.

2. The locations and boundaries of the Accord Pond Watershed and Hingham Aquifer Protection District shall be as shown on a map entitled "Zoning Map - Part C, Accord Pond Watershed and Hingham Aquifer Protection District, Town of Hingham Massachusetts" dated November, 1986, filed in the office of the Town Clerk, which map by this reference is incorporated herein and made a part of this Zoning By-Law.

   The Accord Pond Watershed and Hingham Aquifer Protection District is an overlay district established to protect the water quality of Accord Pond and the Town's aquifer area, by regulating and controlling toxic or hazardous substances within this District. Restrictions imposed hereunder shall be in addition to and not in substitution for restrictions contained in other portions of this By-Law. All land in the District is subject to the regulations set forth in this Section III-D.

3. Definitions

   Approved Container Storage
   The storage of toxic or hazardous substances in a container, which container is designed and constructed to be product-tight and to resist corrosion, accidental damage or

deterioration for the period of time in which the toxic or hazardous substance is intended to be stored within the District.

Approved Tank Storage
The storage of toxic or hazardous substances in a tank which provides a level of safety from discharge over the expected life of the tank at least equal to a tank constructed of corrosion-protected steel encased in a liquid-tight concrete vault and which complies with the testing and inspection procedures enumerated in subsection 10 below.

Container
Any receptacle now or hereafter used or designed for the storage of a toxic or hazardous substance which is not a tank.

Discharge
The disposal, deposit, injection, dumping, spilling, leaking or placing of any toxic or hazardous substance into or on any land or water so that such substance may enter into the District.

Store or Storage
Keeping or stocking of substances for later consumption or sale.

Tank
Any receptacle now or hereafter used or designed for storage of a toxic or hazardous substance any portion of which receptacle is buried in the ground.

Toxic and Hazardous Substances
Any substance, solution or mixture thereof which because of its quality, concentration, physical chemical or infectious characteristics would present a potential hazard to human health if discharged into a drinking water supply. This includes, but is not limited to the list of hazardous substances found in Parts 116 and 261 of Title 40 of the Code of Federal Regulations, the list of toxic substances found in Section 307 of the Federal Clean Water Act of 1977, chemical constituents specified in Tables C and E of the Drinking Water Regulations of Massachusetts in concentrations greater than drinking water limits, all as from time to time hereafter amended, acids and alkalis beyond the pH range of 5.5-8.5, heavy metal wastes and solutions petroleum products including fuels and waste oils, organic solvents and any solid material which, if exposed to water, will partially dissolve forming a toxic or hazardous liquid, any substance which can act or react with another substance likely to be located in its proximity and which upon such action or reaction would produce a toxic or hazardous substance, or any substance determined by the Board of Health to pose the hazard to health referred to above.

Use or Usage
The possession, manufacture, processing, or transporting upon the property, incorporation into the land or any structure thereon.

Accord Pond Watershed and Hingham Aquifer Protection District ("the District")
The area defined in subsection 2 of this By-Law as the Accord Pond Watershed and Hingham Aquifer Protection District.

4. Except for uses in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28,

1987, no person or entity shall use any toxic or hazardous substance in the District except by Special Permit obtained in accordance with subsection 12 below.

5. No person or entity shall discharge any toxic or hazardous substance in the District.

6. Except for storage in tanks in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store in the District any toxic or hazardous substance in a tank except that gasoline, diesel, heating or lubricating oil may be stored by Special Permit granted in accordance with subsection 12 below. The Board shall not grant a Special Permit for storage in tanks incident to residential uses.

7. Except for storage existing on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store toxic or hazardous substances in the District unless a Special Permit shall have been granted for such storage pursuant to subsection 12 below except that storage in tanks shall be governed by the provisions of subsection 6 above.

8. There shall be exempted from the provisions of this Section III-D: (i) the disposal of sanitary wastewater generated on-site which does not contain toxic or hazardous substances; and (ii) the use or storage and discharge incidental to residential uses of household products generally available in retail stores and in quantities normally used by a single family even if such products contain toxic or hazardous substances; and (iii) approved container storage of heating oil for use in heating buildings in which such containers are located and for which all necessary licenses or permits pursuant to Chapter 148 of the Massachusetts General Laws have been obtained and remain in force and effect.

9. Any tank located in the District, whether or not in active use, shall be presumed to contain toxic or hazardous substances, and the owner of record of the land on which the tank is located shall be required to comply with the provisions of this By-Law until the tank is removed from the District.

10. All tanks within the District shall be tested for structural integrity and freedom from discharge utilizing such generally recognized and commercially feasible standard tests as the Building Commissioner may from time to time reasonably designate, at the following times:

    a. incident to installation as part of the Special Permit application process, and

    b. on the fifteenth anniversary of the installation of a tank and on each anniversary thereafter (tanks for which evidence of installation date is not available will be presumed to be at least fifteen years old), and

    c. at any time the Building Commissioner or the Board of Health determines that toxic or hazardous substances of the type stored in the tank are being discharged into the District.

    The costs of all tests shall be borne by the owner of the tank. The owner may select the individual or firm to perform the test provided the proposed individual or firm possesses credentials satisfactory to the Building Commissioner. The Building Commissioner shall witness all anniversary tests of tanks. Any tank failing inspection shall be removed from

the District by the owner at the owner's cost and expense under the direction of the Building Commissioner.

11. In addition to materials otherwise required to be submitted to the Board of Appeals as part of a Special Permit application, a person or entity seeking a Special Permit hereunder shall submit to the Board of Appeals the following:

    a. the name, composition, and quantity of each substance proposed to be used or stored;

    b. the size, type, age, location (including sketch map), dates of purchase and/or installation, including Fire Department permit number if any, of any tank or container proposed to be used for storage;

    c. the method of handling, the length of time of the use or storage, the types of tank or container to be used and the estimated life thereof a description of the nature of any manufacturing processes which involve these substances, complete description of the proposed safeguards to be used (including a spill prevention plan to maintain leakage from a tank or container), a proposed inventory system designed to detect any shortage in substance being inventoried to be maintained and made available for inspection during regular business hours, and a report detailing the experience and ability of the person or entity seeking the permit, showing management and financial strength sufficient to deal with the responsibility of using or storing toxic or hazardous substances within the District; and

    d. certified copies of all tests performed on any tanks shall accompany the application form.

    The Board of Appeals shall at the applicant's expense, notify the Board of Health, Water Supply Committee, and the Fire Chief of any application to use or store toxic or hazardous substances in the District.

    The Board of Appeals may require the applicant, at the applicant's expense, to furnish at its request, such additional scientific, engineering, or hydrological reports or studies, bearing on the Special Permit application, prepared or performed by professionals whose expertise is deemed satisfactory to the Board.

12. The Board of Appeals, upon application of a person or entity who furnishes the materials outlined in subsection 11 above may grant, subject to the limitations contained in subsection 6 above, a Special Permit for the use or storage of toxic or hazardous substances if it finds that:

    a. storage will be either approved tank storage or approved container storage and any use will be in accordance with sound practices and in a manner designed to safeguard the District, and

    b. the person or entity applying for the Special Permit has the experience and ability to deal with the responsibility of the use or storage of toxic or hazardous substances in the District, and

    c. such person or entity has the financial strength or has provided such other financial assurances as the Board deems appropriate to assure that financial resources sufficient to discharge the applicant's responsibilities will be available, and

d. that the proposed use or storage does not constitute an unwarranted risk to the District.

13. Any Special Permit granted pursuant to this Section III-D shall:

a. be issued to a specific person or entity and shall not be assignable or transferable either voluntarily or by operation of law;

b. be for a specific term of years and in the case of approved tank or approved container storage be for a term not in excess of the estimated life of the approved tank or approved container; and

c. contain such other conditions as the Board deems appropriate or useful.

14. In the case of an application for approved container storage, where the storage period is in excess of three years, the Board in appropriate circumstances may require the container to pass an inspection as a condition of granting the Special Permit.

15. The Building Commissioner shall compile and maintain complete records concerning the use and storage of all toxic and hazardous substances in the District and shall assure that all tanks and containers used in approved tank or approved container storage are tested and inspected as required hereunder and that any conditions contained in Special Permits issued hereunder are complied with.

III-E South Hingham Development Overlay District

1. Purpose

To assist the Town of Hingham in providing safe and efficient public infrastructure consistent with future growth potential in a designated South Hingham Development Overlay District (Overlay District).

2. Objectives

a. Encourage planning and development which will maintain the economic viability of businesses within the Overlay District.

b. Encourage future development that links major non-residential roadways in the Overlay District.

c. Minimize commercial and industrial related traffic impacts on surrounding residential neighborhoods.

d. Support future development that balances the needs of abutting neighborhoods and environmental protection with the long-term fiscal needs of the community.

3. Applicability

Only areas zoned Industrial Park or Office Park shown on the Hingham Zoning Map and within the South Hingham Development Overlay District shall be subject to the requirements of this Section.

4. Special Permit Authority

For those projects within the South Hingham Development Overlay District requiring a Special Permit the Board of Appeals (Board) may grant a Special Permit consistent with

the requirements of this Section, Massachusetts General Laws Chapter 40A, Section 9, and any regulations which the Board may adopt for carrying out its requirements.

5. Permitted Uses
The provisions set forth in Section III-A for the underlying Industrial Park and Office Park Districts shall apply, with the following exceptions:
   a. When the underlying zoning district is Office Park

      i. Accessory Uses such as cafeterias, education and training facilities, and similar facilities designed for the use of on-site employees shall be allowed as part of any use permitted as-of-right or by Special Permit;

      ii. Automotive sales and service, as described at III-A (5.3), shall be permitted with a Special Permit A2.

6. Sign and Parking Criteria
The provisions set forth in Sections V-A and V-B shall apply throughout the South Hingham Development Overlay District.

7. Intensity
The provisions of IV-A (Schedule of Dimensional Requirements) shall apply, with the following exceptions:
   a. When the underlying zoning district is Office Park

      i. A Floor Area Ratio (FAR) of .15 is permitted as-of-right; up to .25 may be permitted with a Special Permit A2.

      ii. Building Height is limited to forty-eight (48) feet, but not more than four (4) stories; Building Height up to sixty (60) feet, but not more than five (5) stories is permitted with a Special Permit A2.

   b. When the underlying zoning district is Industrial Park

      i. For office use (as described in Section III-A 4.10) an FAR of 0.25 is p permitted as-of-right, and up to 0.45 by Special Permit A2.

      ii. Building Height is limited to forty-eight (48) feet, but not more than four (4) stories.

8. Traffic, Safety, and Infrastructure Improvement Fund
   a. Applicability
   Most of the key intersections within the South Hingham Development Overlay District are presently at level of service D or below during peak hours creating severe traffic congestion problems and use of residential streets for through and business-related traffic. Therefore, applications for a Special Permit for an increase in the intensity of use in the underlying Industrial Park and/or Office Park District shall be subject to the procedures and regulations of the Traffic, Safety, and Infrastructure Improvement Fund (Fund), and any monies collected and deposited into said Fund shall only be used to ameliorate development-related impacts within the Overlay District, and all parts of all intersections abutting the District.

   b. South Hingham Development Overlay District Assessment

i. Industrial Park District: The rate of contribution for properties whose underlying zoning is Industrial Park shall be as follows:
For every square foot of gross floor area to be constructed above the gross floor area allowed (a) as if the property were governed by the regulatory, environmental and zoning restrictions then in effect and applicable to the Industrial Park District, but not this South Hingham Development Overlay District, or, (b) in the case of office use, in excess of an FAR of 0.25, and in the case of any other as-of-right or Special Permit use, in excess of an FAR of 0.35, whichever is less, a payment amounting to five percent (5%) of the building construction costs pertaining to that portion of the building(s) beyond what is allowed by-right shall be paid into a Traffic, Safety, and Infrastructure Improvement Fund. For the purposes of this Section, building construction costs shall be calculated using the upper quartile of square foot unit costs for "Factories" as noted in an appropriate annual edition of Building and Construction Cost Data published by the R.S. Means Company, Inc. of Norwell, Massachusetts.

ii. Office Park District: The rate of contribution for properties whose underlying zoning is Office Park shall be as follows:
For every square foot of gross floor area to be constructed above the gross floor area allowed by right, a payment amounting to five percent (5%) of the building construction costs pertaining to that portion of the building(s) beyond what is allowed by fight shall be paid into a Traffic, Safety, and Infrastructure Improvement Fund. For the purposes of this Section, building construction costs shall be calculated using the upper quartile of square foot unit costs for "Offices, low-rise" as noted in an appropriate annual edition of Building and Construction Cost Data published by the R.S. Means Company, Inc. of Norwell, Massachusetts.

c. Use of Assessments
Monies paid by the applicant shall be expended on public services within the South Hingham Development Overlay District; said services shall include, but are not limited to, engineering and traffic-related studies, land takings for public right-of-way improvements, road widenings, reconfigurations of intersections, access lanes, signalization, associated drainage and sewer improvements, lighting, sidewalks, traffic islands, and similar improvements.

d. Schedule of Assessment Payments
Payments into the Fund shall be made in accordance with a schedule approved by the Board of Appeals. The amount of the initial payment shall be determined by the Board of Appeals at the time of the granting of the Special Permit, but shall not exceed one-third of the total payment. Further, at the time of the granting of the Special Permit the applicant shall provide an irrevocable letter of credit or a financial instrument approved by the Board for the balance. If the applicant fails to make any subsequent payments in accordance with the Special Permit conditions, the Board of Appeals may draw down the balance of the letter of credit or the approved alternate financial instrument. The balance of the funds, if any, shall be paid immediately at the time of the issuance of a temporary or permanent occupancy permit; in no instance shall any temporary or permanent occupancy permit be granted unless the balance of the assessment due has been paid in full. The applicant may, at any time, make a lump sum payment of the entire required assessment.

e. Refund of Assessment
If for whatever reason a Special Permit lapses and no construction has occurred on the site, the applicant, upon written request to the Board of Appeals, shall be granted a public hearing. If the Board of Appeals finds that the Permit has lapsed and no construction has occurred, the applicant shall be entitled to a refund of all assessment payments.

9. Screening
For all properties subject to the regulations of the South Hingham Development Overlay District a screening plan shall be required as part of the site plan review process, Section I-I. At a minimum if the development's at-grade parking areas are visible at normal eye level from a public way or from any point abutting a residential district that is less than five hundred (500) feet away, they shall be screened by an ornamental lattice, planted berm, opaque fence, or sight-obscuring planting or screenings which are comprised of at least seventy-five percent (75%) evergreen shrubs or trees. Plantings shall be maintained in healthy growing condition, and fencing shall be maintained in good repair by the land owner.

III-F Personal Wireless Services Overlay District

1. Purpose
The purpose of this Section is to establish a district in which adequate Personal Wireless Services (as defined in Section V-E) may be provided with minimal harm to the public health, safety and general welfare. Specifically, the District is created to protect the character and appearance of the Town, to assure public safety, to reduce adverse visual effects and to maintain the Town's scenic, historic and environmental resources.

2. Location
The Personal Wireless Services Overlay District shall include the following parcels: the Hingham Landfill (Assessors Map 106-3, 4, and 7), the Hingham Town Hall (Assessors Map 80-95), South Shore Country Club (Assessors Map 70-14), and Town Forest (Assessors Maps 148-11 and 170-9).

3. Submittal Requirements
A Special Permit A2 is required to erect Personal Wireless Services Facilities (as defined in section V-E), and service providers must comply with all requirements of Section I-I and section V-E of this By-Law.

III-G Downtown Hingham Overlay District

1. Purpose
To protect and promote the viability and value of business and residential properties located in the Downtown Hingham Overlay District ("Downtown") in a manner consistent with Hingham's historic character.

2. Objectives
a. Encourage planning and development which will maintain and improve the economic viability of Downtown businesses by encouraging a mix of uses that will maintain, provide for or encourage regular interaction with the general public on a walk-in basis on the ground floor and office and residential uses on the upper floors.

b. Encourage planning and development of the Downtown as a visitor destination for historic sightseeing, shopping and dining.

c. Encourage creation of mixed use buildings incorporating business and residential uses to create more diverse housing options in Hingham.

d. Encourage planning for and more efficient use of, off-street parking to better facilitate resident and visitor access to and parking in the Downtown.

e. Encourage maintenance, restoration or replacement of existing structures to bring them into compliance with current building, plumbing and electric codes, as well as the latest fire and handicap access regulations, in a manner consistent with Hingham's historic character.

3. Applicability

Parcels within the Downtown Hingham Overlay District shall be subject to the requirements of this section. In addition, for any parcel located partially in the Downtown Hingham Overlay District, such portion located in the Overlay District shall be subject to the requirements of this Section, provided, however, that if any structure or use on such parcel lies partially in the Overlay District and partially in another zoning district, such structure or use shall comply with the requirements of this Section.

4. Permitted and Prohibited Uses

The permitted uses and uses allowed by Special Permit A2 in Business District A, as set forth in Section III-A, Schedule of Uses, shall be permitted or allowed, as applicable, in the Overlay District, with the following exceptions:

a. the following uses are prohibited in the Overlay District:

Section III-A 4.3 Funeral Home
Section III-A 4.4 Animal or veterinary hospital
Section III-A 4.5 Commercial breeding
Section III-A 5.1 Automotive filling or service station
Section III-A 5.2 Auto repair
Section III-A 5.3 Car dealership & service facilities
Section III-A 5.4 Marina; boat livery; sales, storage & repair of boats
Section III-A 6.1 Wholesale warehouse

b. the following uses are permitted on the upper floors of any building and may be allowed by Special Permit A2 on the ground floor:

Section III-A 4.10 Business or professional offices or agencies
Section III-A 4.11 Bank or other financial institution

i. The Board of Appeals may approve such application for a Special Permit A2 if, in addition to the criteria set forth in Section I-F, 2, it finds that, in its judgment, the use is consistent with the purpose and objectives of this Section III-G as set forth above. If such use cannot meet such objectives in the proposed location, it may be granted a Special Permit A2 if at least one of the following apply and the Board of Appeals finds that the proposed use is not detrimental to the objectives of this Section, including objective 2(a):

(A) The site of the use is outside the primary pedestrian area of the Downtown, such primary pedestrian area being those portions of Main Street, North Street and South Street within the Overlay District.

(B) The use will be located in a building existing as of January 1, 2009 which is significantly set back from the (or all of the) street(s) which such building abuts.

(C) The physical characteristics of the existing building (as of January 1, 2009) in which the use shall be located (such as a pre-existing residential structure within the Overlay District) are such that other permitted or allowed uses in the Overlay District are not practicable.

ii. Notwithstanding the provisions of subsection 4(B)(i) above, if, as of January 1, 2009, the ground floor of any building included a "business or professional office or agency" or a "bank or other financial institution" (each a "Grandfathered Use"), and such Grandfathered Use is subsequently changed to another permitted or allowed use in the Overlay District, such ground floor may, within six (6) years of change of use, revert back to a Grandfathered Use and such Grandfathered Use shall be permitted subject to Site Plan Review pursuant to subsection 4(b)(iii) below prior to issuance of a building permit (or a certificate of occupancy if no building permit is requested), but shall not require a Special Permit A2.

iii. The Planning Board, when conducting Site Plan Review under this subsection 4(b), shall consider, in addition to the items set forth in Section I-I,6 whether the appearance and treatment of the windows and doors of the building will maintain, provide for or encourage regular interaction with the general public.

5. Design Review Criteria

a. Applicability. Any project located within the Overlay District, but not within a Local Historic District, and 1) subject to Special Permit or site plan review or 2) which requires a building permit and affects the exterior architectural features of a building or structure, shall also be subject to Design Review. The following alterations, unless subject to the requirements of Section IV-B, 6 shall be exempt from the requirements of this subsection:

i. normal maintenance and repair of the building or structure; and/or

ii. replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.

b. Submittal Requirements. The building or special permit application shall include a narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used. The Planning Board and/or the Board of Appeals may also require additional submittals, including plans prepared by qualified registered professionals showing the total square footage and dimensions of all buildings, the building elevations and perspective renderings, and detailing the exterior architectural features of the buildings and the exterior materials to be used.

c. In connection with its review of such work, the Planning Board and/or the Board of Appeals may request comments on the proposal from the Hingham Historical Commission and/or the Hingham Historic Districts Commission, and may engage other professional consultants, experts or assistance consistent with the provisions of Section I-I,2 of this By-Law.

d. Criteria. The Planning Board and/or the Board of Appeals shall consider the architectural and aesthetic consistency of the proposed project with the historic character of the Overlay District, taking into account appropriate scale, massing, location of buildings on lot, roof slopes, street façade, fenestration, exterior building materials, and similar factors.

6. Commercial/Residential Building Special Permit

a. Application and Review Requirements

i. An application for a Commercial/Residential Special Permit A2 shall comply with all of the requirements of this Section and with Sections I-F, I-G and I-I of this By-Law. In addition, the Board of Appeals may grant a Special Permit A2 under this Section only if it finds that the applicant has demonstrated that the Commercial/Residential Building will not have an adverse impact on abutting residential or commercial neighborhoods and can be constructed with due consideration for health and safety.

b. Eligibility Requirements

i. Buildings which meet the following criteria are eligible to apply for a Commercial/Residential Building Special Permit:

ii. Buildings containing a permitted commercial use at the street level story. A permitted commercial use shall be those uses permitted under Section III-G, 4 above, but excluding Parking Areas under Section III-A, 4.18, except as specifically provided in subsection 7(a) below; and

iii. Sufficient off-street parking to meet the requirements of subsection 7(a) of this Section III-G.

c. Additional Requirements

i. A commercial use shall be located at ground level facing the street(s) on which the parcel has frontage. Dwelling units shall be located above ground level. No dwelling units shall be permitted below the ground level.

ii. Dwelling units shall not be smaller than 575 square feet for a studio or one bedroom dwelling unit and 750 square feet for a two bedroom dwelling unit. A dwelling unit may not contain more than two bedrooms.

iii. Adequate provision shall be made for the disposal of household trash.

7. Off-Street Parking Requirements in the Downtown Hingham Overlay District

Except as otherwise provided in this section (7), the requirements set forth in Section V-A, Off Street Parking Requirements, shall apply to the Overlay District.

a. Parking Requirements for Commercial/Residential Buildings

The purpose of this subsection (a) is to ensure that sufficient off-street parking is provided for all dwelling units created under Section III-G,6.

i. Provision for off-street parking shall be as follows:

Studio or one-bedroom dwelling unit	1 space
Two-bedroom dwelling unit	2 spaces

ii. When off-street parking exists or may be constructed on the parcel where the use is proposed, the Planning Board may make a finding in connection with a Special Permit A3 application pursuant to Section V-A that the commercial use(s) and the residential use within the Commercial/Residential Building are complementary uses having different peak demands times, in which event on-site parking may satisfy both the residential and the commercial uses (subject to the requirements of Section 7 below in the event of a change or increase in commercial uses).

iii. Parking for all dwelling units (including, without limitation, dwelling units proposed in newly-constructed or reconstructed buildings or in newly-constructed stories to existing buildings) shall be located on the same parcel or on a contiguous parcel under common ownership.

iv. Notwithstanding the foregoing, for dwelling units proposed in existing stories of existing buildings which, as of December 1, 2003, (a) are at least two stories in height and (b) which lack required on-site, off-street parking to meet the requirements of this Section, the Planning Board may grant a Special Permit A3 to permit the following;

(A) Leased Parking for Commercial/Residential Buildings, provided that a copy of a written, fully executed and effective lease, with a term of at least one (1) year, permitting use of sufficient parking spaces to comply with this Section for a minimum of overnight parking shall be provided to the Planning Board prior to the issuance of the Special Permit A3. For purposes of this Section III-G, "Leased Parking for Commercial/Residential Buildings" shall be the provision of parking for dwelling units in a Commercial/Residential Building on land of a third party located within 500 feet of the benefited parcel (but excluding parcels with Single-Family Dwellings or Two-Family Dwellings outside of the Overlay District). The granting of a Special Permit A3 shall require a finding by the Planning Board that such lease of parking spaces does not create a violation of the zoning of, parking requirements for existing uses on, or any special permit or variance granted to, the burdened parcel. In addition, the applicant (or its successor) shall be required, as a condition of the issuance of a Special Permit, (i) to certify to the Building Commissioner annually, on the anniversary of the date of the issuance of a Special Permit, that such lease remains in full force and in effect and (ii) no later than thirty (30) days prior to the expiration or other termination of such lease, to apply to the Planning Board for a modification of its Special Permit A3 which application shall provide for the required parking in another manner consistent with the

requirements of this subsection 7(a).

(B) Off-site parking in designated resident parking areas of public parking lots, provided that a resident parking permit program or the like is adopted by the Town, and provided that, as a condition of the issuance of the Special Permit A3, the applicant applies for and presents written evidence to the Planning Board and the Building Commissioner of approval by the Town of sufficient resident parking permits to comply with the parking requirements of this Section.

Provision of off-street parking in accordance with the requirements of this Subsection (iv) may be satisfied by any combination of on-site parking and alternative parking options described herein, provided, however, that where, prior to the application for a Special Permit under this Section, sufficient off-street parking exists or may be reasonably constructed on-site to satisfy, in whole or in part, the parking requirements of this Section, the Planning Board shall consider the availability of such parking when considering the eligibility of the site, such parking shall be located on-site and shall not be eligible for relief under this subsection to allow for alternate parking options.

v. No newly-constructed parking shall front on a public way, except along Summer Street (Route 3A), Water Street, Station Street or the Station Street parking areas.

vi. For parcels which have opposite property lines along two streets or ways and for parcels with frontage on Summer Street (Route 3A), fully enclosed garage parking may be provided within the building at ground level if such parking is accessed from the rear of the building, is not visible from the front of the building, and such building has a permitted commercial use at the front of the building. For purposes of this Section III-G, any portion of a building facing Main Street, South Street, North Street, or Summer Street shall be considered the front of a building.

vii. Notwithstanding any provision of Section V-A to the contrary, and except as specifically provided in this Section III-G, 7(a), off-street parking requirements for residential uses in a Commercial/Residential Building shall not be reduced nor waived by special permit or otherwise. In the event of a conflict between the provisions of Section V and this Section, the provisions of this Section shall control.

b. Off-Street Parking Requirements for Certain Non-Residential Uses

The reduction in off-street parking requirements for Business A District set forth in Section V-A, 2 shall not apply to uses under Section III-A, 4.10 and Section III-A, 4.11 on the ground floor; provided, however, that this subsection 7 (b) shall not apply to any Grandfathered Use under section III-G, 4 (b)(ii).

c. Special Permit A3 for Waivers from Off-Street Parking Requirements
The Planning Board may approve an application for a Special Permit A3 to waive strict adherence to the requirements of this Section III-G,7 and applicable provisions of Section V-A if it finds such application meets the following criteria:

i. Satisfactory demonstration of parking adequacy as evidenced by the results of a parking study conducted pursuant to the standards of the Institute of Transportation Engineers (ITE) and the Urban Land Institute (ULI) prepared by a Professional Engineer duly licensed in the Commonwealth of Massachusetts with demonstrated experience in the Fields of Traffic Engineering and Transportation Planning, and concurrence with said results by the Planning Board's review consultant. The parking study baseline shall be consistent with the methodology and format implemented as a part of the Town's "2008 Downtown Hingham Parking Study" and associated shared parking model, as the same may be updated or amended from time to time. Upon written request of the applicant, the Planning Board may waive the above submittal requirement if deemed by the Planning Board to be not necessary for its review of the application.

ii. Such relief will promote the goal of preserving and enhancing the Downtown as a mixed-use, pedestrian-oriented local shopping and business district and is consistent with the purpose and objectives of the Overlay District;

iii. The maximum number of off-street parking spaces reasonably achievable on the premises has been provided;

iv. It is not practical to meet the applicable standards of this Section 7 and Section V-A and a waiver of these regulations will not (A) result in or worsen parking or traffic problems, or adversely affect pedestrian safety, on-site or on the surrounding streets or (B) adversely affect the value of abutting lands and buildings;

III-H Hingham Harbor Overlay District

1. Purpose
   To promote access to and the use and enjoyment of the land and water along Hingham's inner harbor, while protecting and enhancing its cultural, scenic and natural character.

2. Objectives:
   A. To provide for a variety of land and water based recreational uses, both passive and active, including pedestrian access along the waterfront and access to water uses such as swimming, pleasure boating and kayaking.

   B. To provide appropriate public facilities including harbor master facilities, parking and restrooms;

   C. To promote cooperation and a harmony of uses between privately and publicly owned parcels, including the dimensional and aesthetic design of structures on such parcels;

   D. To promote and enhance connections between Downtown Hingham and Hingham's inner harbor.

3. Applicability

The Hingham Harbor Overlay District will include those parcels of land located along the portion of Hingham's inner harbor that extend from the northwesterly boundary of the parcel commonly known as Hingham Bathing Beach to the southeasterly boundary of the parcel commonly known as Steamboat Wharf, more particularly described as the following: Assessors Map 39, Lot 8; Map 50, Lots 49, 50 and 51; and Map 51, Lots 1, 2, 3, 4, 5, 58 and 59.

4. Definitions

The following defined terms shall apply to this Section III-H. Other capitalized terms used in this Section and not otherwise defined herein shall have the same meanings ascribed to such terms in Section VI of this By-Law.

Marina – For the purposes of the underlying Official and Open Space parcels within this Overlay District, a marina shall constitute a berthing area comprised of slips, piers or attached floats.

Snack Stand – Within this Overlay District, a counter accessible from the outside of a building for the sale of non-alcoholic beverages and food and providing no indoor seating, which snack stand shall be accessory to the Water Dependent Use(s) of the lot on which it is located and not intended as a primary use. When determining parking required for the lot, the Snack Stand use may be considered under either a shared parking analysis or as a complementary use which is not deemed to create a parking demand separate from, or in addition to, the primary Water Dependent Use(s) on the lot.

Uses Accessory to a Water Dependent Use – The following uses are deemed to be accessory to a primary Water Dependent Use:

a. offices primarily providing services to a Water Dependent Use (such as harbormaster, other public safety, marina management or life guard offices), and related indoor storage;

b. public restrooms, including bathhouses; and

c. Snack Stands

Water Dependent Use – Each of the following uses shall be deemed a water dependent use for the purposes of this Section III-E:

a. marinas, whether privately or publicly owned or operated;

b. public boat basins (also referred to as the public mooring field);

c. other public or private commercial or recreational boating facilities, such as a sailing club, rowing club and/or other organized boating facility. A designated public launch area which allows the launching by an individual of a vessel from a trailer or "car-top" for day-use shall not constitute an organized boating facility;

d. public facilities for fishing, swimming, and boat launching; and

e. parks, esplanades, boardwalks, and other pedestrian facilities that promote use and enjoyment of the water by the general public and are located at or near the water's edge.

5. Permitted and Prohibited Uses

a. The permitted uses and uses allowed by Special Permit, as set forth in the Section III-A, Schedule of Uses, where the underlying zoning district is Official and Open Space, shall be permitted or allowed as applicable, in the Overlay District, except as set forth in this subsection 5.A and in subsections 5.C and 5.D below:

1. The uses allowed under Section III-A, 3.5 (Public buildings and premises for government use), shall only be permitted as herein provided:

   a. Permitted – The uses described in subsections (a), (b), (d) and (e) of the above definition of Water Dependent Uses, provided, however, that public buildings supporting such Water Dependent Uses shall require a Special Permit A2 as provided in subsection (b) below.
   b. Special Permit A2 –

      i. Uses described in subsection (c) of the above definition of Water Dependent Uses

      ii. Buildings supporting a Water Dependent Use which house Uses Accessory to a Water Dependent Use

B. The permitted uses and uses allowed by Special Permit, as set forth in the Section III-A, Schedule of Uses, where the underlying zoning district is Waterfront Business, shall be permitted or allowed, as applicable, in the Overlay District, except as set forth in this subsection 5.B and in subsections 5.C and 5.D below:

1. Special Permit A2 – A Snack Stand as an accessory use.

C. The use allowed under Section III-A, 4.18 is modified as follows for all parcels within the Overlay District:

1. Upon the joint application by the record owner of each affected lot, the Planning Board may grant a Special Permit A3 to allow parking by employees, customers, or guests of a use operating on one lot within the Overlay District on an abutting lot within the Overlay District ("Abutting Lot"), provided that (1) service operations are not performed at the parking area and (2) the Planning Board makes a finding that such parking use will not result in or worsen parking problems on the Abutting Lot

D. The winter storage of floats servicing uses within the Overlay District is permitted (a) provided such storage does not reduce the required parking available for the uses on the lot during the period of such storage, and (b) subject to any rules or regulations promulgated by the Harbormaster related to float storage.

E. The following uses are prohibited in the Overlay District:
Personal wireless communications towers or antennae, except as may be required for public safety or marina operations, provided that such public safety and marina communications antennae shall be building mounted.

6. Dimensional Requirements

A. Where the underlying zoning district is Official and Open Space, the requirements of Section IV-A shall apply, except as follows:

1. The maximum height of buildings shall be reduced from 35 feet to the height set forth in Section 6.B.2 below; and

2. The minimum rear yard along the waterfront shall be 10 feet from the existing sea wall or, if none, from the mean high water mark.

B. Special Permit A3 for Waivers from IV-A Schedule of Dimensional Requirements. The Planning Board may grant a Special Permit A3 to waive strict adherence to the requirements of Section IV-A where the underlying zoning is Waterfront Business District, if it finds that such application will promote the purpose and objectives of the Hingham Harbor Overlay District, subject to the following:

1. If the area or frontage of the lot existing as of January 1, 2010 does not meet the "minimum lot size" requirements set forth in Section IV-A, the "minimum lot size" requirement may be reduced to no smaller than the lot size or frontage, as applicable, of the lot on that date.

2. The "maximum height" of a building may be modified as follows: Maximum height shall not exceed two stories and 28 feet to the peak of the building, subject to the following:

   (a) For the purposes of this Overlay District, the definition of Grade Plane in Section VI shall be modified by replacing the term "Finished Grade" with the term "Pre-Construction Grade".
   (b) The maximum wall height of the building shall be 20 feet, inclusive of any elevated floors for flood resistant construction, it being the intention that the additional 8 feet of height shall be permitted only to the extent the design of the building includes a peaked roof.
   (c) There shall be no occupiable space between the 20 foot maximum height and the peak. Any gables, cupolas, towers or related architectural features between the eave and the peak shall be for design purposes only.

3. The "minimum yard dimensions" may be modified as follows:
   (a) Front: May be reduced to 20 feet – measured horizontally at right angles to the sideline of the public way.
   (b) Side: The side yard requirement may be modified to allow in the aggregate a total of not less than 40 feet, provided that the side yard dimension on any one side may be no less than 10 feet. A yard space of not less than 5 feet wide on each side shall be maintained open and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high water line.

C. Public access commencing at the boundary of the lot and extending along the side and rear yards of the lot to the next boundary of the lot, adjacent to the water's edge, shall be provided, in order to contribute to continuous public access along the waterfront.

7. Design Review Criteria

A. Applicability. Any building located within the Overlay District which (1) is subject to site plan review or (2) requires a building permit and affects the exterior architectural features of a building or structure, shall be subject to Design Review by the Planning Board. The following alterations, unless subject to the requirements of Section IV-B, 6 shall be exempt from the requirements of this subsection:

1. normal maintenance and repair of the building or structure; and/or

2. replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.

B. Submittal Requirements. The site plan or building permit application shall include a narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used and depictions of proposed building elevations. For new or expanded buildings, the Planning Board may also require plans depicting the total square footage and dimensions of all buildings, the building elevations and perspective renderings, the exterior architectural features of the buildings, and the exterior materials to be used.

C. Peer Review. In connection with its review of such work, the Planning Board may engage professional consultants, experts or assistance consistent with the provisions of Section I-F (3) of the Zoning By-Law.

D. Criteria. The Planning Board shall consider the architectural and aesthetic consistency of the proposed project with the historic character of the Town and the objectives of the Overlay District, taking into account the scale, massing, location of buildings on lot, roof slopes, street façade, fenestrations, exterior building materials, and similar factors. Design criteria shall include: (1) the shielding of rooftop mechanical equipment and (2) the preservation of vistas and view corridors to the extent practicable.

III-I Nonconforming Conditions

1. General – Any structure or any use of a structure or land, lawfully existing at the time of the enactment or subsequent amendment of this By-Law, may be continued although such use and/or structure does not conform with the provisions of this By-Law, subject to the following conditions and exceptions:

   A. Changes – Once changed to a conforming use or once the extent of a nonconforming use is reduced, no structure or land shall be permitted to revert to the prior or a new nonconforming use.

   B. Restoration - A lawfully existing nonconforming building or structure may be repaired or reconstructed if damaged or destroyed by a casualty, including explosion, fire, storm or other natural disaster, but only if such repair or reconstruction is begun within two (2) years of such damage or destruction and diligently pursed to completion within two (2) years of commencement; provided however, that, except as may be allowed by the provisions of M.G.L. Chapter 40A, Section 6 or this Section III-I governing alterations of nonconforming structures, the repaired or reconstructed structure shall be no less conforming than the structure that was so damaged or destroyed.

   C. Extension of Nonconforming Use – Except as may be allowed under M.G.L. Chapter 40A, Section 6, no increase in the extent of a nonconforming use of a structure or land may be made.

   D. Abandonment or Discontinuance

(i) A nonconforming use (other than Single-Family or Two-Family residential use) that has been discontinued for a period of more than two (2) years, shall not be reestablished, and any future use shall conform to this By-law.

(ii) The nonconforming use of a building or structure as a Single-Family Dwelling or Two-Family Dwelling (and/or any Accessory Buildings related thereto) that has been discontinued for a period of more than four (4) years shall not be reestablished and any future use shall conform to this By-law, provided however, that the lawful nonconforming use of more than one Dwelling Unit within an existing Dwelling (that has not been discontinued or abandoned) shall not terminate unless such Dwelling has been converted to a Single-Family Dwelling with complete living facilities for only one household.

(iii) A nonconforming structure that has been discontinued (not used or occupied) for a period of more than two (2) years, or has been abandoned, may not be used or occupied for any use, with the following exceptions:

a. This subsection (iii) does not apply to and shall not prohibit the conforming use of a lawful nonconforming Single-Family Dwelling as a Single-Family Dwelling (including Accessory Buildings) or conforming use of a lawful nonconforming Two-Family Dwelling as a Two-Family Dwelling (including Accessory Buildings).

b. Except as provided in the foregoing subsection (iii) "a", the conforming use of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder, may be permitted upon the issuance of a Special Permit A2.

E. Definitions - As used in this Section III-I:

(i) "Discontinuance" shall mean the actual cessation of any use or the non-use of any structure.

(ii) A nonconforming use shall be deemed "abandoned" when it is discontinued for a period of at least six consecutive months, and customary equipment, furniture or supplies for the operation of such use have been removed, and at least one of the following apply:

a. The building or structure in which such use was located is not actively marketed for sale or lease.

b. Failure to provide for regular maintenance of the building or structure such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.

(iii) A nonconforming building or structure shall be deemed "abandoned" when it is no longer occupied for a conforming or lawfully nonconforming use for at least six consecutive months and one or more of the following apply:

a. It is not actively marketed for sale or lease.

b. Failure to provide for regular maintenance such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.

c. Issuance of a written notice of an unsafe structure by the Building Commissioner and failure of the owner to rectify the unsafe condition in the manner and in the timeframe specified in such written notice.

2. For the purposes of this Section III-I, the alteration of, addition to, reconstruction of, extension of, or structural change in an existing nonconforming Single or Two-Family Dwelling shall not be considered the extension of a nonconforming use or structure provided that:

A. the Single or Two-Family Dwelling conformed in all respects to the Zoning By-Law in existence at the time of its initial construction; and,

B. the alteration of, addition to, reconstruction of, extension of, or structural change in the nonconforming Single or Two-Family Dwelling does not further reduce the minimum linear measurement of the existing nonconforming dimensions.

III-J Accessory Uses

1. Accessory uses shall be those uses that are customarily incidental to and located on the same lot with a principal use or on an adjoining lot under the same ownership and which are uses otherwise permitted in the zoning district in which they are proposed, provided, however, that:

a. Uses considered customarily incidental to residential uses shall be those accessory uses permitted under Section III-A, 1.8. Such uses shall also be permitted in buildings accessory to Single-Family and Two-Family Dwellings located in non-residential districts.

b. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit A2, provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

2. Additional Requirements

a. Accessory uses may be located in any area contained within a non-conforming residential building (whether primary or accessory) existing as of April 26, 2004.

b. Notwithstanding the provisions of Section III-A, 1.8.4, 1.8.5 and 1.8.6, regarding resident offices, studios, or customary home occupations, as described in those sub-sections, no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time.

c. Such uses shall be clearly incidental and secondary to the primary use.

d. Such uses shall not alter the character of the premises on which they are located or impair the neighborhood.

SECTION IV

Intensity Regulations

IV-A Schedule of Dimensional Requirements

No lot shall be created or subdivided and no building or structure shall be built, enlarged or located in such manner as does not conform to the requirements set forth in Sections IV-A, IV-B and IV-C of this By-Law.

minimum lot size		maximum height		maximum percentage which may be covered by all buildings	minimum yard dimensions			special requirements applicable to each district
area	frontage	feet	stories		front	side	rear	
RESIDENCE DISTRICT A								
20,000 sq. ft.	125′	35′	2½		25′	15′	15′	6, 9, 10, 13, 16
RESIDENCE DISTRICT B								
30,000 sq. ft.	150′	35′	2½		35′	20′	20′	6, 9, 13, 16
RESIDENCE DISTRICT C								
40,000 sq. ft.	150′	35′	2½		50′	20′	20′	6, 9, 13, 16
FLEXIBLE RESIDENTIAL DEVELOPMENT IN RESIDENCE DISTRICTS A THROUGH C								
All dimensional requirements for projects in Residence Districts A through C authorized by a Flexible Residential Development Special Permit under Section IV-D are set forth in Section IV-D.								
TOWN HOUSE IN RESIDENCE DISTRICT D								
5,000* sq. ft.	30′ per dwelling unit	35′	2½	20%	50′	20′	20′	6, 9, 10, 11, 12, 16
*Per dwelling unit of one bedroom. For each additional bedroom, an additional 1,000 square feet of lot area is required.								
RESIDENCE DISTRICT E								
30,000 sq. ft.	150′	35′	2½		35′	20′	20′	6, 9, 10, 16

IV-A Schedule of Dimensional Requirements *(continued)*

minimum lot size		maximum height		maximum percentage which may be covered by all buildings	minimum yard dimensions			special requirements applicable to each district
area	**frontage**	**feet**	**stories**		**front**	**side**	**rear**	
BUSINESS DISTRICT A								
	20′		3		10′			6, 9, 10
BUSINESS DISTRICT B								
	100′		3	25%	40′	25′	25′	2, 3, 6, 10
BUSINESS RECREATION DISTRICT								
10,000 sq. ft.	150′		2½	25%	40′	25′	25′	6, 2
WATERFRONT BUSINESS DISTRICT *								
10,000 sq. ft.	100′	20′		25%	40′	25′	10′	6

*For Waterfront Business District, yard dimensions are measured as follows:	Front:	40 feet – measured horizontally at right angles to the sideline of the public way.
	Side:	25 feet – of which a yard space not less than 5 feet wide shall be maintained opened and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high waterline.
	Rear:	10 feet measured horizontally from the shoreline which shall be maintained open and not parked upon along the entire length of the rear lot line.

WATERFRONT RECREATION DISTRICT								
3 acres	150′	35′	3	20%	40′	25′	40′	5, 6

IV-A Schedule of Dimensional Requirements *(continued)*

minimum lot size		maximum height		maximum percentage which may be covered by all buildings	minimum yard dimensions			special requirements applicable to each district
area	frontage	feet	stories		front	side	rear	
INDUSTRIAL DISTRICT								
80,000 sq. ft.	200′		3	40% / floor area ratio of 0.35 permitted; 0.50 allowed by Special Permit A2	40′	25′	25′	1, 3, 6
MIXED USE PROJECT IN INDUSTRIAL DISTRICT								
All dimensional requirements for projects in the Industrial District authorized by a Mixed Use Special Permit under Section IV-G are set forth in Section IV-G.								
RETAIL GROUP IN INDUSTRIAL DISTRICT								
5 acres	300′	30′		30% / floor area ratio 0.60	40′	30′	30′	1, 2, 3, 4, 6, 7, 8
INDUSTRIAL PARK DISTRICT								
2 acres	250′	40′		40% / floor area ratio 0.35 permitted; 0.45 allowed by Special Permit A2	35′	35′	50′	1, 2, 3, 6, 14
RETAIL GROUP IN INDUSTRIAL PARK DISTRICT								
15 acres	500′	30′		20%	50′	50′	50′	1, 3, 4, 5, 6, 7, 8, 14
OFFICE PARK DISTRICT								
5 acres	200′	35′		Floor area Ratio of 0.15	100′	50′	50′	5, 6, 14
LIMITED INDUSTRIAL PARK DISTRICT								
2 acres	250′		30′ not to exceed 2 stories	30% / floor area ratio of 0.35	35′	35′	50′	1, 2, 3, 6
OFFICIAL AND OPEN SPACE DISTRICT								
	20′	35′		10%	40′	40′	40′	1, 2, 5, 6, 15

IV-B Special Requirements to Schedule of Dimensional Requirements

1. No building, structure, parking area or septic system shall be constructed within 100' of a residence district, except where the zoning district boundary is in a street, in which case the setback from said boundary shall be 50'. A natural or landscaped vegetative barrier as approved under site plan review shall be retained or created and maintained within this setback.

2. A minimum of 15% of the area of each lot shall not be built upon, paved or parked upon, and shall be maintained either in its natural state or landscaped. Along the entire street frontage of each lot a green or landscaped strip not less than 15' wide shall be maintained in its natural state or landscaped with grass, trees and shrubs, not paved except for driveways, not parked upon and not built upon except for signs. The required 15% may include the 15' green strip.

3. Any yard space or area required to be kept open and unbuilt upon may, nevertheless, if otherwise lawful, be used for off-street automobile parking, or for outdoor storage of packaged articles, packaged supplies or packaged materials, provided any such outdoor storage space shall be effectively screened from view by some substantial means such as an ornamental wall an ornamental lattice or a dense planting. A green strip not less than thirty (30) feet wide on which to grow grass, bushes, flowers or trees, shall be maintained open and green, unbuilt upon, unused and unpaved and not parked upon, all along each side or rear property line of such a lot wherever it abuts land residentially zoned.

4. Frontage specified shall be the minimum width to a depth of 200'.

5. A green yard space not less than twenty (20) feet wide shall be maintained open and green with grass, bushes, flowers or trees or any combination of them, along the entire length of each side lot line or rear lot line of such a lot and (except for entrance and exit driveways) along the entire street frontage of such lot, and such yard space shall not be built on nor paved nor used for automobile parking. Not less than 80% of the land area of such a lot shall remain open and unbuilt on, but such open space may be used for automobile off-street parking, driveways, sidewalks and store service yards, except that such use shall not be permitted in any part of the 20' wide green perimeter strip above specified. Notwithstanding the foregoing, a green yard space not less than fifty (50) feet wide shall be maintained open and green with grass, bushes, flowers, trees, or in an undisturbed natural condition, or any combination of the foregoing, along the entire length of each side lot line and rear lot line of such lot where such side lot line or rear lot line abuts a Residence A or Residence B or Residence C District.

6. Site Plan Review, as defined in Section I-I, shall be conducted by the Planning Board or its designee, for all projects which meet the following criteria:
   a. all non-residential projects which are estimated to cost $20,000 or more;

   b. all projects which 1) create a land disturbance or an alteration of drainage patterns over an area greater than 20,000 square feet; or 2) create a land disturbance of more than 2500 square feet in areas with slopes greater than 10%; provided, however, that the following types of projects shall be exempt from site plan review under this subsection b:

      i. normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;

      ii. routine maintenance of existing landscaping, gardens or lawn areas;

      iii. the construction of fencing that will not alter existing terrain or drainage patterns;

iv. installation of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain, ground cover, or drainage patterns; or

v. projects wholly within the jurisdiction of the Conservation Commission and requiring an Order of Conditions under the Wetlands Protection Act, MGL c. 131, s. 40, the Town of Hingham Wetlands Protection By-Law, and/or the Rivers Protection Act.

7. Each free standing structure, regardless of use, shall be not less than 1500 sq. feet lot coverage gross horizontal dimension. Each structure may be divided into street floor retail occupancy units not smaller than 750 sq. feet each, or into business, professional or personal service occupancy units not smaller than 350 sq. feet each.

8. No more than two driveways of 26' width each shall be permitted on the total street frontage of each retail store group.

9. In all residence districts and Business District A, the front setback may be as near the street as the average of the buildings or structures in the adjoining lots. For a vacant lot, the front setback line shall be the minimum front setback required in the district.

10. In the case of land used for housing the elderly persons of low income, or persons of low and moderate income, pursuant to the provisions of subsection 1.5 of Section III-A, the following provisions shall apply:

a. There shall be no less than three thousand (3,000) square feet of lot area per dwelling unit.

b. No more than forty percent (40%) of the lot area shall be occupied by the buildings.

c. A green yard space, no less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees, or any combination thereof, along the entire length of each side lot line and rear lot line and (except for driveways) along the entire street frontage, and such green yard space shall not be built upon nor paved nor used for storage or for vehicle parking, but signs and fences not otherwise prohibited by law may be erected and maintained thereon.

d. There shall be a minimum distance of thirty (30) feet between all buildings on such land.

e. There shall be reserved sufficient areas to provide parking spaces for vehicles at the rate of one such space per dwelling unit. So much of said area or areas shall be paved as may be deemed necessary by the Board of Appeals. In making such determination, the Board of Appeals shall give due consideration to the location of the land, the probable number of vehicles parking thereon, the probable age, economic resources, and parking requirements of the occupants of such dwelling units, and such other factors as said Board may deem pertinent in each case. From time to time the Board of Appeals may, upon the petition of the Board of Selectmen, the Building Commissioner or the Planning Board, and after notice and hearing as provided by subsection 3 of Section I-D, determine the necessity for additional paving of such reserved area or areas and may order additional paving in accordance with such determination.

11. No side yard is required where a dwelling unit shares a party wall with a building constructed at the same time.

12. Not over 20% of the required minimum lot area may be met by land in the Flood Plain and Watershed Protection District.

13. No portion of the minimum lot area may be met by land that is:

a. Wetlands as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;

b. Wetlands as defined by the Town of Hingham's Wetlands Protection By-Law;

c. Land subject to flooding as defined by Massachusetts General Laws Chapter 131, Section 40, the Wetlands Protection Act;

d. Land within the Flood Plain and Watershed Protection District as defined by Section III-C of the Zoning By-Law of the Town of Hingham.

In addition, the required minimum lot area shall be contiguous.

14. Properties zoned Industrial Park or Office Park and contained within the South Hingham Development Overlay District are subject to the intensity regulations set forth in Section III-E, South Hingham Development Overlay District.

15. Contiguous parcels separately deeded to the Town shall be considered a single parcel in application of minimum yard dimensions.

16. In no event shall the Height of any residential Building be higher than thirty-five (35) feet measured from Grade Plane, and in no event shall the highest roof surface, peak or parapet be more than forty (40) feet above Finished Grade where it intersects the perimeter wall at any point. See also the Building Height Diagram in annex A.

IV-C General Intensity Provisions

1. Frontage
Lot frontage in all districts shall be measured at the street line, except that frontage shall be measured at the front setback line if the street is an arc of a curve with a radius of two hundred (200) feet or less. For this purpose, the setback line shall be the minimum front setback required in that district.

2. Location of Accessory Buildings
Accessory buildings shall not be located nearer the lot line than the minimum dimensions of the front, side, or rear yards and shall be no more than two stories and shall not exceed 30 feet in height.

3. Appurtenant Open Space
No yard or other open space required for a building by this By-Law shall, during the existence of such building, be occupied by or counted as open space for another building.

4. Density
Unless otherwise expressly permitted in this by-law, no more than one dwelling unit shall be located on any single lot.

5. Exempted Lots
   a. Residential
   A lot or parcel of land in a residential district having an area or frontage less than that required by this section may be developed for a single residential use provided that such lot or parcel complies with the specific exemptions of Section 6 of Chapter 40A of the Massachusetts General Laws.

b. All Other Districts

In non-residential districts, the lot area and lot frontage requirements shall not apply to any lot of less area or frontage already existing in a particular ownership as shown by plan or deed lawfully of record on or prior to the date of this By-Law.

6. Corner Lot and Clearance

A corner lot and any other lot abutting a street in more than one location shall maintain front yard setback requirements for each and every street. Within the area formed by the line of intersecting ways and a line joining points on such lines fifteen (15) feet distant from their point of intersection, or in the case of rounded corners, the point of intersection of their tangents, no building structure, fence, wall, planting, or other feature that would interfere with a clear and unobstructed view across the corner shall be maintained between a height of two and a half (2 1/2) feet and a height of eight (8) feet above the plane through their curb grades.

7. Projections

Nothing herein shall prevent the projection of steps, gutters, bay windows, terraces, outside chimneys, stoops, piazzas or porches not exceeding thirty (30) square feet in area, eaves, cornices, window sills or belt courses of the main structure or accessory buildings into any front, side or rear yard spaces; provided, however, that any device that supplies usable floor area to a structure shall not constitute a projection for the purpose of this By-Law.

8. Height Exceptions

Chimney, ventilators, elevators, mechanized or motorized equipment which is used to ventilate, heat or cool a building or structure, poles, spires, tanks, towers and skylights and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed, provided, however, that (a) no wireless communications tower or antenna shall be erected except in compliance with Section V-E of this By-Law, and (b) with respect to dwellings in residential districts, (i) the area of such projections where they intersect the height limit shall not exceed five percent of the horizontal plan of the roof area in the aggregate, measured at the uppermost full floor of the dwelling, and (ii) this provision shall not be construed to exempt a parapet, wall or railing from the height requirements set forth in Section IV-B.16.

9. Fencing and Screening

In an Industrial or Business District, except as otherwise required by Special Requirement 3 of Section IV-B, Special Requirements to Schedule of Dimensional Requirements, the outdoor storage of goods, products, materials or equipment, if visible at normal eye level from a public way or from any point in an abutting residential district less than 500 feet away, shall be screened from view by an ornamental lattice, opaque fence, or sight-obscuring plantings or screenings (except retail goods when being offered for sale during business hours, vehicles offered for sale or stored by a licensed auto dealer and boats offered for sale, in storage, or under repair). Plantings shall be maintained in healthy growing condition, and fencing shall be maintained in good repair by the land owner.

10. Lot Shape Factor/Residential Districts

To meet the minimum lot area requirements in residential districts, for lots created after April 1, 2000, a lot must be a closed parcel of land having a defined area and perimeter, and a shape factor not exceeding the numerical value of twenty-two (22). Shape factors shall be calculated using the following formula:

$P^2/A = S$

P = perimeter in feet

A = land area in feet

S = shape factor not exceeding 22

A lot may have a shape factor exceeding twenty-two (22) if a contiguous portion of the lot:

a. meets the minimum area requirement for the zoning district; and

b. has a shape factor not exceeding twenty-two (22); and

c. is accessible within the property boundaries for purposes of ingress, egress and location of utilities; and

d. is located at a depth not more than two (2) lots removed from the street on which the lot's frontage is located.

IV-D Flexible Residential Development (FRD) - Special Permit

1. Purposes

a. To encourage the permanent preservation of open space, water bodies and supplies, wetlands and other natural resources, and historical and archeological resources;

b. To preserve and enhance community character by allowing for greater flexibility, creativity and open space within residential developments;

c. To provide for a diversified housing stock, including Moderately-Sized Homes and Low or Moderate Income Housing;

d. To facilitate the construction and maintenance of housing, streets, utilities and public service facilities in an economical and efficient manner; and

e. To minimize the total amount of disturbance on the site.

2. Definitions

Capitalized terms used herein and not otherwise defined herein shall have the same meanings ascribed to such terms in Section VI of this By-Law.

Additional Dwelling Units
As defined in Section IV-D, 7.

Conventional Yield
The number of Single-Family Dwellings that would be permitted under Massachusetts General Laws Chapter 41, Sections 81K - 81GG (The Subdivision Control Law) and which could reasonably be expected to be developed in full conformance with applicable zoning, subdivision rules and regulations, wetland by-laws, Board of Health rules and regulations and all applicable rules and regulations of the Town of Hingham.

Existing Protected Open Space
Open space not located within the site which is protected in perpetuity by legal restriction or form of ownership (e.g., land which is under the control of the Conservation Commission, owned by a non-profit organization the principal purpose of which is the conservation of open space, or subject to a conservation restriction).

Flexible Residential Development (or "FRD")
An alternative development plan to a conventional subdivision which permits flexibility in the layout and design of a subdivision and Additional Dwelling Units in exchange for the preservation of a significant portion of the site as open space and the construction of diversified housing.

Low or Moderate Income Housing
Dwelling Units restricted for a period of not less than thirty (30) years to occupancy by persons or families who qualify as low or moderate income, as those terms are defined for this area by the Massachusetts Department of Housing and Community Development (DHCD) and which are affordable to such persons in accordance with applicable regulations of DHCD or the Department of Housing and Urban Development. For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as Low or Moderate Income Housing shall have the following minimum specifications:

	Single Family Dwelling	**Two-Family Dwelling**
Gross Floor Area:	1,800 sq. feet	2,400 SF
# Bedrooms	Two	4 (2 per dwelling unit)
Garage Spaces	One	2 (one per dwelling unit)

Moderately-Sized Home
For the purpose of this Section IV-D, any Dwelling Unit intended to be considered as a Moderately-Sized Home shall have the following maximum specifications:

	Single Family Dwelling	**Two-Family Dwelling**
Gross Floor Area:	2,200 sq. feet	3,000 SF
# Bedrooms	Three	6 (3 per dwelling unit)
Garage Spaces	Two	4 (two per dwelling unit)

Open Space
Land within the site that is prohibited from development (except as specifically provided herein), and managed under the requirements set forth in Section IV-D, 8 hereof.

Unrestricted Dwelling Units
As defined in Section IV-D, 7.

3. Eligibility
Sites that meet the following criteria are eligible for a Special Permit A3:

a. Sites containing a minimum of three (3) acres and a Conventional Yield of not less than three (3), provided, however, that no Additional Dwelling Units (as defined in Section IV-D, 7) shall be permitted on sites containing less than five acres.

b. Sites located in Residential Districts A, B and C.

c. Sites with the proposed use permitted in the District in which the site is located, except that if the proposed FRD includes Low or Moderate Income Housing, Two-Family Dwellings shall also be permitted instead of, or in combination with, Single-Family Dwellings.

d. Sites consisting of a single parcel or two or more contiguous parcels. For the purposes of this Section IV-D, parcels physically separated by a street or way (other than a Major Street as defined in Section 4 of the Planning Board Rules and Regulations) may be considered contiguous parcels, provided that (i) the parcels on each side of such street or way are each at least three (3) acres and (ii) the frontage of the parcels on such street or way shall be parallel for a distance of not less than fifty (50) feet.

e. The site may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, provided, however, that a FRD may also be permitted on a site intended as a condominium and not so divided or subdivided.

4. Application and Review Procedure

The review procedure for a Flexible Residential Development (FRD) consists of two steps: 1) Preliminary Flexible Residential Development Plan ("Preliminary FRD Plan") review; and 2) Definitive Flexible Residential Development Plan ("Definitive Plan") review. In the first step, the applicant shall file a Preliminary FRD Plan, as described below, which describes the overall development proposal for the site. The Planning Board shall grant or deny a Special Permit A3 based on the information contained in the Preliminary FRD Plan application.

If the Special Permit A3 is granted, the applicant shall submit a Definitive Plan, as described below, based on the Preliminary FRD Plan. The Planning Board shall then review the Definitive Plan as a definitive subdivision plan. Two separate public hearings shall be held, one for the Special Permit and one for the Definitive Plan.

The applicant is encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite all relevant boards and committees to attend, including but not limited to the Conservation Commission, Board of Health and, if applicable, Sewer Commission, Historic Districts Commission and Housing Partnership Committee. The purpose of the pre-application hearing is to minimize the applicant's cost of engineering and other technical experts, and to obtain the input and direction of the Planning Board prior to filing the application. At the pre-application review the applicant shall outline the proposed FRD and seek preliminary feedback from the Planning Board and/or its technical experts. The applicant is also encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review. If such a site visit is requested, all applicable boards and committees will also be notified and invited to attend.

5. Preliminary Flexible Residential Development Plan Review

a. An application for Preliminary FRD Plan review shall include the following:

i. Site Context Map. A map illustrating the larger context in which the site is located, including associated or adjacent neighborhoods, natural features, roads and zoning districts.

ii. Existing Conditions/Site Analysis Map. Based on existing data sources and field inspection, this map should contain all zoning classifications applicable to the site, all physical and natural features including water bodies, streams, wetlands, areas of greater than 40% slope, vistas, geological and topographical features, topography at 2' intervals, unique vegetation, historic features, large boulders or ledge outcroppings, wooded and open areas, trees with a caliper of 6 inches or greater and stone walls.

iii. Preliminary Plan. The preliminary development plan, prepared by a professional landscape architect registered in the Commonwealth of Massachusetts, and/or a professional civil engineer registered in the Commonwealth of Massachusetts, which complies with the requirements of Section 3, B (1) and (2) of the Planning Board Rules and Regulations. The Planning Board may waive specific requirements relative to the content of the Preliminary Plan as the Planning Board deems appropriate. The Preliminary Plan shall also identify the proposed location and size of structures to be built on the site.

iv. Conventional Yield Sketch Plan. A sketch plan showing the Conventional Yield.

b. The applicant shall file the Preliminary FRD Plan with the Town Clerk and Planning Board, and submit copies of the Preliminary FRD Plan to the Board of Health, Conservation Commission, Fire Department, and Department of Public Works. The applicant shall also submit

copies of the Preliminary FRD Plan to such other Town boards and agencies as the Planning Board shall request. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded such copies to the Town boards and agencies as provided in this subparagraph and as may be requested by the Planning Board.

c. The Town boards and agencies receiving copies of the Preliminary FRD Plan shall submit written recommendations to the Planning Board within 35 days after filing of the Preliminary FRD Plan. Failure to report to the Planning Board within 35 days shall be deemed a lack of objection to the application. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the Preliminary FRD Plan during the review period.

d. The Planning Board, within 60 days or such further time as may be agreed upon in writing by the applicant, may grant a Special Permit A3 if it determines that the proposed FRD achieves greater flexibility and creativity in the design of residential development than a conventional subdivision plan, promotes the preservation of Open Space and natural resources, reduces the total amount of disturbance on the site, facilitates the efficient delivery of services and complies with the requirements of this Section IV-D.

e. All Open Space shall be dedicated at the time the Special Permit holder commences construction under a Building Permit.

6. Definitive Flexible Residential Development Review

a. If the Special Permit A3 is granted by the Planning Board, the applicant shall file with the Planning Board an application for a Definitive Plan in accordance with the Rules and Regulations of the Planning Board relative to the submission of a Definitive Plan (Section 3, C). In addition, the applicant shall submit a list of all waivers requested from the Planning Board Rules and Regulations.

b. The Planning Board shall review the Definitive Plan to determine its compliance with the Subdivision Control Law, and hold a public hearing as required by Massachusetts General Laws Chapter 41, Section 81T. The Special Permit A3 shall be reconsidered if there is a substantial variation between the Definitive Plan and the Preliminary FRD Plan. A substantial variation shall be defined as an increase in the number of Lots or Dwelling Units, a decrease in the amount of Open Space and/or a change in the development pattern which adversely affects natural landscape features and Open Space, or surrounding residential properties. If the Planning Board finds that a substantial variation exists, it may reopen the Special Permit A3 public hearing to review the modifications to the Preliminary FRD Plan and, based on its findings, may approve, modify or revoke the Special Permit A3.

7. Density

The total number of Dwelling Units permitted on the site shall not exceed the Conventional Yield, provided that, if the Planning Board makes a finding that the proposed development complies with all of the provisions of this Section IV-D, the total number of Dwelling Units permitted on this site shall be the greater of (i) one hundred thirty five percent (135%) of the Conventional Yield (rounded to the nearest whole number) or (ii) the Conventional Yield plus two (2). The number of Dwelling Units permitted in excess of the Conventional Yield are referred to herein as the "Additional Dwelling Units".

a. Subject to (d) through (f) below, at least one third (1/3) of the Additional Dwelling Units shall be Low or Moderate Income Housing;

b. Subject to (d) through (f) below, at least one-third (1/3) of the Additional Dwelling Units shall be Moderately-Sized Homes;

c. The remaining Additional Dwelling Units shall be referred to herein as "Unrestricted Dwelling Units";

d. If the total number of Additional Dwelling Units is less than three (3), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as an Unrestricted Dwelling Unit;

e. If the total number of Additional Dwelling Units is a number which is not evenly divisible by the number three (3), the number of Additional Dwelling Units represented by the remainder shall be designated as follows: (i) if the remainder is one (1), such Additional Dwelling Unit shall be designated a Moderately-Sized Home, and (ii) if the remainder is two (2), the first Additional Dwelling Unit shall be designated as Low or Moderate Income Housing and the second Additional Dwelling Unit shall be designated as either a Moderately-Sized Home or an Unrestricted Dwelling Unit;

f. The Additional Dwelling Units shall be allocated such that the number of Additional Dwelling Units designated as Unrestricted Dwelling Units shall not exceed the number designated as Low or Moderate Income Housing;

g. Low or Moderate Income Housing and Moderately-Sized Homes shall not be segregated on the site, and shall be designed in the same architectural style and constructed with building materials comparable to any Unrestricted Dwelling Units constructed on the site;

h. If the proposed development consists of a mix of Single-Family Dwellings and Two-Family Dwellings, the Low or Moderate Income Housing and the Moderately-Sized Homes (i) shall be developed with a consistent mix of such Single-Family Dwellings and Two-Family Dwellings and (ii) must be evenly distributed among the Single-Family Dwellings and the Two-Family Dwellings constructed on the site. In addition, the number of bedrooms in any Two-Family Dwellings which are designated as Low or Moderate Income Housing shall mirror the number of bedrooms in the remaining Two-Family Dwellings (for example, if there are two market rate Two-Family Dwellings, one with two bedrooms and one with three bedrooms, then the corresponding Two-Family Dwellings designated as Low and Moderate Income Housing shall also contain two bedrooms and three bedrooms, respectively); and

i. It shall be a condition of the approval of a Definitive Plan that, prior to the issuance of a building permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. To the extent permitted by applicable law, local preference shall be given in the sale or rental of Low and Moderate Income Housing.

8. Open Space Requirements

The following Open Space requirements shall apply:

a. A minimum of forty percent (40%) of the site shall be Open Space.

b. The Open Space, or any portions thereof, shall be conveyed to (i) the Town, (ii) a nonprofit organization, the principal purpose of which is the conservation of open space or (iii) a corporation, trust or homeowners' association (hereinafter, a "Trust") owned or to be owned by the owners of Dwelling Units within the site. In any case where Open Space is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall perpetually be kept in an open or natural state consistent with this Section of the By-Law.

If a Trust is utilized to hold title to the Open Space, maintenance of such Open Space and any accessory facilities shall be permanently guaranteed by such Trust, which shall provide for mandatory assessments of maintenance expenses to each Dwelling Unit owner. The deed of trust or articles of incorporation shall include provisions designed to effect these obligations and to grant to the Town an easement to perform such maintenance obligations if the Trust fails to do so, along with the right to record a lien against the Dwelling Units for the collection of all costs associated with performing such maintenance obligations as well as the imposition of any applicable fees. Each individual deed shall incorporate such provisions specifically or by reference. The documents creating such Trust shall be submitted to the Planning Board for its approval and, upon Definitive Plan approval, shall be recorded.

c. The percentage of Open Space that is wetlands (as defined under the Hingham Wetlands By-Law) shall not exceed the percentage of the entire site that is wetlands. For the purposes of this subsection 8(c), surface drainage systems, such as retention and detention ponds, shall be considered wetlands and may be located in the Open Space subject to the limitation of this subsection.

d. The Open Space shall be contiguous and, when possible, should abut and give access to adjacent Existing Protected Open Space so as to help to create a system of protected Open Space. Open Space will be considered contiguous if connected by a street (other than a Major Street), way, walking or bicycle path or non-exclusive easement. Upon a finding by the Planning Board that the quality of the Open Space preserved within the FRD shall be significantly increased by permitting noncontiguous areas of Open Space, such non-contiguous areas may be included within the total required Open Space.

e. The Open Space shall be used for conservation, passive recreation, playground areas, outdoor education, agriculture, forestry, or a combination of these uses, and shall be served by suitable access for such purposes. The Planning Board may permit up to 5% of the Open Space to be paved or built upon for facilities accessory to the dedicated use or uses of such Open Space (such as pedestrian walks, bike paths and playground equipment). The Open Space shall not include land set aside for roads and/or parking uses.

f. Subsurface wastewater and storm water management systems serving the FRD may be located within the Open Space, provided that a sufficient Open Space buffer exists to adequately screen the development from abutting properties in accordance with Section IV-D,9 (c) hereof.

9. Minimum Dimensional Requirements

a. Where two or more lots are created, the minimum lot size will be determined through the Special Permit process.

b. The following minimum dimensional requirements shall apply:

- Maximum Height: 2 1/2 stories and 35 feet

- Minimum Frontage: 50 feet associated with each detached dwelling

- Minimum Front Yard Setback: 15 feet; provided that, for dwelling units without individual lots the Front Yard Setback shall be measured from the edge of the sidewalk or, if there is no sidewalk, from the edge of the paved roadway nearest the dwelling unit (the "Implied Front Lot Line").

- Minimum Rear Yard Setback: 15 feet

- Minimum Side Yard Setback: 15 feet (no side yard is required for a Two-Family Dwelling which shares a party wall on both sides).

Minimum Distance between detached structures on the same lot where applicable: 30 feet

c. At least two (2) parking spaces per dwelling unit shall be provided in garages and/or dedicated driveways. At least 23 feet of depth from the edge of the sidewalk or, if there is no sidewalk, from the paved roadway nearest the dwelling unit shall be provided for parking in driveways, and in no case shall driveway parking spaces extend beyond the actual lot line or Implied Front Lot Line as determined in subsection 9.b, above. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.

d. There shall be an Open Space buffer along the perimeter of the site consisting of trees, shrubs, vegetation, and topographic features sufficient to screen the development from abutting properties and adjacent roadways. This buffer shall be not less than 100 feet in width along abutting properties and not less than 50 feet in width along adjacent roadways, and shall count towards the Open Space requirement. No buffer shall be required along roadways created as part of the FRD. No portion of the Open Space buffer shall be within the boundaries of any Lot. Upon a finding by the Planning Board that a buffer of lesser width would be sufficient to screen and/or separate the FRD from the abutting properties or adjacent roadways, the buffer may be reduced. Upon a finding of the Planning Board that the natural state of the buffer is insufficient to adequately separate and/or screen the site from abutting properties, additional trees, shrubs and/or plantings shall be required.

e. To the extent a specific provision of this Section IV-D is in conflict with any other provisions of this By-Law, the provisions of this Section IV-D shall control. Otherwise, all other provisions of this By-law and of Sections 4, 5 and 6 of the Planning Board Rules and Regulations shall apply to a Flexible Residential Development.

10. Additional Requirements

a. Roadways and Lots shall be designed and located in such a manner as to maintain and preserve existing tree cover, natural topography and significant natural and cultural resources, to minimize cut and fill, and to preserve and enhance views to and from the site and the Dwelling Units.

b. The removal or disruption of historic, traditional, or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

c. When site conditions permit, the use of "soft" (non-structural) storm water management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate shall be required.

d. Walkways and bicycle paths shall be provided to link Dwelling Units with the Open Space and with any parking areas, recreation facilities and Existing Protected Open Space and paths and/or sidewalks on adjacent land where appropriate.

e. No lot shown on a plan for which a Special Permit is granted under this Section IV-D may be further subdivided and a notation to this effect shall be shown on the plan.

f. No building permit shall be issued for the construction or modification of any Moderately-Sized Home that would result in a violation of any of the maximum specifications set forth in the definition of Moderately-Sized Home.

g. For Two-Family Dwellings, the exterior design of the structure shall maintain the appearance and character of a Single-Family Dwelling.

IV-E Residential Multi-Unit Development

1. Town houses, garden apartments and apartment houses shall be subject to the following standards and conditions.

a. There shall be a minimum of 5 acres of land within any parcel to be developed for town houses, garden apartments or apartment houses.

b. The average number of dwelling units per acre in any development shall not exceed eight (8).

c. The shortest distance between any two structures shall not be less than 35 feet. Courts shall be completely open on one side. The Board of Appeals may waive the separation requirements if the design of the proposed development is benefited by closer spacing.

d. There shall be set aside, not to be built upon, unpaved, landscaped and/or left natural, with an acceptable balance of trees, shrubs and grass, site area equal to 2000 square feet per dwelling unit. The buffer area described in subparagraph (f) below shall not be considered as living space in computing the 2000 sq. ft. of living space per dwelling unit.

e. In addition to the 2000 square feet of living space required in (d) above, 1000 square feet of open space per dwelling unit shall be provided, which may include open paved areas, and one-half the area of covered parking or garage areas.

f. There shall be provided a landscaped side or rear yard buffer area of at least 50 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten feet.

g. There shall be set aside, suitably prepared, protected and equipped for organized recreational activities, site areas equal to 300 square feet per dwelling unit, which are not to be included in the buffer area.

h. Each dwelling unit shall consist of at least one room, exclusive of hall, kitchen and bathroom, and there shall be at least 525 square feet of enclosed floor space for a one-room unit. For each additional room an additional 125 square feet shall be required.

i. Two parking spaces shall be provided for each dwelling unit. Such spaces shall be within 200 feet of the intended users. No parking shall be permitted within the buffer area. In addition to the two parking spaces per dwelling unit required hereunder, dedicated guest parking spaces shall be required where building layouts or street design do not provide adequate on-street or off-street guest parking. The number of guest parking spaces required shall be determined during the Site Plan Review process and shall not exceed 10% of the total number of parking spaces required for the dwelling units in the development.

j. All dwelling units shall be connected to public sanitary sewer. The Board of Appeals may waive this requirement with respect to land in the former Hingham Naval Ammunition Depot to the extent that such land is not within the North Sewer District and the applicant makes a satisfactory showing that its proposed sewage disposal system will not have adverse ecological impact.

k. All utilities shall be underground.

l. No space below ground level shall be approved for dwelling purposes.

m. The placement, size, arrangement and use of access routes to public or private streets shall be adequate to serve residents and provide no hindrance to the safety of existing or proposed streets. Pedestrian walkways with all weather surfacing may be required where the density of population or school bus routes make such advisable for convenience and safety. Street and parking lot grading, drainage and surfacing shall comply with the specifications of the Subdivision Rules and Regulations.

2. Each application for a Special Permit A2 for the town house, garden apartment and/or apartment house development shall be subject to the provisions of Section I-I, Site Plan Review, and to the extent not already included therein, to the following additional provisions:

a. the site plan required in Section I-I shall be prepared by a registered engineer, landscape architect, or architect and shall be accompanied by four (4) prints of a complete development plan at a minimum scale 1" = 40' and by the plans and information required in subparagraphs (b) through (h) below;

b. a sketch plan showing generally existing topography, existing vegetation and existing major structures within the site and within 500 feet of the boundaries of the site;

c. a grading plan and, in a schematic manner, proposed utilities and drainage systems including water for fire protection and public sanitary and storm sewers;

d. a plan containing schematic renderings and table to show the extent and location of the proposed structures and, generally, the appearance of representative structures within the development, the number and type of units and the number and size of rooms per unit with proposed tolerances and the specific exterior material proposed to be used;

e. a sketch plan of all areas showing generally the location, types and sizes of trees and shrubs; the exterior lighting pattern to include description and location of lighting fixtures, and description, size and location of signs within the development;

f. a sketch plan illustrating the relationships on the site of the motor vehicle and pedestrian traffic patterns;

g. copies of any covenants and/or restrictions to be recorded before the Building Permit is issued to assure the development and maintenance of the property in substantial accordance with the complete development plan; and

h. such other information as the Board of Appeals may reasonably request to carry out the high standards of development contemplated by this Section.

3. Town houses, garden apartments and apartment houses shall be exempt from provisions of Section IV-C, 4.

4. The issuance of a Special Permit A2 for a town house, garden apartment or apartment house development shall be subject to the following provisions and procedures.

a. The Board of Appeals may approve a development plan to be completed in stages. The Board of Appeals may grant approval limited to each such stage of development. Each stage shall conform to the standards of this Section and each shall be capable of independent existence without the completion of succeeding stages.

b. The development plan shall consist of those plans and other representations, tables, covenants, restrictions and conditions as may be determined by the Board of Appeals. Such development plan as approved by the Board of Appeals and bearing the signature of the Chairman of the Board of Appeals shall be retained by the Board of Appeals, and copies of such development plan bearing the signature of the Chairman of the Board of Appeals shall forthwith, upon approval, be filed by the Board with the Town Clerk, the Planning Board and the Building Commissioner. The foregoing requirements are in addition to and not in substitution for any applicable provision of statute. Upon the approval of a development plan, the Board of Appeals shall issue to the landowner a notice, certified by the Chairman or Clerk, containing the name and address of the landowner, identifying the land affected and stating that approval has been granted which is set forth in the office of the Town Clerk. Such notice shall be recorded in the Plymouth County Registry of Deeds within ninety (90) days of the date of the Board of Appeals' decision. If such notice is not recorded within such ninety (90) days, such approval shall be void.

c. No building or use permit shall be issued with respect to any building in any town house, garden apartment or apartment house development except in specific compliance with the approved filed development plan.

d. In order to insure compliance with the approved development plan, the developer shall cause the author or authors of the plan (i.e., designer, architect, engineer, site planner, etc.) or their successors to supervise and inspect the construction prior to inspections carried out by the Town.

e. No change in content in the approved development plan shall be effective until such change shall have been approved by the Board of Appeals and the change shall have been filed as provided in subparagraph (b) above.

5. Affordable Units

a. All Residential Multi-Family Developments, as defined in this Section IV-E shall include Low or Moderate Income Housing as defined in Section IV-D, provided that the minimum specifications shall be as set forth herein. With projects with six or less dwelling units per acre, at least ten percent (10%) of such units shall be Low and Moderate Income Housing. For projects with more than six dwelling units per acre, at least fifteen (15%) of such units shall be Low or Moderate Income Housing. In the event such percentage results in a fractional number, such number shall be rounded up.

b. Any Town House dwelling unit intended as Low or Moderate Income Housing shall have a minimum gross floor area of 1200 square feet. Any dwelling unit in a Garden Apartment or Apartment House development intended as Low or Moderate Income Housing shall have the minimum square footage set forth in subsection 1.h hereof.

c. The number of studio, one, two, or three bedroom Low and Moderate Income dwelling units shall be in direct proportion to the such dwelling rate market units within the development (e.g.,

if 20% of the market rate dwelling units are two bedrooms, then 20% of the Low and Moderate Income Housing dwelling units must be two bedrooms).

d. Low or Moderate income Housing

i. shall not be segregated on the site

ii. shall be designed in the same architectural style and constructed with building materials comparable to any market dwelling units constructed on the site, and

iii. shall be constructed simultaneously and in the same proportion as the construction of market rate dwelling units in the development; and

e. It shall be a condition of the approval of a Special Permit that, prior to the issuance of a building permit for the site, the procedure for the sale or rental of the Low or Moderate Income Housing Dwelling Units shall be in conformance with regulations promulgated by the Massachusetts Department of Housing and Community Development for the inclusion of such units on Hingham's Subsidized Housing Inventory. Local preference shall be given in the sale or rental of Low and Moderate Income Housing to the extent permitted by applicable law.

The applicant shall cooperate in all respects, at applicant's sole cost and expense, with any Local Initiative Program application to be filed by the Town in connection with such development and such cooperation shall be a condition to the issuance of any certificate of occupancy for any dwelling unit within the development.

IV-F Residential Multi-Unit Development in Residence District D

1. A Special Permit A2 for town house exception shall be subject to the following conditions:

a. Prior to the submission of an application for a Special Permit A2 from the Board of Appeals, the applicant shall submit to the Planning Board a development plan of the parcel of land which is to be the subject matter of such application.

b. Said parcel of land shall contain a minimum of 20 acres and shall be located in Residence District D.

c. Development of said parcel shall be subject to the provisions of Section I-I, Site Plan Review.

d. Yard dimensions, area and height requirements shall be as required for town houses in Section IV-A.

e. All utilities shall be underground.

f. Except as provided in subsection (j) below, the maximum number of dwelling units that may be permitted on the parcel by grant of Special Permit shall be determined by the Board of Appeals in accordance with the following formula:

D = (A - W) times 0.9;
D = The maximum number of dwelling units;
A = The number of acres in the parcel;
W = The number of acres of wet areas
(defined as water areas and other land in either of the following categories:

i. All lands within the Flood Plain and Watershed Protection District; and,

ii. All lands being wetlands as defined by the Wetlands Protection Act, Chapter 131, Section 40, Massachusetts General Laws.)

g. Any development hereunder shall be subject to and must comply with the provision of Section IV-E of this By-Law, except that the requirement of Section IV-E, 1 (j) may be waived by the Board of Appeals if it makes the following determination:

i. that no part of the parcel abuts a sanitary sewer line of sufficient capacity to serve the parcel; and,

ii. that the parcel's subsurface characteristics are sufficient to absorb waste generated by the proposed development on the parcel without material ecological degradation. The Board of Appeals, as part of the application, may require the submission of such studies and reports relating to this issue, bearing such certification by a professional engineer, and in such form as may be satisfactory to it.

h. No dwelling unit shall be erected or maintained, and except for reasonable common access way or ways to the parcel, no land may be paved within a strip of land one hundred (100) feet wide along then existing public ways, parks, streams or rivers upon which said parcel abuts nor along the property line of said parcel.

i. No dwelling unit shall contain more than three bedrooms, and no more than 15% of the maximum number of dwelling units permitted on said parcel shall contain three bedrooms.

j. The Board of Appeals, if so requested in the application may, but is not obligated to, permit an increase of one or more additional dwelling units on said parcel to the maximum extent stated below, for the reasons and in the manner hereinafter provided, and upon showing to the Board's satisfaction that the particular project, (including such additional units as requested in accordance with this subsection (j), is of exceptional environmental economic, architectural and aesthetic benefit to the Town, and permits the municipal services without imposing an increased financial burden on its citizens, and so long as all of the following conditions, safeguards and limitations are met and fulfilled.

i. Inclusive of the increase of one or more additional dwelling units, as provided in this subsection (j), the total number of dwelling units on the parcel shall not exceed 1.2 times the number of acres in the parcel minus the number of acres of wet areas as defined in Section IV-F, 1 (f) hereof. In the event that application of this formula results in a figure which contains a fraction, then the maximum number of dwelling units permitted shall be the closest whole number to the figure obtained.

ii. Any additional dwelling unit or units shall be under the same character as the units permitted under subsection (f) above.

iii. Without limitation upon the power of the Board of Appeals provided under the Massachusetts General Laws or elsewhere in this By-Law, the power to condition any approval of an increase of one or more additional dwelling units up to the maximum number allowed under subsection (j) (i) hereof may be conditioned upon any or all of the following:

a. the submission of the reports, studies and other data referred to in subsection (j) (iii) above, in the form and substance and with the certification and verification as required by the Board;
b. completion of the project in accordance with the plans and specifications submitted to and approved by the Board, except for any non-material deviation; and
c. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding upon the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board of Appeals may require, and in form and substance satisfactory to it, in order to insure adherence to the development plan, to assure the continued compliance with the terms and conditions of the Special Permit issued hereunder, to insure maintenance of the project throughout its useful life, and, in the case of a condominium project, the execution, delivery and recording of condominium documents in form and substance satisfactory to the Board of Appeals.

k. To the extent that a specific provision of this Section IV-F, 1 is in conflict with a provision of Section IV-E, this Section IV-F, 1 shall control.

l. In addition to the requirements of Sections IV-F, 1 (a), IV-E and I-I, any application pursuant to this Section IV-F shall include the following:

i. detailed plans for the project, including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board of Appeals deems desirable in order to assist it in making its determination;

ii. data, satisfactory to the Board of Appeals, as to the applicant's financial and professional capacity to complete the project in accordance with the plans and specifications, and the applicant's capacity to maintain the project throughout its useful life;

iii. in the event that the application seeks waiver of the requirement of Section IV-E, 1 (j), studies and reports relating to the capacity of the parcel to absorb waste generated by the parcel without material ecological degradation, bearing such certification by a registered professional engineer and in such form as may be satisfactory to the Board of Appeals;

iv. traffic and/or utility reports or studies containing such professional certification and/or verification as may be required by the Board of Appeals; and

v. any and all other information, documents, studies, reports and similar data with respect to the project which the Board of Appeals may require, in form acceptable to it, including such financial data and projections as the Board deems satisfactory, in order that the Board may make the determinations required under this Section.

2. Open Land

All land shown on a plan for which a Special Permit A2 is granted under this Section IV-F which is not included in building lots or rights-of-way shall be open land.

a. The total area of open land shall be not less than 10,000 square feet per dwelling unit and shall be in one or more parcels of not less than 40,000 square feet each.

b. All open land shall have access from a public way.

c. The amount, ownership and use of open land shall be as required in Section IV-D, 8.

IV-G Mixed-Use Special Permit in Industrial District

1. General

In order to permit a mixture of retail, residential, open space, general commercial, limited industrial and office uses, and a variety of building types, tracts of land within the Industrial District may be developed under a Special Permit granted by the Board of Appeals as herein defined and limited.

2. Special Permit Authority

The Board of Appeals (Board) may grant a Special Permit for construction of a mixed-use project in the Industrial District. The Special Permit shall conform to this By-Law and to Massachusetts General Laws Chapter 40A, Section 9 and to regulations which the Board may adopt for carrying out its requirements hereunder.

a. Review Board - The Planning Board shall function as a review board to review each proposed mixed-use permit.

b. Purpose - The purpose of the mixed-use Special Permit is to provide for a mixture of residential, open space, retail, general commercial and limited industrial uses within an Industrial District in order to foster greater opportunity for the construction of quality developments on large tracts of land by providing flexible guidelines which allow the integration of a variety of land uses and densities in one development, provided that such land usage is shown to be for the public good and:

i. will improve the physical and aesthetic qualities of the Industrial District and improve and/or reinforce the liveability and aesthetic qualities of the surrounding neighborhood and/or environment, and

ii. is consistent with the objectives of the Zoning By-Law.

3. Review Procedure for Mixed Use Special Permit Applications

The review procedure for a mixed use Special Permit consists of three steps:

1. a pre-application conference,

2. submission by the applicant and review by the Planning Board of a Preliminary Plan for the proposed mixed-use development, and

3. submission by the applicant and review by both the Planning Board and the Board of Appeals of an application and final plan for a mixed-use Special Permit.

a. Pre-Application Conference. Prior to the submission of an application for a mixed-use Special Permit, the applicant must confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

b. Procedure for Preliminary Plan

i. The applicant shall file with the Town Clerk, at least seven (7) days before a regularly scheduled meeting of the Planning Board, the original and one (1) copy of the preliminary plan accompanied by the form entitled "Submission of Preliminary Plan Mixed-Uses". The applicant shall at the same time submit to the Planning Board eight (8) copies of the preliminary plan.

ii. A fee of $100.00 (certified check) made out to the "Town of Hingham" shall accompany the submission of the preliminary plan to the Town Clerk.

iii. The applicant shall also, at the time the preliminary plan is filed, submit copies of the preliminary plan to the Hingham Highway Department, Board of Health, Fire Department, Conservation Commission, Harbor Development Committee, Tree and Park Department, Sewer Commission, Industrial and Development Commission, Light Board, Water Company and to the consulting engineer of the Planning Board. The applicant shall also submit copies of the preliminary plan to such other Town boards and agencies as the Planning Board deems appropriate, at such time and to such Town boards and agencies as the Planning Board shall in writing state to the applicant. The applicant shall file with the Town Clerk and submit to the Planning Board one or more transmittal letter(s), as required, certifying that it has forwarded copies of the preliminary plan to the Town boards and agencies as provided in this subparagraph and in any written request by the Planning Board that copies be submitted to other Town boards and agencies.

iv. The applicant shall meet with the Planning Board to discuss the preliminary plan.

v. The Town boards and agencies receiving copies of the preliminary plan shall submit to the Planning Board written recommendations on the preliminary plan within 35 days after filing of the preliminary plan. Failure to report to the Planning Board within 35 days shall be deemed lack of objection to the application.

vi. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the preliminary plan during the review period.

vii. The Planning Board within 45 days from filing of the preliminary plan shall review and determine whether the proposed project is consistent with the development of the Town and this By-Law. The Planning Board may suggest modifications and changes to the development described in the preliminary plan and shall make a written report of its recommendations to guide the applicant in the preparation of the final plan. The written report of the Planning Board shall be filed in the Town Clerk's office; after such filing the applicant may proceed to file its final plan.

viii. If the Planning Board fails to file its written report within 45 days after filing of the preliminary plan, the applicant may proceed to file its final plan.

4. Contents of Preliminary Plan

A preliminary plan shall comprise the graphic and narrative materials described below.

a. Graphic materials shall include plans of sufficient number, character and clarity to show the proposed development and the existing conditions on the site. Such graphic materials shall show at least:

i. boundaries of the proposed mixed-use parcel, north arrow, date, scale, legend, and title "Preliminary Plan: Mixed Use", the name or names of applicants and engineer or designer;

ii. names of all abutters as defined in Massachusetts General Laws Chapter 40A, Section 11, existing site conditions, proposed land uses and improvements, and approximate location and width of all adjacent streets;

iii. existing and proposed lines of streets, ways, utility and all easements, and any public areas within or next to the parcel;

iv. the approximate boundary lines of existing and proposed lots with appropriate areas and dimensions;

v. the proposed system of drainage, including adjacent existing natural waterways;

vi. the existing and proposed topography of the site at five foot or smaller contour intervals;

vii. existing and proposed buildings, significant structures and proposed open space and proposed site amenities, and proposed circulation patterns; and,

viii. an analysis of the natural features of the site, including wetlands, flood plain, slopes over 10%, soil conditions and other features requested by the Planning Board or required by any regulation of the Board.

b. Written materials shall include the following:

i. a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;

ii. a description of the neighborhood in which the parcel lies, including utilities and other public facilities and the general impact of the proposed mixed use upon them; and,

iii. a summary of environmental concerns.

5. Submission of Final Plan

a. The applicant shall file the original application for a mixed use Special Permit and the original of the final plan (which plan shall comply with the substantive Rules and Regulations of the Planning Board), together with one (1) copy of those materials, with the Town Clerk. The applicant shall also submit to the Planning Board and to those boards and agencies set forth in subparagraph 3 (b) (iii) of this Section at the time the application is filed with the Town Clerk, a copy of the application and the final plan. The applicant shall also submit an application for site plan review under Section I-I of this By-Law.

b. The applicant shall file with the Town Clerk and submit to the Planning Board a transmittal letter certifying that it has forwarded copies of the final plan to the boards and agencies as provided.

c. The Town boards and agencies receiving copies of the final plan shall submit to the Planning Board written recommendations on the application and final plan within 30 days of the filing of the transmittal letter certifying that copies of the final plan have been forwarded. Failure

to report to the Planning Board within such 30 days shall be deemed lack of objection to the application.

d. The applicant is encouraged to meet with the Town boards and agencies receiving copies of the final plan during the review period.

e. Within 50 days of the filing of the final plan with the Town Clerk, the Planning Board shall submit to the Board, accompanied by the written recommendations of the other Town boards and agencies described in subparagraph 3 (b) (iii), a written report discussing the consistency of the proposed development with paragraph 2 (b) and the Rules and Regulations of the Planning Board. Copies of such written report shall also be mailed to the applicant and filed with the Town Clerk at the time it is submitted to the Board. Failure by the Planning Board to file such written report with the Town Clerk within 50 days shall be deemed a finding that the final plans are consistent with the By-Law.

f. The Board upon receipt of the report of the Planning Board, but, in any case, within 65 days of the filing of the final plan with the Town Clerk, shall hold a public hearing, notice of which shall be given in the manner and to the parties provided in Section I-D (3) of this By-Law and Massachusetts General Laws Chapter 40A, Section 11, and to any other property owners deemed by the Planning Board to be affected thereby.

g. The Board shall, within 90 days following the public hearing, issue a written decision setting forth the reason or reasons for its decision or actions. Such written decision may provide that the application is approved as submitted, is approved subject to modifications or conditions, or is denied. A copy of the Board's decision shall be filed within fourteen days with the Town Clerk and shall be mailed forthwith to the applicant. Failure by the Board to issue a written decision taking final action on the application within 90 days following the public hearing shall be deemed to be a grant of the application and the Town Clerk shall issue forthwith, upon request, a certificate of such failure to act.

h. Approval of a Special Permit for a mixed-use shall require a unanimous vote of the Board.

i. The final plan, as approved by the Board, shall be filed with the Town Clerk and recorded with the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, as appropriate.

j. If the application is denied, the developer shall not submit an application for substantially the same project for two years, except as provided under Massachusetts General Laws Chapter 40A, Section 16.

k. Special Permits granted under this Section shall lapse in two years, excluding time required to pursue or await the determination of an appeal from the grant thereof, if a substantial use has not sooner commenced or if construction has not been begun. The Board may grant an extension for good cause after a hearing, as provided in Massachusetts General Laws Chapter 40A, Section 11, and shall grant an extension if the delay has been caused by the need to seek other permits related to the development.

l. No construction or reconstruction except as shown on the recorded final plan, or as provided in Section 12 hereof Amendments, shall occur without a further submission of plans to the Board; and a notation to this effect shall appear upon the recorded final plan and upon deeds to any property within the mixed-use parcel.

Following filing with the Hingham Town Clerk and recording with the Plymouth Registry District,

a final plan which has been approved pursuant to the provisions of this By-Law shall be deemed to run with the land, as provided in this Section of the By-Law.

6. Contents of Final Plan

An application for a mixed-use Special Permit and a final plan (hereafter a final plan application) shall include an application for a mixed-use Special Permit under Massachusetts General Laws Chapter 40A and this By-Law, a site plan as specified in Section I-G of this By-Law, a final plan as specified in paragraph (a) below, and narrative materials as provided in paragraph (b) below. Plans submitted to the Board pursuant to Section I-I of this By-Law, where applicable, as part of the site plan review shall be sufficient for submission under this subsection 6.

a. Final plans shall include the following:

i. a scale of one inch equals forty feet unless another scale is requested and found suitable by the Planning Board;

ii. preparation by and bearing the seals of an appropriate registered professional engineer, registered architect, registered land surveyor, and registered landscape architect;

iii. the registered land surveyor indicated on the final plan shall certify the accuracy of the location of the buildings, setback and all other required dimensions, elevations and measurements;

iv. a utilities and drainage plan prepared and stamped by a registered professional engineer;

v. the scale, date, and north arrow;

vi. lot numbers, dimensions of lots in feet, size of lots in square feet, and width of abutting streets and ways;

vii. all easements within the lot and abutting thereon;

viii. the location of buildings existing or proposed for the development, which shall be prepared by and bear the seal of a registered architect as provided in subparagraph (ii), including the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings. Further, the depiction of materials and colors to be used shall be required;

ix. the location of existing wetlands, water bodies, wells, 100-year flood plain elevation, and other natural features requested by the Planning Board in their written report on the preliminary plan;

x. the distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot;

xi. percent of the building lot coverage;

xii. average finished grade of each building at the base of the building;

xiii. the elevation above average finished grade of the floor and ceiling of the lowest floor of each building;

xiv. existing and proposed contour lines at two-foot intervals;

xv. the uses proposed for the mixed-use development by building or part thereof, including proposed open space, recreation areas, or other amenities;

xvi. proposed provisions for parking;

xvii. height of all buildings, above average finished grade of abutting streets;

xviii. a landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size and species of plantings; and,

xix. a model or models illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevation as well as the general height, bulk and appearance of structures.

b. Narrative information concerning the development's impact on the community shall be provided to include, at a minimum, the following:

i. a description of the proposed mixed-use development, showing the planning objectives and the character of the development to be achieved through the mixed-use Special Permit;

ii. a parking and traffic plan to be prepared by a traffic engineer. The traffic plan shall include information on the type and number of vehicles generated on average and peak periods of uses, the impact on traffic intersections, and major roads servicing the project area. The parking plan shall comply with Section V-A of the By-Law;

iii. a description of the neighborhood in which the tract lies and the impact of the development on the neighborhood and the community. Such description shall include information concerning the impact to local schools and school districts, the local tax base, housing supply, sewer, water, and other utility systems, and other public facilities. When so requested by the Board's written report, other impact information shall be provided; and,

iv. evidence of ownership or interest in the land for which the Special Permit is sought.

7. Minimum Requirements

The mixed-use Special Permit shall be subject to the following conditions, and the Board of Appeals shall make a determination that the project meets the requirements of Massachusetts General Laws Chapter 40A, Section 9 and this mixed-use By-Law as to all the following conditions:

a. the mixed use is consistent with the purpose set out in paragraph 2 (b) of this Section of the By-Law;

b. the mixed use has received site plan approval as described in Section I-G of the By-Law;

c. execution, delivery and recording of such covenants, agreements and instruments running with the land and binding on the owner of the parcel, its legal representative, successors, heirs and assigns, and enforceable by the Town, as the Board may require, and in form and substance satisfactory to it, in order to insure adherence to the terms of the Special Permit issued hereunder;

d. the prior approval of detailed plans for the project including, without limiting the generality of the foregoing, plans showing all structures and improvements on the parcel, all ways and utilities serving the same (which plans shall comply with the procedural and substantive Rules and Regulations of the Planning Board), all lot lines, easements and rights of way of record, a model or models, building plans and specifications illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures, and such other and further documents, studies, reports or data which the Board deems desirable in order to assist it in making its determination;

e. the Board may, in appropriate cases, impose dimensional and setback requirements in addition to those required by this By-Law; and

f. the Board may, in appropriate cases, impose a requirement that a motor vehicular and pedestrian easement for access and egress be provided from a street, road or other way over which the public has access, to the navigable waters bordering the tract of land.

8. Permitted Uses and Intensity of Use

a. Residential - Commercial Option

i. Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.

ii. Residential use as allowed by paragraph 8 (c) shall not exceed 15% of the total allowable project square footage. Further, the number of three-bedroom units shall not exceed 15% of the total number of units constructed. No residential units with over three bedrooms will be allowed in a mixed-use project.

iii. General commercial as allowed by paragraph 8 (c) shall comprise 79% or less of the total allowable project square footage.

iv. Limited industrial use as allowed by paragraph 8 (c) shall not exceed 20% of the total allowable project square footage. Further, for each square foot of limited industrial space developed, there shall be a reduction of one square foot of allowable general commercial activities.

b. Commercial Option

i. Retail uses as allowed by paragraph 8 (c) shall not exceed 6% of the total allowable project square footage.

ii. General commercial and limited industrial uses as allowed by paragraph 8 (c) may comprise up to 100% of total allowable project square footage. The specific mixture of general commercial and limited industrial uses and square footages shall be the prerogative of the developer, subject to design and site plan review powers accorded to the Board of Appeals.

c. Permitted Uses

i. Residential:
Residential units, free standing or attached, are a permitted use; further, residential units may be allowed as part of mixed-use buildings.

ii. Retail:

Building materials and hardware
General merchandise
Food stores and bakeries
Liquor stores
Automotive, marine craft and aircraft accessories
Apparel and accessories
Furniture, home furnishings and home appliances
Eating and drinking establishments
Books and stationery
Drug stores

iii. General Commercial:
Dry goods and apparel (wholesale)
Electrical goods (wholesale)
Hardware, plumbing, heating and equipment supplies (wholesale)
Professional equipment and supplies (wholesale)
Service establishments, equipment and supplies (wholesale)
Drugs and allied products (wholesale)
Tobacco and tobacco products (wholesale)
Beer, wine, and distilled alcoholic beverages (wholesale)
Paper and paper products (wholesale)
Furniture and home furnishings (wholesale)
Commercial fishing
General business office space
Laundering establishments
Personal services establishments
Research, development and testing services
Equipment rental services
Medical and dental health services, excluding those uses enumerated in paragraph 3.8of Section III-A, Schedule of Uses
Hotels, botels, and motels: are permitted as part of an originally approved final plan. A change in use from any other allowed use to a hotel, botel or motel requires a Special Permit from the Board. At a minimum, the applicant must show that the proposed new use meets all parking requirements and is consistent with the remaining land uses in the mixed-use.
Museums
Theaters and public assembly
Sales of marine craft and aircraft
Marinas including storage, sales and service of marine craft
Sports facilities, clubs, and similar activities

iv. Limited Industrial:
Assembly and production
General warehousing (non-food items)
Apparel manufacture
Furniture manufacture
Professional, scientific and research facilities

d. Other Uses:

i. Accessory uses as defined in Section III-I of the By-Law shall be permitted.

ii. Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv) may be permitted as part of the originally approved final plan if, in the judgment of the Board, the proposed use does not create health, traffic or safety problems for the remainder of the development area and abutter areas and is consistent with the remaining land uses in the mixed-use area.

iii. Uses not listed in paragraph 8 (c), subparagraphs (i)-(iv), if requested after approval of the final plan, may be permitted as an amendment to the original mixed-use Special Permit as provided in subsection 12.

iv. Open space as provided in paragraph 9 (c) below.

9. Dimensional Requirements

a. Site Area Requirements - A minimum of 100 acres is required, and a maximum of 140 acres is permitted, within the Industrial District. The parcel shall be contiguous; however, a public transportation, utility, parking area or public ways shall not constitute a boundary or property line in computing the size of the contiguous parcel. The public transport, utility, parking area or public way, however, shall not be used in the calculation of the total project area.

b. Floor Area Ratio - Maximum floor to area ratio shall be 1 to 1.

c. Usable Open Space - The part or parts of land or structure within a mixed use which are reserved for permanent active or passive recreation use. This space shall exclude parking areas, streets, alleys, required setbacks, waterways, and sidewalks; and shall be open and unobstructed. Trees, plantings, arbors, flagpoles, sculpture, fountains, covered walkways, and similar objects shall not be considered obstructions.

In all mixed-use developments that are new construction, at least 15% of the land shall be set aside as permanent usable open space, available to the project's users or the community. The required open space shall be subject to reasonable restrictions, covenants, and maintenance arrangements, imposed by and legally enforceable by the town to assure access and maintenance as provided in this section.

d. Height - No building within the mixed-use development shall exceed 40 feet in height above the average finished grade of abutting properties, except that a 55-foot height may be allowed not closer than 200 feet from major highways such as Route 3A and any residential district. Parking facilities within the building shall not be calculated as part of the allowable height. The maximum additional height allowed for parking facilities shall be nine feet, provided that this shall not apply to free standing parking garages.

10. Parking Requirements

a. In all mixed-use developments adequate off-street parking shall be provided. The Board and the applicant shall have as a goal, for the purposes of defining adequate off-street parking for the development, making the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Board shall make provision for complementary or shared use of parking areas by activities having different peak demand times, and the applicant shall locate adjacent uses in such a manner as will facilitate the complementary use of such parking areas. Implementation of such complementary use of parking areas may result in reductions in the parking requirements set out in this subsection of the By-Law. The parking may be at ground level, underground or in a parking garage. Parking garages can be free standing (in which case 55 feet is the allowed maximum height) or as part of buildings with commercial or residential purposes. If a free

standing parking structure is proposed, the spaces must be assigned to specific uses at the time of the submission of the final plan.

b. Parking requirements for the mixed-use development shall be in accordance with Section V-A of this By-Law.

11. Signs

Signs in mixed use development are permitted subject to the following requirements and standards.

a. The proposed location and size of all signs must be indicated at the time of submission of the final plan.

b. Dimensional controls for signs in mixed-use development are as follows:

i. Development and Directory Signs

One free standing permanent development sign per entrance to the development shall be permitted not to exceed 50 square feet in area and 20 feet above ground level for the purpose of identifying the name of the development; provided, however, that not more than two such signs shall be permitted per total completed mixed-use development. As an alternative to one of the foregoing development signs, a directory-type sign not exceeding 80 square feet in area and 16 feet above ground level identifying the name of the development and any nonresidential use therein shall be permitted at the entrance which is the primary entrance for the nonresidential uses of the mixed-use district; provided, that any identification of an individual non-residential use shall not exceed 10% of the total area of such directory-type sign. Any such sign shall be within the mixed-use development and, where adjacent to any contiguous residential classification or use, shall be located at least 100 feet from the interior boundary between the mixed-use development and such residential classification or use.

ii. Retail, General Commercial and Industrial Buildings

a. Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade, and in no instance shall they exceed 100 square feet in total sign space.
b. Parallel signs shall not extend more than one foot from the wall to which they are attached.
c. Perpendicular signs shall not exceed six square feet in total size and the area of the perpendicular sign shall be deducted from the total parallel sign space allowed, thus reducing the total square footage allowed for a parallel sign.
d. Perpendicular signs shall be affixed to the building wall by hardware that extends no more than eight inches from the building wall.

iii. Residential Buildings

a. Parallel signs affixed to the facade of the structure shall not exceed 30 square feet. Further, the location of said sign is limited to the first floor of the building. Awnings at entrances shall not be considered signs; however, the area used to denote the name of the building on the awning shall not exceed 30 square feet.
b. Perpendicular signs are not allowed on residential buildings.
c. Free standing signs, located in an area clearly associated with the residential structure, are allowed. In no instance will the sign be more than 30 square feet or 6 feet in height or within 20 feet of a roadway.

iv. Buildings Including Residential As Well As Retail, General Commercial or Industrial Uses (mixed use buildings)

a. Parallel signs affixed to the facade of the structure shall not exceed 10% of the square footage of the facade. In no instance shall the sign area exceed 50 square feet. In calculating the 10% of building facade, the residential portions of the building must be excluded.
b. Perpendicular signs are allowed on mixed-use buildings but shall not exceed six square feet in size, and shall be attached by hardware that does not extend from the wall more than eight inches. Further, the sign area used by perpendicular signs shall be subtracted from the allowable sign area for parallel signs.

v. The prohibitions of Section V-B of this By-Law shall apply to the mixed use district.

12. Amendments - After approval of the mixed use Special Permit by the Board, the developer may seek amendments to the final plan as approved by the Board as provided below:

a. Minor amendments shall be defined and administered in accordance with regulations adopted by the Board.

b. An application for a major amendment shall be filed with the Town Clerk. The applicant shall also submit copies of the application for a major amendment with the Building Commissioner, the Planning Board and the Board of Appeals. An application for a major amendment shall comply with subsections 5 and 6 of this Section.

SECTION V

Special Regulations

V-A Off-Street Parking Requirements

1. Introduction
   Safe and convenient off-street parking shall be provided in all zoning districts in accordance with the requirements of this Section. The parking criteria are directed toward lessening congestion and securing safety from personal injury or property damage on public and private ways and abutting lands in the Town of Hingham. The Planning Board may impose appropriate time, use or dimensional conditions on the granting of such a Special Permit. Frequent parking of vehicles on a street adjacent to the premises shall be considered evidence of the inadequacy of the off-street spaces provided.

2. Off-Street Parking Space Requirements
   Provision for off-street parking, drives, services, and display and loading areas shall be as specified below. Providing fewer or more parking spaces than required by this Section V-A requires a Special Permit A3. Applicants are encouraged not to construct parking in excess of the typical projected demand. These parking requirements shall be met for new construction, the enlargement or increase in gross floor area of an existing building, the development of a use not located in a building, or the change from one type of use to another. Parking areas for each land use shall be located on the same parcel unless appropriate relief is granted by the Planning Board to permit parking on a contiguous parcel. Within Business District A, parking space requirements are reduced by 25%.

Use	**Requirement**
Residential Uses	
Residential	2 spaces/unit
Elderly Residential	1 1/4 spaces/unit
Congregate or Assisted Living Facility	1 space/living unit
Office/Retail/Commercial Uses	
Retail and Service Business	5 spaces/1000 SF of GFA
Hotel/Motel	1 space/room plus 1 space/2 employees of 2 consecutive shifts
Bank	4 spaces /1000 SF of GFA
Medical & Dental Office	1 space/175 SF of GFA
Professional Office	5 spaces/1000 SF of GFA
General Business Office	3 1/2 spaces/1000 SF of GFA
Greenhouse, Nursery and Roadside Stand	1 space/1000 SF of display area whether indoors or outdoors
Marina	1 space per 2 berths
Motor Vehicle Service/Filling Station	2 spaces per bay or work station
Eating Establishments	
Sit-Down & Take-Out Restaurants	1 space/3 seats
Fast-Food Restaurant	30 spaces/1000 SF of GFA
Institutional	
Auditorium	1 space/3 seats
Clubs & Fraternal Lodges	1 space/3 seats in assembly area
Recreation	1 space/3 persons at capacity use
Nursing & Convalescent Home	1/4 space/bed plus 1 space/ employee of 2 consecutive shifts
Churches & Funeral Parlors	1 space/3 seats
Industrial	
Manufacturing	2 spaces/1000 SF of GFA
Research & Development	3 1/2 spaces/1000 SF of GFA
Warehousing & Wholesaling	1 space/1000 SF of GFA

(SF of GFA = square feet of gross floor area)
For uses not specifically covered by the Zoning By-Law, parking requirements shall be determined by Special Permit A3.

Notes:

a. Where the structure, activity or any portion thereof is susceptible to more than one use, the parking requirement shall unless otherwise determined, be calculated according to that possible use requiring the greatest number of spaces.

b. Parking areas serving a clearly defined mixture of uses that do not place coincident demands on the parking area may have the parking requirements reduced by 10 percent for lot size from 50 to 99 spaces, and by 15 percent if the lot size is 100 spaces or greater by Special Permit A3.

c. When the computation of required parking spaces results in a requirement of a fractional space, any fraction of one-half or more shall require one space, but in any event not less than 1 space.

d. No space reserved for any person, tenant, activity or purpose (except for spaces reserved for "visitor" or "customers" parking) shall be included to satisfy the parking requirement.

3. Parking Dimension Requirements
The following standard parking dimensions shall govern the design of parking areas. All uses other than Single-Family Dwelling shall comply with these dimensional regulations, unless relief is granted by the Planning Board by Special Permit A3.

TABLE OF PARKING DIMENSIONS

Standard Parking Spaces		**Parallel Parking Spaces**	
Width	9 ft.	Width	8.5 ft.
Length	18 ft. with overhang 20 ft. without overhang	Length	22 ft.

Loading Spaces

Width	12 ft.
Height Clearance	14 ft.

Aisle Width

Parking Angle	45 degree	60 degree	75 degree	90 degree	Parallel
	14 ft.	18 ft.	22 ft.	24 ft.	14 ft.

Minimum Driveway Widths

One way - 12 ft.
Two way - 20 ft.

4. Plan Requirements
When construction or alteration of a parking area is proposed, or a Special Permit A2 or A3 is sought, a plan shall be prepared and wet stamped with original signature of a Massachusetts professional civil engineer at a scale of 1" = 20' or 1" = 40' conforming to the design standards presented below and showing the following information:
a. construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, signs, screening and lighting;

b. location of all buildings, lot lines, and zoning boundary lines from which the parking lot and loading area must be set back; and

c. where landscaping is to be provided, the location, species, size and number of plantings.

5. Design Standards
a. All parking areas designated for a use other than Single-Family Dwelling shall be designed to provide safe and convenient vehicular and pedestrian access, circulation and maneuverability and pedestrian activity, in accordance with this Section.

b. All driveways shall be located and designed so as to minimize conflict with traffic on public and private ways and to provide good visibility and sight distance for observation of approaching vehicular or pedestrian traffic.

c. Loading spaces shall be provided for all commercial activities. Their location, number and length will be reviewed and approved during the site plan review process.
d. Ample space shall be designated for access to loading and service doors separate from all parking areas and without obstruction or hindrance to travel on streets, driveways and aisles.

e. Required parking and loading facilities shall be laid out so that each vehicle may proceed to and from its parking space without requiring the movement of any other vehicle. In no case shall parking or loading spaces be located as to require the backing or maneuvering of a vehicle onto a sidewalk, or public or private way in order to leave the space. Driveways should be located and designed so that queues do not obstruct effective use of aisles and parking spaces.

f. Parking space overhangs are not permissible beyond a property line, over a sidewalk, into a fire lane, or adjacent to a structure where a minimum clear distance of four feet cannot be provided.

g. A substantial bumper of masonry, steel or heavy timber, or concrete or granite curb, or berm curb which is backed shall be placed at the edge of the surfaced areas except driveways to protect abutting structures, properties, sidewalks and screening materials.

h. Any illumination of parking areas or loading or service areas shall be directed so as not to shine upwards or on abutting properties or public or private ways.

i. Parking spaces shall be delineated by white pavement markings.

j. Handicap spaces shall be provided in accordance with the Architectural Access Board regulations (521 CMR) for all parking areas exceeding 15 spaces.

k. The layout of the parking area shall provide sufficient space for the storage of plowed snow unless removal by other means is assured.

l. The maximum parking lot grade shall be 4 percent and the minimum 1 percent. Parking areas shall be surfaced with asphalt, concrete, or similar nonerosive surface, and drained in a manner deemed to be best management practice (BMP) to prevent erosion or excessive water flow across public and private ways or abutting properties as well as graded and drained such that stormwater runoff does not accumulate on the ground surface. In addition to the foregoing, pervious paving materials may be permitted at the discretion of the Planning Board, subject to compliance with design and construction standards referenced in this sub-paragraph. The drainage system shall be designed to control the 10 year storm event, and stormwater management shall conform to the Stormwater Performance Standards and Guidelines of the Massachusetts Department of Environmental Protection.

m. Parking lots containing 10 or more parking spaces shall have at least one live tree per 10 spaces, such trees to be located within or around the parking area so as to soften the visual impact of parked vehicles as much as possible. Trees and landscaped plots shall be so designed and located to provide visual relief, channelize logical areas for safe pedestrian and vehicular circulation, and screen the parking lot from adjoining properties. Trees shall be at least a three inch (3") caliper, with a clear trunk at least five feet (5') from the ground, and planted in raised plots providing a minimum of fifty square feet of seeded or landscaped permeable area per tree, whether planted singly or in groves. Preference should be given to species of growth and cultivation habit appropriate to the site. Existing trees shall be retained to meet this requirement whenever appropriate and practicable. Any landscaped areas may be included in the calculations for open space areas.

Parking lot trees must be maintained in a healthy growing condition at all times. The property owner is responsible for regular trash removal weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any tree which dies shall be removed promptly and replaced within the next planting season.

Parking lot trees shall not be cut down or removed when a parking lot is reconstructed or enlarged. Said trees may be moved to another location on the lot upon approval of a site plan modification by the Planning Board.

6. An applicant is not entitled to a Special Permit. The Planning Board may approve such an application for a Special Permit A3 Parking Determination if it finds that, in its judgment:

   a) The parking is sufficient in quantity to meet the needs of the proposed project;
   b) Pedestrian access and circulation has been provided for;
   c) New driveways have been designed to maximize sightline distances to the greatest extent possible;
   d) It is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on-site or on the surrounding streets, or adversely affect the value of abutting lands and buildings and
   e) The granting of relief is consistent with the intent of this By-Law and will not increase the likelihood of accident or impair access and circulation.

V-B Signs

1. Purpose
   This Section is adopted by the Town to reasonably regulate signs and other advertising devices within the Town in order to advance the public interest by preserving and enhancing natural scenic, historic and aesthetic qualities and promoting pedestrian and vehicular safety.

2. Definitions
   In this Section the following terms shall have the following respective meanings:

Accessory Sign
any sign, which with respect to the premises on which it is located, indicates, calls attention to or advertises either the person occupying the premises on which it is located, or the business or activity being conducted on such premises, or which advertises the sale, rental or lease of the premises or any part thereof, and which contains no other advertising matter of any kind.

Awning
a retractable type structure of flexible material (plastic, canvas) on a frame attached to the facade of a building and projecting therefrom as a protection against sun or rain.

Awning Sign Area
the area encompassed by any wording, logo, or design distinct from the awning background color. Awning signs are measured and included within the allowances for parallel building signs.

Building Sign
any outdoor sign affixed to or painted on or in any manner supported by or forming a part of the exterior of a building and any sign on or in a window or door of a building.

Business Establishment
each separate place of business whether or not consisting of one or more buildings.

Commercial Message
any wording, logo or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product or service or other commercial activity.

Ground Sign

any sign other than a building sign as herein defined.

Incidental Sign

a sign, generally informational, relating to the business or service conducted on the premises, such as "open/closed," or "hours of operation,". No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Non-Accessory Sign

any sign other than an accessory sign as herein defined.

Sign

a sign shall include any lettering, word, numeral, emblem, design, device, trademark, drawing, picture, flag, pennant, streamer, or other object of whatever material or method of constructions and however displayed whether being a structure or any part thereof, a building or other structure or object and used to indicate, announce, direct, attract, advertise or promote.

Window Sign

any temporary accessory sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed in or on a window and is visible from the exterior of a window. Signs painted on the window glass shall be considered permanent, parallel, exterior building signs.

3. Schedule of Sign Regulations

Signs hereafter erected or placed on property within the Town of Hingham shall conform to the requirements of this Section V-B. As set forth in the table below, signs permitted as of right will not require Building Permits. Building Permits for signs complying in all respects with the given requirements shall be issued by the Building Commissioner. In the alternative, but not in addition, Special Permits A1 for signs meeting all Special Permit limitations may be granted by the Board of Appeals. In those cases where a Special Permit from the Board of Appeals is required and granted, a Building Permit for the work in conformance with the terms of the Special Permit is also mandatory. Signs not meeting the regulations in all respects shall require a Variance from the Board of Appeals in accordance with Massachusetts General Laws Chapter 40A, Section 10.

In granting a Special Permit, the Board of Appeals shall find that the location, nature and use of the premises are such that the proposed sign or signs may be permitted in harmony with the general purpose and intent of this Section. In granting any such permit the Board shall specify the size, height, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

For explanation of the terms used in this table, refer to the footnotes on the pages which follow.

Schedule of Sign Regulations

Sign Type[1]	Maximum Area [2]	Maximum Height	Minimum Setback[3]	Maximum No.[4]	Illumination[5]	Permit Procedure[6]
IN ALL RESIDENCE DISTRICTS AND THE OFFICIAL AND OPEN SPACE DISTRICT:						
Bldg.-Parallel	1 s.f.	5′ above ground floor	n.a.	1	External	N
Bldg.-Parallel	4 s.f.	5′ above ground floor	n.a.	1	External	B
Bldg. - Parallel	10 s.f.	5′ above ground floor	n.a.	1	External	Z
Ground	2 s.f.	6′	-	1	External	N
Ground	4 s.f.	6′	-	1	External	B
Ground	20 s.f.	6′	15′	1	External	Z
IN BUSINESS DISTRICT A:						
Bldg.- Parallel	1 s.f.	5′ above ground floor	n.a.	1	External	N
Bldg.-Window and/or incidental	-	n.a.	n.a.	20% glass area in the aggregate and no more than 45% of any individual window	None	N
Bldg.- Projecting[7]		-	n.a.	1	External	B
Perpendicular	4 s.f.					
Business flag	15 s.f.					
Awning	See Definitions					
Bldg. – Parallel	30 s.f.	-	n.a.	1	External	B
Bldg. – Projecting						
Perpendicular	9 s.f.	-	n.a.	1	External	Z
Bldg.-Parallel	45 s.f.	-	n.a.	-	External	Z
Ground	2 s.f.	6′	10′	1	External	N
Ground	15 s.f.	12′	10′ 30′ from Res. Zone	1	External	B
Ground	24 s.f.	12′	10′ 30′ from Res. Zone	1	External	Z

Schedule of Sign Regulations *(continued)*

Sign Type[1]	Maximum Area [2]	Maximum Height	Minimum Setback[3]	Maximum No.[4]	Illumination[5]	Permit Procedure[6]
IN BUSINESS DISTRICT B, WATERFRONT BUSINESS AND WATERFRONT RECREATION DISTRICTS:						
Bldg.-Parallel	1 s.f.	5′ above ground floor	n.a.	1	External	N
Bldg.- Perpendicular	4 s.f.	-	n.a.	1	External	B
Bldg.- Parallel	30 s.f.	-	n.a.	1	External	B
Bldg.- Perpendicular	9 s.f.	-	n.a.	1	External	Z
Bldg.- Parallel	60 s.f.	-	n.a.	-	External	Z
Ground	2 s.f.	6′	10′	1	External	N
Ground	15 s.f.	12′	10′ 30′ from Res. Zone	1	External	B
Ground	24 s.f.	12′	10′ 30′ from Res. Zone	1	External	Z
IN ALL INDUSTRIAL DISTRICTS AND THE OFFICE PARK DISTRICT:						
Bldg.-Parallel	1 s.f.	5′ above ground floor	n.a.	1	External	N
Bldg.-Parallel	not exceeding 10% wall area	-	n.a.	1	External	B
Bldg.-Parallel	not exceeding 10% wall area	-	n.a.	-	External	Z
Ground	2 s.f.	6′	10′	1	External	N
Ground	50 s.f.	12′	10′	1	External	B
Ground	50 s.f. per unit of 200′ of frontage	12′	10′	-	External	Z

Table footnotes

1. Sign Type

   Parallel wall signs shall not extend beyond the face of the wall, horizontally or vertically, nor project out from the wall more than 12".

   Perpendicular wall signs shall not extend above the top of the wall nor project out from the wall more than 3'.

   No sign shall be mounted on or form a part of a roof, cupola, tower, spire, chimney, enclosure or other object or structure located on or above the roof of any building.

2. Maximum Area

   In the case of a building sign composed of separate letters the size shall be calculated as the area of a rectangle enclosing the extreme limits of the sign, including any structural parts thereof.

3. Minimum Setback

   Setback requirements are measured from front, side and rear property lines. This Section shall not exempt signs from the corner clearance requirements of Section IV-C, 6 of the Zoning By-Law of the Town of Hingham. See also Section V-B, 6 (e).

4. Maximum Number

   If such business establishment has more than one public entrance, a secondary sign may be affixed to each wall in which such entrance is located other than the wall on which the principal sign is affixed. In Business District A if a business establishment abuts two public streets, a secondary sign may be affixed on the wall facing the side street. A secondary sign shall not exceed fifty percent of the maximum area of the principal sign.

   For each business establishment in a building having two or more such establishments, provided that such establishment has a separate public entrance to its premises and that such sign is affixed to that portion of the wall which forms a part of the enclosure of such premises, there shall be not more than one exterior building sign per business establishment.

   One directory sign of the business establishments occupying a building having a common public entrance, which sign shall be affixed parallel to the wall of the building at such public entrance. Such directory sign shall not exceed an area determined on the basis of one square foot for each establishment in the building. After public hearing and making the requisite findings, the Board of Appeals may grant a Special Permit to allow more or larger signs up to the maximum total square footage allowed in the table (V-B, 3) for individual businesses.

   In Office Park, Industrial Park, Limited Industrial Park and Industrial Districts, but excluding retail groups within those Districts, one or more directory ground signs listing the business establishments within the development, provided that a Special Permit A1 for such sign(s) has been issued by the Board of Appeals. Such directory ground sign(s) shall be placed in a safe location off the main road or driveway, which has at least two off-street parking spaces for the convenience of visitors reading the directory. The size of the directory sign(s) and lettering shall be scaled to the size of the development and the number of businesses, but shall not exceed ten (10) feet in height, fifteen (15) feet in length, and one hundred (100) feet in total area.

5. Illumination
Lighting shall be exterior to the advertising matter by white steady stationary light shielded and directed solely at the sign. No backlighting is permitted.

6. Permit Procedure

N = No permit required; permitted as-of-right
B = Building Permit required
Z = Zoning Special Permit required

7. Where projecting signs are installed over the public sidewalk, they shall be hung not lower than 7' from the ground to the lower edge of the sign.

8. Temporary Signs
The Board of Selectmen may grant permits for the erection and display of temporary signs, as follows:
a. one unlighted ground sign advertising any function or activity of the applicant which will be open to the public, provided that such sign not exceed 4 square feet. The permit for such sign shall be for a stated period of time not exceeding 30 days.

Applications for temporary signs shall be in such form as the Selectmen shall determine and shall contain a description of the proposed sign, including the size, height, material color, wording and supporting structure and the proposed location and inclusive dates of display. The Board of Selectmen may refer such application to the Building Commissioner for review and recommendation. In granting any such permit the Selectmen shall specify the inclusive dates of the effective term thereof and may impose such further restrictions and conditions as they may deem to be in accordance with the purposes of this Section V-B and the public interest. Temporary signs shall not require Building Permits.

9. Exempted Signs
The provisions of this Section shall not apply to the following signs:
a. any sign which is required or authorized by any law, rule, regulation or permit of the federal or state government or any agency thereof or any public authority created thereby;

b. any sign erected or placed on any Town premises under the provisions of any Town By-Law or Building Code or by direction or order of the Town board or committee having lawful jurisdiction over such premises;

c. nonconforming signs as defined in paragraph 7 of this Section;

d. any sign not exceeding 4 square feet in area, limited solely to directing traffic within a parking area, indicating parking restrictions in the use of such parking area, or indicating the location of building or unit numbers in a multi-unit complex;

e. memorial building sign or tablet denoting the name of a building and/or date of erection, not to exceed 2 s.f. in residential districts or 6 s.f. in other districts, provided that nothing herein shall limit the authority of the Historic Districts Commission to further regulate signs within duly designated local historic districts;

f. customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof,

g. holiday decorations and lights when in season;

h. one unlighted ground sign advertising the sale, rental or lease of the premises or any part thereof, provided that such sign shall not exceed 8 square feet;

i. one unlighted ground sign in a residential subdivision of six or more approved lots, which advertises the sale, rental or lease of the individual lots therein, provided that such sign not exceed 40 square feet;

j. one unlighted ground sign on each lot which advertises the name and address of the owner, architect, engineer and/or contractor responsible for any construction on the premises, provided that such sign shall not exceed 12 square feet; or

k. paper or cardstock window signs not exceeding 11" x 17" in size advertising any campaign, drive, event or activity of a civic, philanthropic, educational or religious organization for noncommercial purposes, provided they are to be removed within thirty days of initial display.

10. Prohibited Signs

a. Any sign not expressly permitted or exempted under this Section, including, without limitation, an "A"-shaped or "V"-shaped sign, a trailer sign and a billboard, is prohibited.

b. Flashing, moving or animated signs or signs designed to attract attention by a change in light intensity or by repeated motion, which such change or motion is generated by or internal to the sign itself, are prohibited.

c. Internally illuminated signs are prohibited.

d. Non-accessory signs promoting commercial activities are prohibited; non-accessory signs promoting non-commercial activities are permitted so long as they comply with the requirements of this Section V-B.

For the purposes of this Section, fund-raising activities by charitable organizations shall not be considered commercial activities.

e. No sign shall be erected at or near the intersection of any streets, or of a street and driveway, in such manner as to obstruct free and clear vision, or be erected at any location where, by reason of the position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of or be confused with, any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.

11. Nonconforming Signs

a. Any nonconforming sign legally erected prior to the adoption of this By-Law may continue to be maintained; provided, however, that no such sign shall be enlarged, redesigned, or altered except in accordance with the provisions of this By-Law.

b. The exemption herein granted shall terminate with respect to any sign which (1) shall have been abandoned; (2) shall not have been repaired or properly maintained within sixty (60) days after notice in writing to that effect has been given by the Building Commissioner.

12. Pertinence to Other Laws

All signs shall be subject to any and all other applicable by-laws and regulations of the Town of Hingham and the Commonwealth of Massachusetts. Nothing in this By-Law is intended to limit the exercise of the right of free speech guaranteed under the Constitutions of the United States or the Commonwealth of Massachusetts.

V-C Earth Removal Regulations

1. Permit Required

a. No soil, loam, sand, gravel, or other earth materials shall be removed from any lot within the Town unless such removal will constitute an exempt operation as hereinafter provided or is done pursuant to a Special Permit A2 therefor issued by the Board of Appeals.

b. No Special Permit A2 for removal of earth materials shall be granted unless the Board finds that operations conducted under such permit, subject to the conditions imposed thereby, will not be contrary to the best interests of the Town. For this purpose an operation shall be considered contrary to the best interests of the Town which:

i. will be injurious or dangerous to the public health or safety;

ii. will produce noise, dust or other effects observable from adjacent property in amounts seriously objectionable or detrimental to the normal use of adjacent property;

iii. will result in such use of Town streets so as to cause congestion or hazardous conditions;

iv. will result in the change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted; or

v. will have a material adverse effect on the water supply, health or safety of persons living in the neighborhood or on the use of or amenities of adjacent land.

2. Application and Reference to Planning Board

a. Each application for a Special Permit A2 for earth material removal shall be accompanied by a plan, submitted in triplicate (the exact size and number of copies of which may be indicated by rule of the Board of Appeals), prepared at the expense of the applicant by a registered land surveyor or civil engineer, showing:

i. the existing contours of the land;

ii. the contours as proposed after completion of the operation;

iii. the proposed lateral support to all adjacent property;

iv. the proposed drainage including calculations; and

v. other information necessary to indicate the complete physical characteristics of the proposed operation.

3. Conditions of Permit

a. In granting a Special Permit A2 hereunder the Board of Appeals shall impose reasonable conditions specially designed to safeguard the neighborhood and the Town; which may include conditions as to:

i. method of removal;

ii. type and location of temporary structures;

iii. hours of operation;

iv. routes for transporting the material through the Town;

v. area and depth of excavation;

vi. distance of excavation to street and lot lines;

vii. steepness of slopes excavated;

viii. re-establishment of ground levels and grades,

ix. provisions for temporary and permanent drainage;

x. disposition of boulders and tree stumps;

xi. replacement of loam over the area of removal;

xii. planting of the area to suitable cover, including shrubs and trees and

xiii. cleaning, repair, and/or resurfacing of streets used in removal activities which have been adversely affected by the removal activity.

b. No permit for removal of earth material shall be issued for a period of more than three (3) years, although such a permit may be renewed for additional periods in the same manner. The Board shall require a bond or other security to insure compliance with its conditions of authorization, unless, in a particular case, it specifically finds that such security is not warranted and so states in its decision, giving the reasons for its finding.

4. Existing Operations

A sand or gravel removal activity in lawful operation on any premises on March 10, 1941, may continue as an exempt operation unless and until abandoned, or if operating under a prior permit issued by the Board of Appeals until the expiration thereof. Discontinuance for more than twenty four (24) consecutive months shall be deemed to constitute abandonment. However, unless specifically authorized by such prior permit or by a new permit issued hereunder:

a. the depth of excavation shall not be extended below the grade of the lowest point excavated on the effective date of this Section of the By-Law;

b. the total area of excavation shall not be increased by more than fifty (50) percent over its area on said date; and

c. the amount of material removed per day shall not be increased by more than fifty (50) per cent the daily average for the twelve (12) months preceding said date (or the actual period of operation, if less than twelve months).

5. Other Exceptions
The removal of earth material in any of the following operations shall be an exempt operation:
a. the removal of less than ten (10) cubic yards of material in the aggregate in any year from any one lot;

b. the transfer of material from one part of a lot to another part of the same lot; or

c. the removal of material necessarily excavated in connection with the lawful construction of a building, structure or street, or of a driveway, way, sidewalk, path or other appurtenance incidental to any such building, structure or street; provided that the quantity of the material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenance below finished grade.

d. activities specifically directed by a valid Order of Conditions from the Hingham Conservation Commission.

6. Permits in Proposed Subdivisions
It is the intention of the By-Law that the removal of earth materials in an amount in excess of that permitted in paragraph 5 (a) above from any parcel of land for which a definitive subdivision plan has been prepared shall be allowed only in the same manner as removal from other parcels of land in the Town. Consequently, approval of a subdivision plan by the Planning Board shall not be construed as authorizing the removal of material in excess of ten (10) cubic yards from the premises, even though in connection with the construction of streets shown on the plan unless the material removed is below the finished grade of the constructed street as provided in paragraph 5 (c).

V-D Noise

In an Industrial District, all parties engaged in any industrial activity will provide methods to protect the abutting residential districts from the hazards and nuisances caused by the emission of noises so as to eliminate any such noises which exceed the maximum permitted sound levels defined herein as measured at any point along a district line. Noise shall be measured with an A-scale sound level meter, calibrated in accordance with specifications of the American National Standards Institute (ANSI) or as specified by the Commonwealth of Massachusetts, Department of Environmental Protection, measured over a representative period of time.

TABLE OF MAXIMUM PERMITTED SOUND LEVELS

Sound measured at a lot line abutting a residential district or school	Continuous Slow-Meter Response db (A) 55

1. Between the hours of 6:00 P.M. and 9:00 P.M., the permissible sound levels at the boundary of any abutting residential district shall be reduced by five (5) decibels, and between the hours of 9:00 P.M. and 7:00 A.M. the permissible sound levels at the boundary of any abutting residential district shall be reduced by ten (10) decibels.

2. The following sources of noise are exempt from noise level regulations:
   a. noises of safety signals, warning devices and emergency pressure-relief valves;

   b. noises emanating from temporary construction and maintenance activities between 7:00 A.M. and 7:00 P.M.; and

   c. transient noises of vehicular traffic.

V-E Personal Wireless Services

1. Purposes
   The purposes of this Section are to allow adequate Personal Wireless Services to be developed while simultaneously preserving the character and appearance of the Town by protecting the scenic, historic, environmental and natural resources of the community, by requiring owners of Towers and Personal Wireless Service Facilities to configure them so as to minimize and mitigate the adverse visual impact of the Towers and Facilities, and by providing standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of Towers and other Personal Wireless Service Facilities to ensure public safety.

2. Consistency with Federal Law
   This Section V-E is intended to be consistent with the Telecommunications Act of 1996 in that
   a. it does not prohibit or have the effect of prohibiting the provision of Personal Wireless Services;

   b. it is not intended to be used to unreasonably discriminate among providers of functionally equivalent Personal Wireless Services;

   c. it does not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulations of Personal Wireless Services and Facilities comply with the FCC's regulations concerning such emissions.

3. Definitions

Act
the Telecommunications Act of 1996

Antenna
a device which is attached to a Tower or a Host Structure, as permitted hereunder, for transmitting and receiving Personal Wireless Service transmissions

Communication Equipment Shelter
a structure located with a Tower designed principally to enclose equipment used in connection with Personal Wireless Service transmissions

Distributed Antenna System(DAS)
A multiple antenna system including antennas and control boxes typically installed on utility poles interconnected via cable or fibers belonging to the access point/base station dispersed across a coverage area. The system shall be capable of co-locating multiple Personal Wireless Service providers simultaneously.

FCC

Federal Communications Commission

Host Structure

Any building or structure (as defined in Section VI of this By-Law) other than a Tower, but including (notwithstanding anything to the contrary in Section VI) utility poles, signs and flagpoles, upon or within which a new Personal Wireless Service Facility or major modification thereof is proposed, including, without limitation, any newly constructed building or structure or any addition to any existing building or structure upon or within which installation of a Personal Wireless Service Facility is simultaneously proposed.

Major Modification of an Existing Facility

any change, or proposed change, to an existing or permitted Facility designed to support Personal Wireless Service transmission, receiving and/or relaying antennas and/or equipment

Monopole

a single, self-supporting vertical pole

Personal Wireless Services

commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Act

Personal Wireless Service Facility (also referred to herein as a "Facility")

all equipment (including any repeaters) with which a Personal Wireless Service provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment and any part thereof. This Facility may be sited on a Tower or other structure, as provided herein.

Tower

a lattice structure or structure or framework, or Monopole, that is designed to support Personal Wireless Service transmissions receiving and/or relaying antennas and/or equipment

4. Location

Notwithstanding any language to the contrary in Section III-F, a Personal Wireless Service Facility including a Tower may be erected in an Industrial, Industrial Park or Limited industrial Park zoning district, upon issuance of a Special Permit A2 by the Board of Appeals.

Within the Industrial, Industrial Park or Limited Industrial Park and Office Park zoning districts, an Antenna may be attached to a Host Structure upon issuance of a Special Permit A2 by the Board of Appeals.

In all zoning districts any Personal Wireless Services Facility, other than a Tower, which is completely concealed within a non-residential structure such that no part of the Facility is visible from the exterior of the structure may be installed upon issuance of a Special Permit A2 by the Board of Appeals.

In all zoning districts a DAS may be installed on non-residential Host Structures upon the issuance of a Special Permit A2 by the Board of Appeals.

A Tower may be permitted in the locations specified in this By-Law only after it is found

that a DAS cannot provide as adequate coverage or service as the proposed Tower.

The Applicant must provide evidence that utilizing a DAS, or connecting into an existing DAS, will not provide such adequate coverage or service.

5. Independent Review
In accordance with Section I-F, 3, upon receipt of an application for a Special Permit under this Section V-E, the Board may hire independent consultants whose services shall be paid for by the Applicant, for the purpose of reviewing the application.

6. Submittal Requirements
An application for a Special Permit A2 under this Section V-E shall include all of the following:
a. The information required for site plan approval, as set forth in Section I-I, as it may be amended from time to time.

b. Where the Applicant is not the owner of record, evidence of the Applicant's right to possession and/or control of the premises shall be presented. Without limiting the foregoing, every application must be joined by a Personal Wireless Service provider who will be an immediate user of the proposed Personal Wireless Service Facility.

c. A narrative description of the proposed Facility including the location and identification of all components together with plans, photographs or other graphic illustrations fairly depicting the physical appearance of the proposed Facility equipment when installed.

d. A description of the capacity of the Facility, including, in the case of a Tower, the number and types of antennas that it can accommodate and the basis for calculation of capacity. Description of the proposed equipment should include data as to noise, certified by an acoustical engineer, and the beam widths at ground level for the energy outputs from each Antenna sector and degree of down-tilt of each Antenna.

e. A site plan showing location of the Facility, any proposed Communications Equipment Shelter along with other buildings, lot lines, easements, rights-of-way and also an elevation showing details of the installation.

f. A map showing all Personal Wireless Service Facilities within ten miles of the proposed installation currently existing, or which the applicant expects to install and/or reasonably knows will be proposed or installed by other Personal Wireless Service providers within the next twenty-four (24) months.

g. A listing of the state and/or federal permits, licenses or approvals acquired or needing to be acquired for the proposed installation.

h. A description in both geographic and radio frequency terms of the scope and quality of the service currently available to the Town, the need to be addressed by the Facility and the manner in which the Facility will address the perceived need for service, including, in the case of a Tower, consideration given to other alternatives.

i. A description of the terms of any co-location agreements between the Applicant and any other Personal Wireless Service provider.

7. Towers

The following requirements apply to all Towers:

a. At the Board's discretion, the Applicant shall conduct a balloon or crane test, or such other reasonable equivalent, of the height of the proposed Tower. Upon notice that such a test will be required, the Applicant is responsible for making arrangements with the Board's staff so that notice of the test may be included within the legal notice for the public hearing. Photographs of the actual test from a suitable number of locations so as to depict the visual impact of the proposed facility on the Town shall be submitted to the Board at the public hearing.

b. No new Tower shall be erected if there is technically suitable space available on an existing Tower, or capacity within a DAS, within the geographic area that the proposed Tower is to serve. The Applicant shall make reasonable accommodation and shall agree to rent or lease space on the Tower, under the terms of a fair-market lease, without discrimination to other Personal Wireless Service providers.

c. Tower height shall not exceed one hundred (100) feet. The Board of Appeals may waive this restriction within the Special Permit A2 to allow for co-location which will reduce the need for other Facilities.

d. In order to maintain a safety fall zone, a Tower shall not be erected nearer to any property line than a distance equal to the vertical height of the Tower (inclusive of any appurtenant device), plus 10 percent or 20 feet, whichever is greater (or such greater distance to the extent that federal or state law allows for any additional increases in the height of the Tower), measured at the mean finished grade of the Tower base.

e. Existing on-site vegetation shall be preserved to the maximum extent practicable. The Board may require the planting of screening vegetation around the perimeter of the proposed site and around Communication Equipment Shelters and any other proposed buildings.

f. The Tower shall minimize, to the extent feasible, adverse visual effects on the environment. The Board of Appeals may impose reasonable conditions to ensure this result, including painting and lighting standards. Any Communication Equipment Shelter or accessory building for support of communication equipment, as well as any fencing installed to control access to it, shall be designed to be architecturally similar and compatible with the surrounding area and, whenever feasible, structures shall be constructed underground.

g. To the extent feasible, all network interconnections from the Personal Wireless Services Facility shall be via land lines.

h. The area surrounding the Personal Wireless Service Facility and accessory buildings shall be completely secure from trespass or vandalism. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the Facility's owner and a 24-hour emergency telephone number.

i. Traffic associated with the Tower and accessory facilities shall not adversely affect abutting ways.

j. All unused Towers or parts thereof which have not been used for two years shall be dismantled and removed at the owner's expense. The Board of Appeals may require that the proper dismantling and removal of a Tower be secured by a bond or other form of

security sufficient in the opinion of the Board to secure performance under this subsection (j).

k. No commercial signage or advertising may be affixed to any Tower.

l. Unless an earlier expiration date is specified by the Board of Appeals in the special permit, all special permits issued under this subsection 7 shall expire automatically five years from the date of issuance. Prior to expiration the Applicant may apply for successive five-year renewals, subject to the public hearing process. In determining whether the special permit shall be renewed, the Board shall take into consideration whether there then exist any structures and/or technology available to the Applicant which would enable the Applicant to provide functionally-equivalent services in a less intrusive manner.

8. Personal Wireless Service Facilities on Host Structures

The following requirements apply to all Personal Wireless Facilities on Host Structures:

a. Antennas and related equipment shall be camouflaged, that is, disguised, shielded, hidden or made to appear as an architectural component of the structure, provided however, antennas installed on utility poles, signs or flag poles as part of a DAS shall not be required to be camouflaged.

b. Facade-mounted Antennas shall not extend above the face of any wall or exterior surface of the Host Structure.

c. Antennas installed on utility poles, signs or flag poles as part of a DAS shall not exceed ten feet in height beyond the highest point of such utility pole, sign or flag pole.

d. Unless an earlier expiration date is specified by the Board of Appeals in the special permit, all special permits for Distributed Antenna Systems shall expire automatically ten years from the date of issuance. Prior to expiration the Applicant may apply for successive ten-year renewals, subject to a public hearing process. In determining whether the special permit shall be renewed, the Board shall take into consideration whether there then exists any structures and/or technology available to the Applicant which would enable the Applicant to provide functionally-equivalent services in a less intrusive manner.

e. Roof-mounted Personal Wireless Service Facilities may be permitted on buildings in accordance with the following table:

Height of Building	Maximum Height of Facility above Highest Point of Roof	Required Setback from Edge of Roof or Building
Up to 15 feet	8 feet height, including Antenna	1 foot for every foot of equipment
15-36 feet	10 feet height, including Antenna	1 foot for every foot of equipment
More than 36 feet	12 feet, or 20% of building height, whichever is greater	½ foot for every foot of equipment height, including Antenna

9. Personal Wireless Service Facilities Within Host Structures

a. All Facilities shall be concealed, that is, entirely contained within a Host Structure such that no part of the Facility, including the Antenna, is visible from the exterior of the structure.

10. Additional Requirements

a. The installation of Towers and Personal Wireless Service Facilities shall avoid the removal or disruption of historic resources on and off-site.

b. There shall be no illumination of the Towers or Personal Wireless Service Facilities except as required by state and federal law.

c. The Personal Wireless Service provider shall continuously insure its Tower and/or Personal Wireless Service Facilities against damages to persons or property in an amount established by the Board based upon the nature and extent of the proposed Facility. On an annual basis, the Personal Wireless Service provider shall provide a Certificate of Insurance, in which the Town shall be specifically listed as an additional insured, to the Town Building Commissioner.

d. Towers and Personal Wireless Service Facilities shall be installed, erected, maintained and used in compliance with all applicable federal and state laws and regulations.

e. All Personal Wireless Service providers shall monitor emissions annually and file a written statement annually with the Town Building Commissioner stating that the Facility is in compliance with any applicable laws and government regulations including, but not limited to, those of the Federal Communications Commission and the Federal Aviation Administration. If the Facility is not in compliance with said laws and regulations, the Personal Wireless Service provider shall come into compliance with said laws and regulations within fifteen (15) days of the date of any such non-compliance or cease all Personal Wireless Service operations until such time as said Personal Wireless Service provider comes into full compliance with all applicable laws and regulations. Such statement shall be filed with the application and thereafter by February 28 of each year. The data which form the basis of the statement shall be provided to the Town at no cost to the Town upon the request of the Town Building Commissioner.

f. Towers and/or Personal Wireless Service Facilities must at all times be maintained in good and safe condition. The Personal Wireless Service provider shall arrange for a professional structural engineer licensed in Massachusetts to review the Tower and/or Personal Wireless Service Facilities and any accessory buildings every five (5) years to certify these structures and Facilities are in sound condition. A report of the engineer's findings shall be filed with the Town Building Commissioner at the completion of construction and by February 28, of the fifth year of operation of the Facility. All costs for the inspection shall be borne by the Applicant. Should the engineer deem the structure or Facility not to be sound, the owner of the Facility shall submit to the Town, within ten (10) business days, a plan to remedy the structural defect(s). Upon approval of the plan by the Building Commissioner, the remediation plan shall be completed as soon as is reasonably possible.

g. No Personal Wireless Service Facility shall be installed on or within any single-or multi-unit dwelling or on or within any accessory structure to a residential use in any zoning district.

h. All applicable requirements of this Section V-E shall also apply to any Major Modification of an Existing Facility and/or any Major Modification of an Existing Tower.

i. A Personal Wireless Service Facility shall be permitted only if the Applicant demonstrates that no other existing or proposed facility can, or can reasonably be adapted to, provide adequate coverage and service. An Applicant shall provide all information relative to existing and proposed facilities as may reasonably be requested by the Board of Appeals.

j. All unused Personal Wireless Service Facilities or parts thereof which have not been used for two year shall be dismantled and removed at the owner's expense. The Board of Appeals may require that the proper dismantling and removal be secured by a bond or other form of security sufficient in the opinion of the Board to secure performance under this subsection (j).

11. Exemptions
The following types of wireless communications facilities are exempt from this Section V-E:
a. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that

i. the tower is not used or licensed for any commercial purpose.

b. Personal Wireless Facilities Service solely providing safety or emergency services for any federal, state or municipal department.

V-F Adult Uses

1. Purpose
It is the purpose and intent of this By-Law to regulate adult entertainment businesses through the Special Permit process. Since the effects of adult uses on the surrounding community in terms of crime, effects upon children and family life, property values and quality of life are well documented, it is the intention of this By-Law to assure content-neutral regulation of these activities for the general health and welfare of the inhabitants of the Town.

The provisions of this By-Law have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually-oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, or of denying rights that individuals may have to such matter or material. Further, it is neither the intent nor the effect of this By-Law to legalize the distribution of such matter or material. Massachusetts General Laws Chapter 40A, Section 9A, states that a municipality may limit the extent to which adult entertainment is allowed in a community but cannot prohibit adult entertainment from its boundaries.

Definitions

Adult Bookstore or Paraphernalia Store
an establishment and/or business which has, as a substantial or significant part of its stock in trade, books, magazines, or other devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity or their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Live Entertainment Establishment

an establishment offering performances by men or women engaging in sexual conduct or display of nudity as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Motion Picture Theater

an establishment used for the purpose of presenting visual material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

Adult Video Store

an establishment having, as a substantial or significant part of its stock in trade, videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual excitement and/or conduct as defined in Massachusetts General Laws Chapter 272, Section 31.

Massage Service Establishment

an establishment and/or business providing pressure or friction upon any or all parts of the external human body independently or in conjunction with mechanical or electrical apparatus, lotions or creams, and upon which a party receiving such service would be reasonably expected to provide consideration for such service, exclusive of physicians, surgeons, chiropractors, osteopaths, physical therapists, nurses, barbers, beauticians or other parties licensed by the Hingham Board of Health under Massachusetts General Laws Chapter 140, Section 51.

Satisfactory Criminal Record Check

evidence that the applicant has not been imprisoned for, or convicted of the following offenses or similar offenses, however defined, within the past two (2) years if a misdemeanor or within the past five (5) years if a felony; prostitution or promotion of prostitution; sale, distribution or display or harmful material to a minor; possession or distribution of pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; gambling; organized criminal activity; or distribution of a controlled substance.

Substantial or Significant Part of its Stock in Trade

more than twenty-five percent (25%) of the subject establishment's inventory stock or more than twenty-five percent (25%) of the subject premises' gross floor area.

3. Submittal and Review Requirements

A Special Permit A2 is required to build or operate any establishment falling within the scope of the definitions of this Section. As part of any application for said Special Permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth in Section I-I, as it may be amended.

Applicants shall also comply with all of the following conditions.

a. No such use shall be located in any residence district or in any other district except Industrial Park and Limited Industrial Park Districts but not as part of a retail group in either of those districts.

b. No such establishment shall be located within 1000 feet of any residence district, Official and Open Space District, church and/or place of worship, school, playground, daycare center, or nursery.

c. No such establishment shall be located within 1000 feet of any other such establishment.

d. The names and addresses of all individuals holding any interest (including but not limited to all legal and equitable interests, security interests, mortgage, lease, including the naming of all trustees and beneficiaries of any trusts, LLC's and/or other device holding ownership of such establishment) in such establishment shall be listed on the Special Permit A2 application.

e. The names and addresses of all owners, managers and employees must be provided as well as evidence of a satisfactory criminal record check of each.

f. An adequate security plan shall be presented for each establishment.

g. Any display or advertising shall be in accordance with the provisions of Section V-B of this By-Law, provided that no advertisement, display or other promotional material which contains sexually-explicit graphics or sexually-explicit text is to be visible to the public from any private or public way or walkway.

h. The Planning Board shall hold a public hearing, advertised not more than one time in a newspaper of general circulation in the Town, within 30 days of the filing of the Special Permit application, to make a recommendation to the Board of Appeals relative to drainage, adequate buffer zones, parking, traffic and safety hazards, and any materially adverse impact on the surrounding area.

i. No Special Permit shall be issued under this Section for any establishment which is, in whole or in part, owned or operated by any person who has been convicted of violating Massachusetts General Laws Chapter 119, Section 63 or Massachusetts General Laws Chapter 272, Section 28.

V-G Bed & Breakfast Establishment

1. Purpose

a. Under the authority conferred by Massachusetts General Law Chapter 40A, as amended, and every other power and authority thereto pertaining, the Town of Hingham adopts this By-Law for the regulation of Bed & Breakfast establishments in districts zoned as residential and business to achieve the following purposes:

(i) to encourage the utilization of homes in residential and business zoned districts which because of their size are costly and/or difficult to maintain as private residences; to provide an economic incentive to maintain and to rehabilitate older, larger residences.

(ii) to regulate Bed & Breakfast establishments to insure sensitivity and compatibility with the surrounding neighborhoods in residentially zoned districts through minimizing adverse impacts on neighboring residential uses.

2. Description

A Bed & Breakfast is a Single-Family Dwelling having a mixed use as a home for the residential owner and as an accessory use for guest lodging. The home is to be the primary and legal residence of the owner.

3. Submittal and Review Requirements

A Special Permit A2 shall be required to operate a Bed & Breakfast establishment. As a part of any application for said Special Permit, applicants shall submit, at a minimum, the information required for Site Plan approval.

4. Minimum Requirements

i. The Bed & Breakfast establishment and operation shall be located within an existing owner-occupied Single-Family Dwelling containing a minimum of four (4) bedrooms as of March 10, 1941.

ii. Up to three (3) rooms, but not more than one-half (1/2) of the bedrooms as of March 10, 1941, may be dedicated to the Bed & Breakfast establishment. Additionally, not more than forty-five (45%) percent of the entire habitable living space shall be allocated for Bed & Breakfast establishment purposes, and there shall be no more than six (6) guests lodging at the establishment at any one time, and the term of any guest's residence shall not exceed fourteen days.

iii. The Special Permit authorizing a Bed & Breakfast establishment shall be issued to the owner of the property only and is not transferable to a subsequent property owner.

iv. The owner of the property shall be responsible for the operation of the property and shall be a resident of the property when the Bed & Breakfast establishment is in operation. The owner shall file an affidavit with the Building Commissioner and Town Clerk on an annual basis in the month of January, stating that the property is the principal residence of the owner and that the owner is in residence at all times that the Bed & Breakfast is being operated. If the affidavit is not filed, the operation shall cease forthwith, and any Special Permit issued hereunder shall be considered null and void.

v. The Single-Family Dwelling in which the Bed & Breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a Single-Family Dwelling.

vi. No cooking facilities, including, but not limited to, stoves, microwave ovens, toaster ovens, and hot plates, shall be available to guests and no meals, except continental breakfast, shall be served to guests. Alcohol shall also be prohibited from being served on the premises to any Bed & Breakfast guest. Additionally, there shall be at least one (1) bathroom solely dedicated to the guests of the Bed & Breakfast establishment.

vii. If the property is not to be served by public water, the applicant shall provide evidence to the Zoning Board of Appeals that the proposed use will not have any detrimental impact on any water supply on-site or off-site.

viii. Any septic system shall have the design capacity to support the proposed number of rooms available for rent, as said design capacity is defined by the Hingham Board of Health. Any Certificate of Occupancy shall be signed by the Hingham Board of Health. New Bed & Breakfast establishments served by an existing septic system shall not be granted approval for operation until the Health Department confirms compliance with inspection and/or design requirements as set forth in 310 CMR 15.301; 302; 303; 352; 414 State Environmental Code Title V Minimum Requirements for the Subsurface Disposal of Sanitary Sewage and any applicable local Board of Health rules and regulations.

ix. Exterior lighting shall be so shaded as to prevent illumination off-site. All external lighting, except for demonstrated security needs, shall be extinguished by 10:00 P.M.

x. No parking shall be located in any required building yard setback. Parking areas shall be screened from adjoining residential properties by a fence or dense plantings, not less than five (5) feet in height. Furthermore, parking shall be prohibited in the front yard(s) as defined in the Hingham Zoning By-Law, Section VI. All parking for a Bed & Breakfast facility shall be located on the premises. There shall be provided two (2) parking spaces for the home owner and one (1) parking space for each room which the Bed & Breakfast establishment has available for rent to guests.

xi. Applicants for Special Permits under the provisions of this By-Law shall provide sketches, drawings or plans necessary to illustrate compliance with the requirements of this By-Law. The Planning Board or Board of Appeals may, at its discretion, require plans to be prepared by registered land surveyors, architects or engineers to illustrate the Special Permit application for the benefit of the Board and other Town officers such as the Building Commissioner and the Health Officer. Illustration required may include but not be limited to parking and driveway plan, room layout, sanitary facilities, and kitchen facilities.

xii. Any sign relating to a Bed & Breakfast operation shall comply with the applicable sign By-Law as set forth in Section V-B. However, all signs for a Bed & Breakfast operation shall be no greater than 1 1/2 x 1 1/2 feet in size.

xiii. Prior to the renting of any rooms to guests the applicant shall obtain a Certificate of Occupancy from the Hingham Building Commissioner. The Certificate of Occupancy shall be renewable every year according to the applicable fee schedule established by the Board of Selectmen.

V-H Registered Marijuana Dispensaries

1. Purpose

a) To regulate the siting, security, and operation of Registered Marijuana Dispensaries, subject to the applicable provisions of Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana (the "Act") and the regulations at 105 CMR 725 et. seq. promulgated pursuant to the Act (collectively referred to in this Section V-H as "applicable law").

b) To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and land uses potentially incompatible with Registered Marijuana Dispensaries.

2. Definitions

Registered Marijuana Dispensary ("RMD") (also known as Medical Marijuana Treatment Center) means a not-for-profit entity registered under 105 CMR 725.100, 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 registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

3. Exclusion of Other Marijuana Establishments.

Any establishment 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, or related activities shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable law.

4. Exclusion of Accessory Uses.

In no event shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any other use, provided, however, that this provision shall not prohibit hardship cultivation to the extent permitted under, and subject to, the provisions of applicable law.

5. Special Permit Requirements.

a) A special permit for a Registered Marijuana Dispensary shall be limited to the uses permitted by applicable law and shall not be combined with other uses permitted or allowed under the Zoning By-law; provided, however, that an RMD that is solely for the cultivation of marijuana and is protected under Chapter 40A, Section 3 shall not require a special permit but shall be subject to Section III-B, 8 of the By-law.

b) In addition to the application requirements set forth in this Section V-H, a special permit application for a Registered Marijuana Dispensary shall include the following:

(i) the name and address of each owner of the RMD;
(ii) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the RMD;
(iii) trade name, logo and building signage which complies with applicable provisions of this By-law and applicable law;
(iv) evidence of the Applicant's right to use the site of the RMD for the RMD, such as a dead or lease;
(v) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly situated individuals and entities and their addresses. If any of the above are entities, rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals; and
(vi) proposed security measures for the Registered Marijuana Dispensaries, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

c) Mandatory Findings. The Board of Appeals shall not issue a special permit for a Registered Marijuana Dispensary unless it finds that:

(i) the applicant has satisfied all of the conditions and requirements of this Section V-H and any other applicable provisions of the Zoning By-law; and
(ii) the RMD demonstrates that it will meet the permitting requirements of all other applicable state and local authorities related to the use and operation of an RMD; and
(iii) the RMD is designed to minimize any adverse visual or economic impacts on abutters or the surrounding neighborhood.

6. General Requirements and Conditions.

a) In no event shall RMDs be considered to be, or permitted as, a retail, medical office, clinic, or consumer service establishment use, or any other use otherwise permitted under this Zoning By-law. RMDs shall not be permitted as part of a retail group or shopping center in the Industrial Park District. Use variances shall be strictly prohibited.

b) In addition to the dimensional requirements set forth in Section IV-A for the South Hingham Development Overlay District (or the underlying zoning districts therein), RMDs (or any part thereof) shall not be located within 500 feet of the boundary of any (i) Residence zoning district, (ii) school, or (iii) outdoor playground or athletic fields; except when such uses are separated by Derby Street, Whiting Street or Route 3.
c) The hours of operation shall be set by the Board of Appeals.
d) Special permits shall remain exclusively with the original applicant to whom it is issued, who shall be the owner or lessee of the land and/or building described in the application. The Special Permit shall automatically terminate on the date the applicant transfers or conveys (other than the granting of a mort-gage to an institutional lender) its title or leasehold interest, as applicable, in the land or the building where the RMD is located. A special permit may be transferred only with the approval of the Board of Appeals by major modification to the special permit with all information required in this Section V-H.
e) All sales or other distribution of products containing marijuana or marijuana-related products shall occur indoors. Except as permitted by applicable law, no smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of an RMD.
f) RMDs shall provide the Hingham Police Department, Building Commissioner and the Board of Appeals with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the RMD.
g) As a condition of its special permit, the holder shall (i) prior to the issuance of a certificate of occupancy, provide to the Board of Appeals a copy of all local permits required for operation of the RMD, and (ii) file an annual report to the Board of Appeals no later than January 31st, providing a copy of all current applicable local permits and state licenses for the RMD and its owners and demonstrating continued compliance with the conditions of the Special Permit.
h) Any special permit issued under this Section V-H shall lapse if not exercised within one year of issuance.
i) Immediately upon the earlier of the expiration, surrender or revocation of any state issued licenses or registration, or the ceasing of operations at the RMD, all plants, marijuana infused products or other marijuana products of any kind shall be destroyed or removed from the property.

SECTION VI

Definitions

In this By-Law, the following terms shall have the following meanings, unless a contrary meaning is required by the context, or as specifically prescribed, as in Sections III-D, IV-D and V-B of the By-Law.

Accessory Buildings
a building customarily incidental to and located on the same lot with a principal building or on an adjoining lot under the same ownership.

Agricultural Uses
Commercial agriculture, horticultural and such other uses defined in and/or governed by the first paragraph of Massachusetts General Laws Chapter 40A, Section 3, as the same may be amended from time to time.

Alteration of Drainage Patterns
Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater in the area.

Apartment House
a structure utilized wholly for residential dwelling units (and permitted uses accessory thereto) and containing three or more dwelling units.

Automotive Filling Station
building or premises primarily used for retail sale of automotive fuels and lubricants and automotive accessories, and which may include facilities of secondary importance for servicing, lubricating, polishing and inspecting motor vehicles, but not painting thereof by any means.

Basement
that portion of a Building which is partly or completely below Finished Grade. See also definition of Story (above grade).

Body Art
the practice of physical body adornment by permitted establishments and practitioners using, but not limited to, the following techniques: Body Piercing, Tattooing and Cosmetic Tattooing, as defined by the Board of Health. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine of the Commonwealth, such as implants under the skin.

Body Art Establishment
a specified place or premise that has been granted a Permit by the Board of Health, whether public or private, where the practices of body art are performed, whether or not for profit.

Building
an independent structure having a roof supported by columns or walls resting on its own foundation and designed for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

Business Office or Agency
Administrative, executive, research, servicing, processing or similar businesses or organizations

having only limited face-to-face contact with the general public. See also, Professional Office or Agency.

Clinic

A facility providing medical, dental, surgical, psychiatric, therapeutic, diagnostic or other health care service with no overnight patient facilities.

Commercial/Residential Building

a building containing commercial uses on the first floor at ground level and a dwelling unit or dwelling unit(s) above the first floor. A Commercial/Residential Building may also contain commercial uses above the first floor, but in no event shall residential uses be permitted on the first floor, at ground level, or below ground level.

Commercial Service Establishment

An establishment primarily engaged in providing services on-site, including walk-in services, directly to individual or businesses, such as printing, copying, shipping, but excluding Business Offices. See also, Service Business

Congregate Living Facility

a facility providing private or communal lodging for elderly persons, including those requiring limited medical attention or supervision and who ordinarily are ambulatory. In addition to bed space, such facilities may include semi-private or private food preparation facilities, semi-private or private living rooms, common dining facilities, and common, semi-private or private bath and toilet facilities.

Consumer Service Establishment

An establishment primarily engaged in providing personal services directly to consumers on-site, such as hair or nail salons, drop-off/pick-up dry cleaner, tailor, shoe repair, animal grooming and educational services such as tutoring, but excluding medical or dental professional offices and health clubs. See also, Service Business.

Craft Establishment

Any business establishment that produces on the premises non-edible articles for sale on the premises of artistic quality or effect or handmade workmanship directly to the public, including handmade articles for production by the public on-site. Examples include weaving, pottery, painting, sculpting, candle-making, and associated activities. Craft Establishment shall be considered a "Retail Business" for the purpose of determining off-street parking requirements.

Dwelling

a building or portion thereof designed exclusively for residential occupancy, including single-family dwelling, two-family dwelling, and multi-unit dwellings, but not including hotels, motels, boarding houses, tourist home or bed and breakfast establishments, or trailers, or structures solely for use of transient or overnight occupants.

Dwelling Unit

one or more rooms providing complete living facilities for one household, including rooms and facilities for living, sleeping, eating, cooking and sanitation.

Elderly Person(s)

one person who is 62 years of age or over, or two persons, sharing a dwelling unit, the elder of whom is 62 years of age or over.

Erosion

The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic and the subsequent detachment and transportation of soil particles.

Family

one or more persons of recognized family relationship maintaining a common household, including domestic help.

Farmers' Market

an occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public from booths located on-site "agricultural products" (fresh produce, seasonal fruits, and fresh flowers), freshly caught seafood ("seafood"), "freshly prepared foods" packaged for sale, "arts and crafts items", and beverages. To classify as a Farmers' Market, the following must apply:

a. Agricultural products, seafood and freshly prepared foods must be grown, caught or prepared directly by the vendor or acquired by the vendor directly from an indentified local producer. Freshly prepared foods (for example, baked goods, jams, dressings, salsa) must be locally produced and packaged.
b. The majority of the vendors in the Market shall not be vendors of arts and crafts items. Any arts and crafts items must be created by the vendor offering such items for sale at the Market.

Fast Food/Take-Out Restaurant

An establishment offering prepared foods and beverages on a self-serve basis or ordered at a counter, to be consumed on or off the premises.

Floor Area Ratio

the total gross floor area of all buildings on one lot divided by the total area of the lot.

Frontage

the distance between adjacent intersections of lot and street sidelines measured in a continuous line along the street sideline over which vehicular and pedestrian access to the lot must be attainable, and tangent to which and within all other lot lines a circle, the diameter of which is not less than 80 percent of the minimum lot size frontage set forth in Section IV-A of this By-Law may be located.

Garden Apartment

a building designed to accommodate more than two dwelling units, with each entrance serving not more than four dwelling units, each of which extends through the building from front to rear.

General Business Office – See "Business Office or Agency".

Grade, Finished

the topography of a site at the completion of construction.

Grade Plane

a reference plane representing the average of Finished Grade intersecting the Building at all exterior walls. Where the Finished Grade slopes away from the exterior walls, the reference plane for such side of the Building shall be established by using, instead of the measurement at the Building, the average of the lowest points within the area between the Building and the lot line or, where the lot line is more than 10 feet from the Building, between the Building and a point 10 feet from the Building.

Grade, Pre-Construction

The existing topography of a site prior to any disturbance for new construction. This must be certified by a registered professional civil engineer or land surveyor.

Gross Floor Area

the sum of the horizontal surfaces of all floors of a building measured from the interior faces of exterior walls or from the centerlines of party walls, including all porches or balconies. Areas used for accessory garage purposes and areas used exclusively for heating, cooling, mechanical and electrical equipment necessary to the operation of the building may be excluded from GFA.

Ground Floor

Within the Downtown Hingham Overlay District, the floor of a Building that exits directly at street level. For any Building having more than one floor that exits directly at street level each such floor shall constitute a "ground floor".

Half-Story (1/2 Story)

A floor level situated wholly or partly under a sloping roof, suitable for any use permitted in the Zoning District, in which the ceiling area (in plan projection) at a height of at least 7'-3" above the finish floor is not more than ½ the area of the floor level next below.

Health Club

An establishment that provides members and non-members with equipment, space, and/or facilities for the purpose of physical exercise as a primary or secondary use.

Height, Building

the vertical distance from Grade Plane to the height of the highest roof surface, peak or parapet. See also section IV-C, 8 for general height exceptions.

Home Occupation

an accessory use involving the production of goods or services, the giving of lessons for compensation, or the performance of custom work of a domestic nature conducted from a dwelling by a resident thereof and which does not change the dwelling's residential character.

House Trailer or Mobile Home

a vehicle, designed to be drawn by a motor vehicle, which is used for sleeping or living purposes, whether standing on wheels or rigid supports.

Land Disturbance

any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. Land disturbance activities include demolition, construction, reconstruction, clearing, excavation, grading, filling, or creation of impervious surface.

Light Industry

activity concerned with the manufacturing, storage, processing, fabrication, packaging and assembly of products developed from previously refined or similarly processed raw materials, provided, however, that no activity may be considered light industry if such activity:

1. results in the production of low level or high level radioactive waste;

2. results in ambient noise levels exceeding the standards set forth in Section V, Special Regulations, V-D, Noise, of this By-Law;

3. causes ground transmitted vibrations which exceed the following levels identified by the International Organization of Standards (ISO) 2631 draft addendum ISO DAD Roman Numeral I

(1980) Guide to the Evaluation of Human Exposure to Vibration and Shock in Buildings when measured at a residential building by a three component measuring system capable of measurement of vibration in three mutually perpendicular directions:

ISO Standard	
Daytime and Evening (7:00 A.M. - 9:00 P.M.)	Residential Daytime
Nighttime (9:00 P.M. - 7:00 A.M.)	Residential Nighttime

4. or produces any other measurable air, water or soil pollution not in conformance with the Rules and Regulations of the Department of Environmental Protection of the Commonwealth of Massachusetts for the control of pollution.

Lot

a single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or in a recorded plan.

Mean High Water Line

a. for tidelands, the present mean high tide line as established by the arithmetic mean of the water heights observed at high tide over a specific 19-year Metonic Cycle (the National Tidal Datum Epoch) as determined using hydrographic survey data of the National Ocean Survey of the U.S. Department of Commerce; and
b. for great ponds, rivers and streams, the present arithmetic mean of high water heights observed over a one-year period using the best available data as determined by the Planning or Appeals Boards.

Medical or Dental Office

An office used exclusively by physicians, dentists, and similar healthcare professionals for the treatment and examination of patients and clients on an outpatient basis.

Multi-Unit Dwelling

a building intended and designed to contain three or more dwelling units.

Nonconforming Structure

a structure not in conformance with one or more provisions of this By-Law which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the structure not in compliance, but not including a nonconforming structure resulting from a variance or other relief granted by the Board of Appeals.

Nonconforming Use

a use of a building, structure or land not in conformance with one or more provisions of this By-Law which was lawfully in existence or was lawfully begun before the first publication of notice of the public hearing concerning amendment of a zoning provision that would render the use not in compliance, but not including a nonconforming use resulting from a variance or other relief granted by the Board of Appeals.

Outdoor Concession

The sale of non-alcoholic beverages and snack foods from a counter accessible from the outside of a building or from a temporary outdoor location, providing no indoor seating and operating only during the hours that athletic activities are occurring at the site.

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

Private Passenger Vehicle
A motor vehicle used by an individual or family for personal transportation.

Professional Office or Agency
The office of a member of a recognized profession, including but not limited to accountants, architects, doctors and physicians, dentist, engineers, real estate or insurance brokers and lawyers, but excluding businesses defined under Business Office or Agency, Consumer Service Establishment and Professional Studio.

Professional Studio
The studio of an artist, a musician or a photographer, provided such studio may also constitute a Craft Establishment or a Consumer Service Establishment if the primary use of such space meets the definition of such an establishment.

Recorded or Of Record
recorded or registered in the Plymouth County Registry of Deeds or a record title to a parcel of land disclosed by any or all pertinent records.

Service Business
For the purpose of determining off-street parking requirements the following shall each be considered a Service Business: Commercial Service Establishment, Consumer Service Establishment, and Craft Establishment.

Shopping Center
A group of three or more retail and other commercial establishments that are planned and managed as a single property.

Shoreline
the water side face of waterfront retaining walls.

Single-Family Dwelling
a free standing dwelling, excluding house trailers and mobile homes, intended and designed to be occupied by a single dwelling unit. For all purposes in the By-law, including the provisions set forth in Section III-I, single-family dwellings shall include attached garages, or other fully enclosed, attached structures, whether heated or unheated, connected to the primary structure.

Sit-Down Restaurant
An establishment offering prepared foods and beverages to be primarily ordered, served and consumed at tables on the premises. Does not permit drive-thru service.

Sit-Down Restaurant Service Rate
an anticipated peak service capacity of not more than 40 persons per hour, per 1,000 square feet of gross floor area.

Slope
Amount of deviation of a surface from the horizontal, measured as a numerical ratio, as a percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second number is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope.

Street

1. A public way or way which the Clerk of the Town certifies is maintained and used as a public way, or

2. A way shown on a plan approved or endorsed in accordance with the Subdivision Control Law, or

3. A way in existence when the Subdivision Control Law became effective in the Town of Hingham having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Story (above grade)

that portion of a Building included between the upper surface of a floor and the upper surface of the floor or roof next above having its finished floor surface entirely above Finished Grade, except that a Basement shall be considered as a Story (above grade) where the finished surface of the floor above the Basement is:

1. more than five feet above the highest elevation of Pre-Construction Grade where it intersects the building perimeter wall at any point; or

2. more than six feet above Grade Plane; or

3. more than six feet above the Finished Grade where it intersects the perimeter wall for more than 50% of the total building perimeter; or

4. more than 12 feet above the Finished Grade where it intersects the perimeter wall at any point. See also definitions of Half Story (1/2 Story) and Basement.

Structure

anything constructed or erected at a fixed location on the ground to give support, provide shelter, or satisfy other purposes, but excluding a fence or wall six (6) feet or less in height, a sign, a flagpole, and a public utility pole. In residential districts, "structure" shall further exclude one detached accessory building per lot, provided that said accessory building does not exceed sixty-four (64) square feet in ground coverage and nine (9) feet in height, and further provided that said accessory building is located to the rear of the dwelling and no closer than five (5) feet from the side or rear lot line. In residential districts, and for any lot that abuts a residential district, "structure" shall include, without limitation, mechanized or motorized equipment that is placed or installed at a fixed location on the ground, or at a fixed location on a pad, platform or foundation that itself is on or in the ground, which equipment is used to ventilate, heat or cool a building or structure, or to heat or filter water, unless such equipment is fully enclosed in an accessory building that is permitted under this By-Law.

Town House

a dwelling unit, attached by party walls on one or both sides to one or two other dwelling units, which has its own ground level entrance and front and rear yards.

Two-Family Dwelling

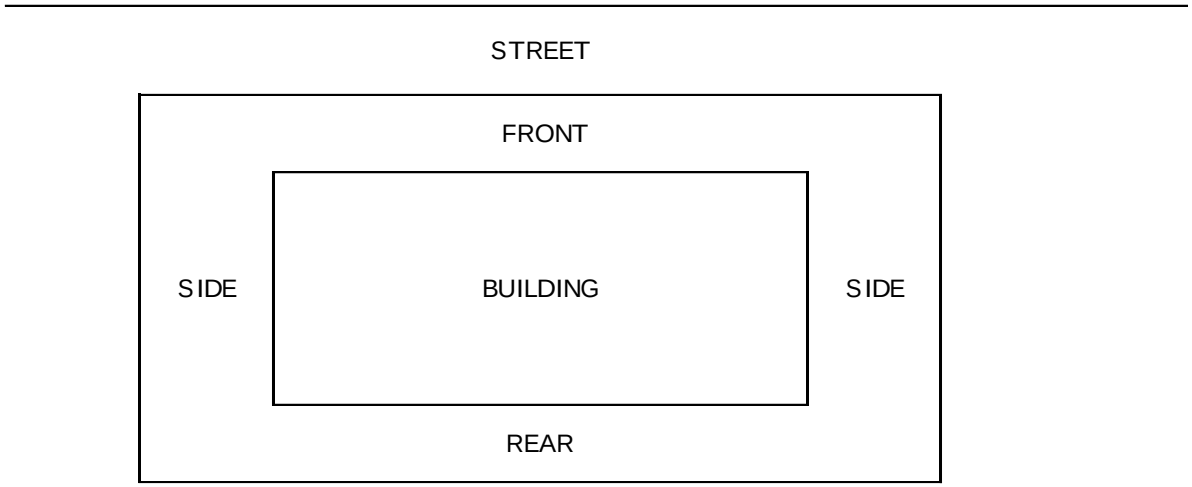
a dwelling intended and designed to be occupied as two separate dwelling units. For all purposes in the By-law, including the provisions set forth in Section III-H, two-family dwellings shall include attached garages, or other fully enclosed, attached structures, whether heated or unheated, connected to the primary structure.

Wireless Communications Tower

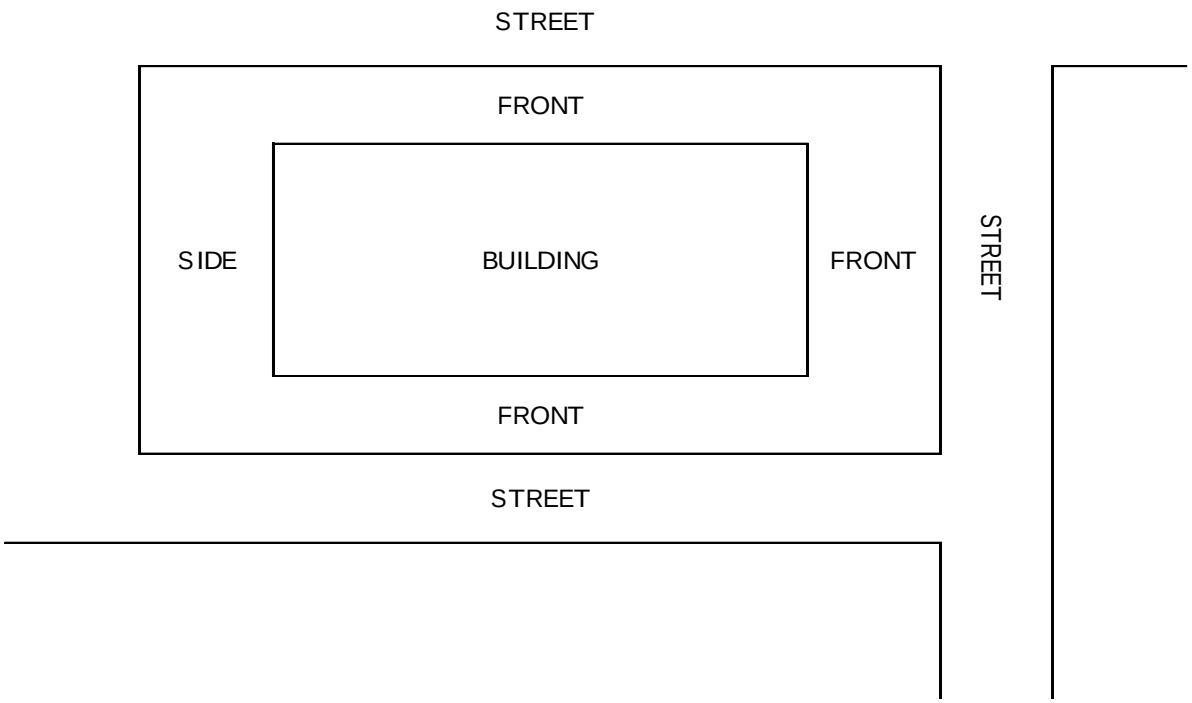
a structure including antennas and other similar wireless communications devices designed to facilitate the following types of services: cellular telephone service, personal communications service, and extended specialized mobile radio service.

Yard: Front, Side, Rear

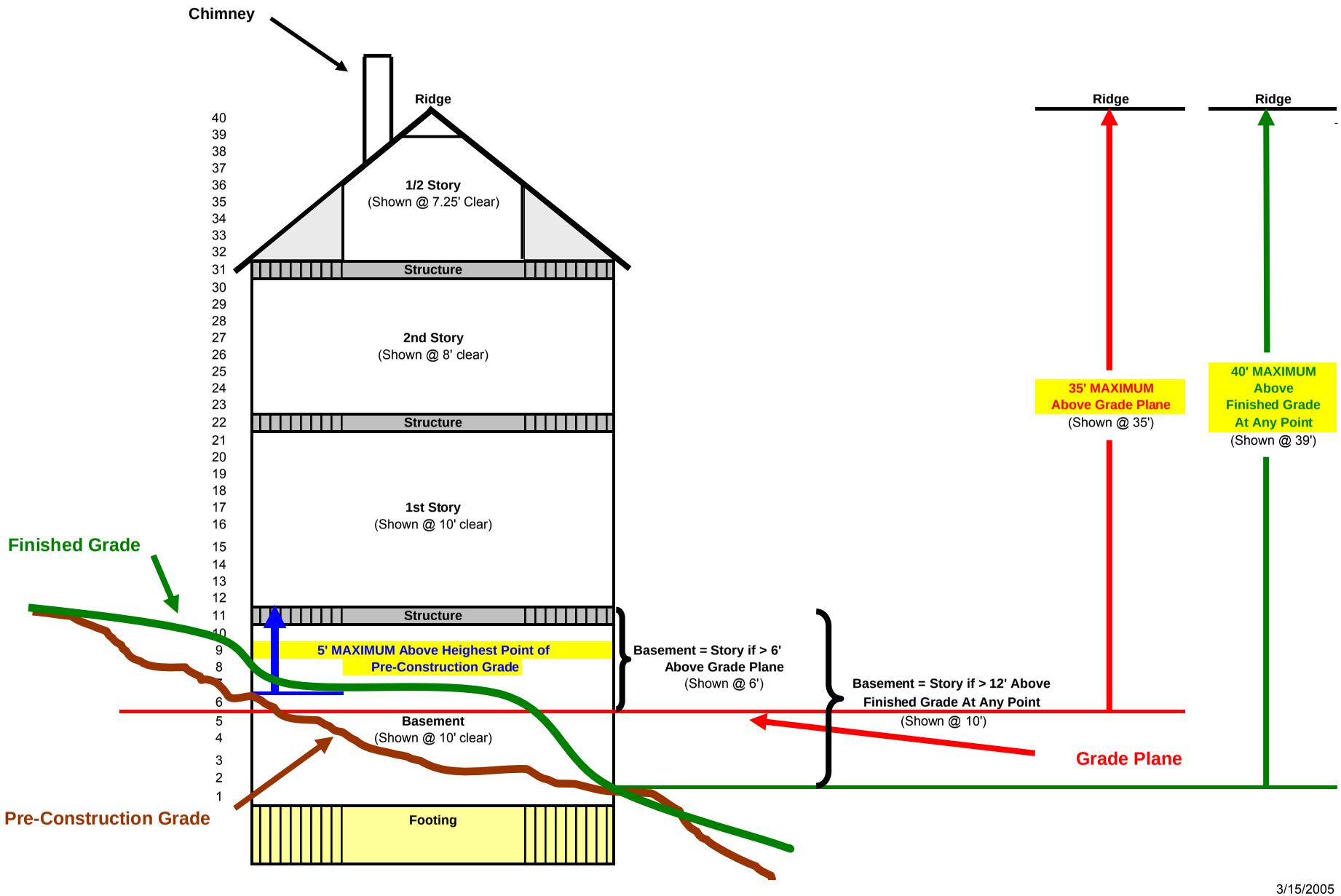
an unoccupied space open to the sky on the same lot with a building or structure. The drawing that follows illustrates the positions of the front, side and rear yards.



Yard: Corner lot

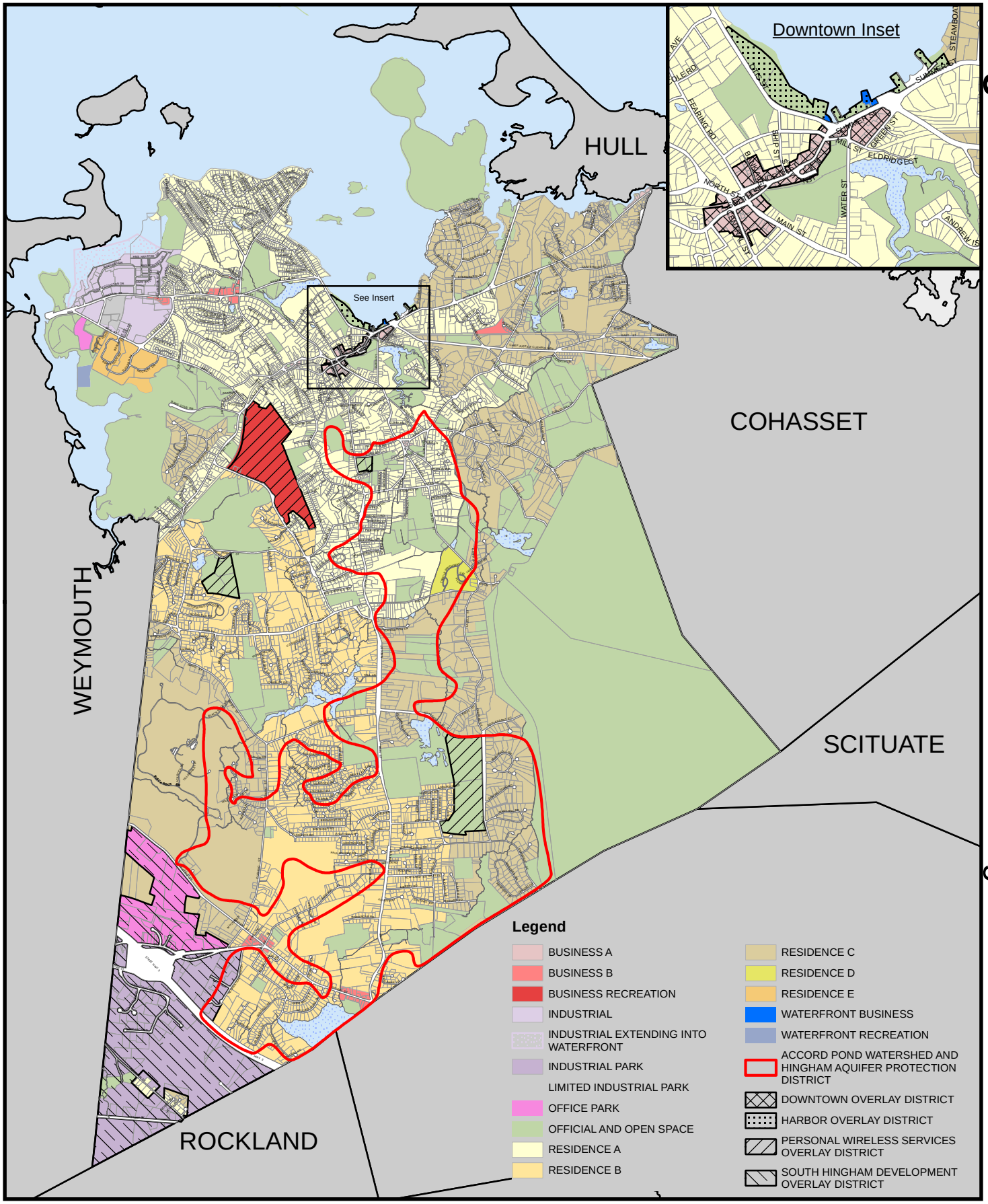


Annex "A", Building Height Diagram



Hingham Massachusetts

Zoning Parts A and C 2015



0 0.5 1 2 3 4 Miles

N
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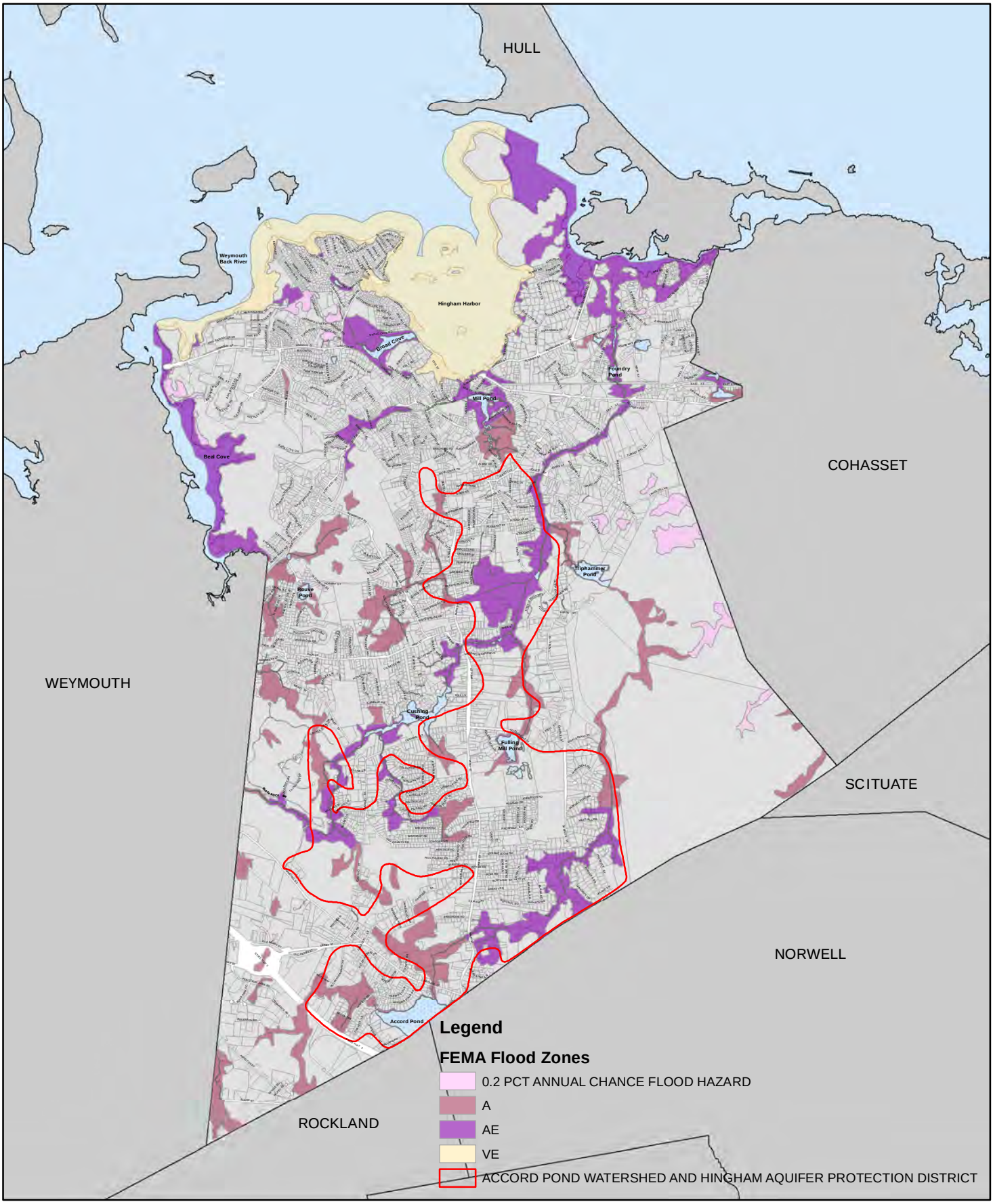
S

Notes:
1. Revised April 2014 ATM.
2. Data from MassGIS and the Town of Hingham GIS.
3.The Town of Hingham makes no warranty or guarantee of the accuracy of the maps nor assumes responsibility for any errors or inaccuracies in these maps. The Town also takes no responsibility for any decision(s) made or action(s) taken as a result of reliance on these maps. The use of these maps is at the users' own risk.

Hingham Massachusetts

Zoning Part B Flood Plain and Watershed Protection 2014



0 0.5 1 2 3 4 Miles

Data from The Office of Geographic Information (MassGIS), Commonwealth of Massachusetts Information Technology Divison and the Town of Hingham
21 August 2014

N W E S

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