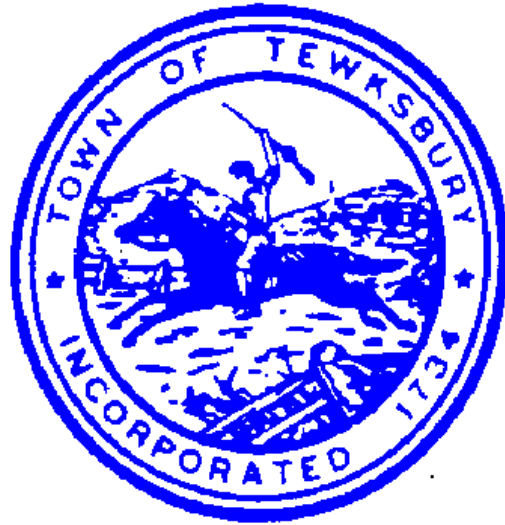


# TOWN OF TEWKSBURY



## ZONING BYLAW

NOVEMBER 2010

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**Record of Revisions:**

	<b>Description</b>	<b>Town Meeting</b>	<b>Attorney General Approved</b>
1.	Recodification	Article 1- 5/7/02 STM	8/21/02
2.	Amend App. A Section C. Amend App. A Section D.	Article 2- 5/7/02 STM	8/21/02
3.	Create 8300 Groundwater Protection District	Article 4- 5/7/02 STM	8/21/02
4.	Amend App. D Zoning Map Description and Zoning Map	Article 44-5/6/02 ATM	8/26/02
5.	Add Section 7010-7015 Amend Section 7154 Amend Section 7254	Article 23- 10/1/02 STM	12/13/02
6.	Add New Def – Section 10000 Amend App. A, Section C	Article 26-10/1/02 STM	12/13/02
7.	Amend Section 3511	Article 27- 10/1/02 STM	12/13/02
8.	Amend App. B	Article 28-10/1/02 STM	12/13/02
9.	Amend App. C	Article 29-10/1/02 STM	12/13/02
10.	Amend Section 2300	Article 31-10/1/02 STM	12/13/02
11.	Amend Section 8323. c.4	Article 18- 5/5/03 ATM	9/23/03
12.	Amend Section 5411	Article 19- 5/5/03 ATM	9/23/03
13.	Amend Section 5412	Article 20- 5/5/03 ATM	9/23/03
14.	New Section 5500	Article 22- 5/5/03 ATM	9/23/03
15.	App. D, new Section sss.	Article 23- 5/5/03 ATM	9/23/03
16.	App. D, Rezone	Article 24- 5/5/03 ATM	9/23/03
17.	App. D, Rezone	Article 25- 5/5/03 ATM	9/23/03
18.	App. D, Rezone	Article 26- 5/5/03 ATM	9/23/03
19.	App. D, Rezone	Article 28- 5/5/03 ATM	9/23/03
20.	New Section 8400	Article 29- 5/5/03 ATM	9/23/03
21.	App. A, Section C, Line 8, New Section 3131	Article 12- 5/7/03 STM	5/19/03
22.	Amend Section 10000	Article 13- 5/7/03 STM	5/19/03
23.	Amend Section 10000 and App. A	Article 8- 10/7/03 STM	12/23/03
24.	Amend Sec 10000 and Sec 3105	Article 11- 10/7/03 STM	12/23/03
25.	New Section 7500, New 7014, Amend Appendix A	Article 28- 5/3/04 ATM	8/12/04
26.	Amend Appendix A	Article 29- 5/3/04 ATM	8/19/04
27.	Delete Sections 5123 & 5150	Article 30- 5/3/04 ATM	8/19/04
28.	Amend Section 5140	Article 31- 5/3/04 ATM	8/19/04
29.	Amend Section 8402	Article 32- 5/3/04 ATM	8/19/04
30.	Amend Section 5434	Article 33- 5/3/04 ATM	8/19/04
31.	New Section 4132	Article 34- 5/3/04 ATM	8/19/04
32.	New Section 8500, Amend Appendices A,B,C&D, Rezone Map	Article 3- 5/4/04 STM	8/20/04

	<b>Description</b>	<b>Town Meeting</b>	<b>Attorney General Approved</b>
33.	App. D, Rezone	Article 20- 5/4/04 STM	8/20/04
34.	New Section 7600	Article 1- 11/30/04 STM	12/23/04
35.	Amend Section 7010	Article 28 -5/2/05 ATM	10/4/05
36.	New Section 5272	Article 29 – 5/2/05 ATM	10/4/05
37.	Amend Section 3650, Par 4 & 5	Article 30-5/2/05 ATM	10/4/05
38.	New Section 4240	Article 42 – 5/2/05 ATM	10/4/05
39.	Amend Section 5231	Article 10- 5/4/05 STM	6/21/05
40.	Delete Section 2100, Replace with New Zoning Districts	Article 11- 5/4/05 STM	6/21/05
41.	Delete Section 2200, Replace with New Overlay Districts	Article 11- 5/4/05 STM	6/21/05
42.	Delete Section 2300, Replace with New Maps	Article 11- 5/4/05 STM	6/21/05
43.	Amend Section 2317	Article 11-5/4/05 STM	6/21/05
44.	New Section 2318	Article 11-5/4/05 STM	6/21/05
45.	Delete Appendix D	Article 12-5/4/05 STM	6/21/05
46.	Add 2 <sup>nd</sup> Par to Section 5220	Article 11-10/4/05 STM	12/12/05
47.	New Section 5256	Article 11-10/4/05 STM	12/12/05
48.	Delete Section 5290	Article 11-10/4/05 STM	12/12/05
49.	Renumber 9434 to 9435 Add new 9434	Article 12-10/4/05 STM	12/12/05
50.	Delete Section 9481, c	Article 13-10/4/05 STM	12/12/05
51.	Section 3410, Replace 1-10 to 1-11	Article 14-10/4/05 STM	12/12/05
52.	Section 7011 & 7013(para a) Replace 20-24 to 20-23	Article 15-10/4/05 STM	12/12/05
53.	Amend Appendix A & B	Article 34-5/1/06 ATM	7/24/06
54.	Amend Section 2100	Article 35-5/1/06 ATM	7/24/06
55.	Amend Section 3110	Article 35-5/1/06 ATM	7/24/06
56.	Add New Section 6300	Article 35-5/1/06 ATM	7/24/06
57.	Amend Appendix A & B	Article 35-5/1/06 ATM	7/24/06
58.	Amend Section 3400	Article 36-5/1/06 ATM	7/24/06
59.	Amend Appendix A (wireless com)	Article 16-5/3/06 STM	7/24/06
60.	Amend Section 7153	Article 18-10/3/06 STM	10/31/06
61.	Amend Section 7253	Article 18-10/3/06 STM	10/31/06
62.	Amend Section 7611(c)	Article 18-10/3/06 STM	10/31/06
63.	New Section 6400 (Wireless Communications Facilities Special Permit)	Article 15-5/9/07 STM	6/6/07
64.	Delete Section 5500	Article 21-10/2/07 STM	1/8/08
65.	New Section 9415	Article 22-10/2/07 STM	1/8/08
66.	Amend Section 4148	Article 4-5/6/08 STM	6/24/08
67.	Revise Section 6137	Article 13-10/7/08 STM	8/20/09

	<b>Description</b>	<b>Town Meeting</b>	<b>Attorney General Approved</b>
68.	Amend Section 8310	Article 14-10/7/08 STM	8/20/09
69.	Amend Section 6131	Article 15-10/7/08 STM	8/20/09
70.	New Section 3400 (Family Suite)	Article 35- 5/4/09 ATM	9/8/09
71.	Amend Section 3400 - #13	Article 35- 5/4/09 ATM	11/2/09
72.	New Section 8600 (TCOD)	Article 1- 5/5/09 STM	9/30/09
73.	Amend Section 6326	Article 3- 5/5/09 STM	9/30/09
74.	Amend Appendix A	Article 4- 5/5/09 STM	9/30/09
75.	Amend Section 7500 (OSRD)	Article 25- 10/6/09 STM	2/16/10
76.	New Section 8640 (VMOD)	Article 26- 10/6/09 STM	2/16/10
77.	New Section 8620 (VROD)	Article 17- 10/6/09 STM	2/16/10
78.	Amend Section 8402	Article 28- ATM 5/3/10	8/24/10
79.	Amend Appendix A, Section C	Article 29- ATM 5/3/10	8/24/10
80.	Amend Section 2300	Article 8- STM 5/5/10	8/24/10
81.	Amend Section 8120 and 8152	Article 8- STM 5/5/10	8/24/10
82.	Amend Section 5244	Article 9- STM 5/5/10	8/24/10
83.	Amend Sections 8604, 8624 & 8644 Delete Footnotes	Article 10- STM 5/5/10	8/24/10
84.	New Section 8660 (SVOD)	Article 11- STM 5/5/10	8/24/10
85.	New Section 8680 (CVOD)	Article 4 – STM 10/5/10	1/19/11
86.			

## **SECTION 1000. PURPOSE AND AUTHORITY**

**1100. PURPOSE.** The purpose of this By-Law is to implement the zoning powers granted to the Town of Tewksbury under the Constitution and Statutes of the Commonwealth of Massachusetts and includes, but is not limited to, the following objectives: (a) encouraging the most appropriate use of land; (b) promoting the health, general welfare of the inhabitants of the Town; (c) preventing overcrowding of land; (d) securing safety from fire, flood, panic and other dangers; (e) sustaining the economic viability of the community; (f) balancing private property rights with the greater common good; (g) lessening congestion of traffic; (h) assisting in the economical provisions of transportation, water, sewerage, schools, parks and other public facilities; (i) encouraging housing for persons of all income levels; (j) preserving and enhancing the development of the natural, scenic, aesthetic qualities of the Town; and (k) giving consideration of the recommendations of any special studies and master plans.

**1200. AUTHORITY.** This Zoning By-Law is enacted in accordance with the provisions of the Massachusetts General Laws, Chapter 40A, and any and all amendments thereto.

**1300. SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town of Tewksbury are regulated as hereinafter provided.

**1400. APPLICABILITY.** All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town of Tewksbury, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

**1500. AMENDMENTS.** This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in M.G.L. c. 40A, s. 5, and any amendments thereto.

**1600. SEVERABILITY.** The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

## **SECTION 2000. DISTRICTS**

**2100. ESTABLISHMENT.** For the purpose of this By-Law, the Town of Tewksbury is divided into the types of zoning districts set forth below:

Residence 40 District	(R40)
Farming District	(FA)
Limited Business District	(LB)
Commercial District	(COM)
Transitional District	(TR)
Park District	(P)
Municipal District	(MN)
Multiple Family District	(MFD)
Multiple Family Dwelling/55	(MFD/55)
Community Development District	(CDD)
Heavy Industrial District	(HI)
Office/Research District	(OR)

**2200. OVERLAY DISTRICTS.** In addition, the following overlay districts are also hereby established:

7600	Multiple Family Dwellings in the Senior Village District/55 (SVD/55)	See Section 7600 for requirements.
8100	Flood Plain District	See Section 8100 for requirements
8200	Arts, Crafts, Antiques/Cottage Industries Overlay District	See Section 8200 for requirements.
8300	Ground Water Protection District	See Section 8300 for requirements.
8400	Interstate Overlay District	See Section 8400 for requirements.
8500	Highway Corridor Overlay District	See Section 8500 for requirements.

**2300. MAP.** The districts identified in Section 2100 are shown, defined and bounded on the map accompanying this By-Law entitled "Town of Tewksbury Zoning Map, Underlying Districts" (map 1 of 2) dated March 25, 2005, and on file with the Town Clerk.

The overlay districts identified in Section 2200, with the exception of the Flood Plain District, are shown on a map accompanying this By-Law entitled "Town of Tewksbury Zoning Map, Overlay Districts" (map 2 of 2) dated March 25, 2005 and on file with the Town Clerk.

The Flood Plain District includes all special flood hazard areas within the Town of Tewksbury designated as Zone A and AE, on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Tewksbury are panel numbers 25017C0142E,

25017C0144E, 25017C0163E, 25017C0164E, 25017C0256E, 25017C0257E, 25017C0259E, 25017C0276E, 25017C0277E, 25017C0278E, 25017C0279E, 25017C0281E and 25017C0283E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

**2310. Rules for interpretation of zoning district boundaries.** Where uncertainties exist as to the boundaries of districts as shown on the official zoning maps the following shall apply:

**2311.** Where the boundary lines as shown upon said map as approximately following the street lines, of public and private ways or railways, the centerlines of such ways shall be the boundary lines.

**2312.** Where the boundary lines are shown approximately on the location of property lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.

**2313.** Boundary lines located outside of street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and dimensions shown in figures placed upon said map between such boundary lines and street lines are the distance in feet of such boundary lines from such street lines; such distances being measured at right angles to such street lines unless otherwise indicated.

**2314.** In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, by the use of identifications as shown on the map, or by the scale of the map.

**2315.** Where the district boundary line follows a stream, lake or other body of water, said boundary line shall be construed to be at the thread or channel of the stream; or at the limit of the jurisdiction of the Town of Tewksbury, unless otherwise indicated.

**2316.** Where a district boundary line divides any lot existing at the time such line is adopted, the regulations of any district in which the lot has frontage on a street may be extended not more than twenty (20) feet into the other district.

**2317.** Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances not covered by the above subsections, the Tewksbury Planning Board shall interpret the district boundaries.

**2318.** The Commercial District along Main Street shall extend from the Lowell line to the Wilmington line, Two hundred & Ninety-one (291') feet deep along each side of Main Street, where the frontage of a lot of land is on Main Street. (Unless otherwise zoned).

## **SECTION 3000. USE REGULATIONS**

**3100. PRINCIPAL USES.** No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. The expressed intent of this section is to mean that unless expressly permitted the use is hereby prohibited.

**3105 PROHIBITED USES.** The following uses are expressly prohibited in all districts. The list provided as prohibited uses is not an exhaustive list and any use that is not expressly permitted is expressly prohibited.

- a) Garbage and refuse incineration or disposal otherwise of material not originating on the premises;
- b) Distillation of bones, rendering of fat or reduction of animal matter;
- c) Manufacturing of glue; oil refining; bulk storage of petroleum products;
- d) Foundries, manufacture of large machine parts, metal working;
- e) Tanneries;
- f) Manufacture of cement products and cement mixing;
- g) Processing, storage and distribution of asphalt products;
- h) Sorting, baling and storage of waste paper, rags or junk;
- i) The dismantling of motor vehicles;
- j) Slaughterhouses;
- k) Sand, gravel and stone processing plants;
- l) Trailer parks and mobile homes;
- m) Airports;
- n) Solid waste resource recovery facility, recycling, waste transfer stations;
- o) Piggeries; [except in the Farming District as per AG 12/23/03 Case # 2713]
- p) Transportation or freight terminals.
- q) Truck stops.

**3110. Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

- |     |                                     |
|-----|-------------------------------------|
| Y   | - Permitted as of right             |
| N   | - Prohibited                        |
| SP  | - Special Permit/Board of Appeals   |
| PB  | - Special Permit/Planning Board     |
| BOS | - Special Permit/Board of Selectmen |
| ACC | - Accessory Use Only                |

**3120. If Classified Under More than One Use.** Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

**3121.** Where classified as a Major Commercial Project, that classification shall govern and the Planning Board shall be the Special Permit Granting Authority.

**3130. Table of Use Regulations.** See Appendix A.

**3131.** Where an MFD zone is contiguous to a commercial zone, the operation of a Bed and Breakfast is allowed subject to a special permit from the Planning Board.

## **3200. ACCESSORY USES**

**3210. Nonresidential Accessory Uses.** Any use permitted as a principal use is also permitted as an accessory use, unless allowed elsewhere in this By-Law, provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 9500, shall also require site plan review and approval.

**3220. Permitted Accessory Uses.** The following accessory uses are specifically permitted as of right or by special permit:

**3221. Accessory Scientific Uses.** Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Planning Board provided that the Board finds that the proposed use does not substantially derogate from the public good.

**3222. Reserved.**

**3223. Family Day Care Homes.** Small family day care homes, with not more than six nonresident children served on the premises, are allowed as an accessory use as of right in all districts. Larger family day care homes registered with and licensed by the Commonwealth of Massachusetts Office of Children are allowed in all districts only upon the issuance of a special permit by the Board of Appeals.

**3224. Animals accessory to dwellings.** Animals kept as an accessory use at a residence shall conform to the regulations of the Tewksbury Board of Health.

**3225. Boarders in Single-Family Dwelling.** The renting of rooms and/or furnishing of board to not more than two persons in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to more than two persons in a single-family dwelling by the owner/occupant thereof shall be deemed a boarding house, which is prohibited in all zoning districts.

**3226.** The outdoor display and/or storage of goods and merchandise for sale is permitted only when such display and/or storage is wholly incidental and secondary to the primary use conducted within the permanent structure on the lot. No such display and/or storage may occur in delineated parking spaces, traffic lanes, crosswalks, sidewalks or public ways. No additional signs are permitted except as otherwise provided herein.

**3230. Prohibited Accessory Uses.** The following accessory uses are prohibited:

**3231. Unregistered vehicles.** Accessory use of any premises and in any zone shall not be construed to mean more than one (1) unregistered vehicle and no more than one (1) unregistered vehicle may be placed, parked or maintained on any property in the Town of Tewksbury in any zone, unless the owner of such property has a Class I, II or III license in accordance with M.G.L. c. 140, ss. 57-69 inclusive. No unregistered motor vehicle may be stored or maintained upon any premises within fifty (50) feet from a street, public way or way laid out on a recorded plan. The Board of Appeals may, by special permit, vary these requirements.

**3232.** Mobile homes or trailers. No corporation, person or persons, owners, lessees or other person in control of a trailer, trailer coach, trailer coach parks, mobile home or other closed vehicle furnished for housekeeping and designed to be pulled behind another vehicle shall cause the same to be placed upon any premises in any district within the Town. Provided, however, in cases of emergency where a person or persons dwelling has become uninhabitable because of fire, hurricane, flood or other disaster, a mobile home or trailer home may be permitted on such premises for a period not to exceed twelve (12) months for the purpose of allowing such person or persons to live in while rebuilding or reconstructing their dwelling. Any such mobile home shall be subject to the provisions of the State and local sanitary codes and further provided, however, the Building Commissioner may grant permission to locate upon construction sites a mobile home or trailer home for use as an office without hearing for a period not to exceed six months, and further, provided, recreational campers and mobile trailers used only for recreational purposes shall be exempt from this section, but in no instance may such be inhabited or used as a dwelling.

**3233.** Where *accessory* to a principal residential use, the following are prohibited:

- a. Commercial kennels;
- b. Contractor's yard for the storage of building materials, equipment, and/or commercial vehicles over 10,000 pounds;
- c. Commercial landscaping equipment, materials, supplies, and/or commercial vehicles over 10,000 pounds;
- d. Commercial auto repair or service.

### **3300. HOME OCCUPATIONS**

**3310. Home Occupation - As of Right.** A home occupation may be allowed as of right, provided that it:

**3311.** is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

**3312.** is clearly incidental and secondary to the use of the premises for residential purposes;

**3313.** does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

**3314.** does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);

**3315.** does not exhibit any exterior indication of its presence or any variation from residential appearance;

**3316.** does not produce any customer, pupil, client, or delivery trips to the occupation site and has no nonresident employees;

**3317.** is registered as a business with the Town Clerk.

**3320. Home Occupation - By Special Permit.** A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:

**3321.** fully complies with Sections 3312, 3313, 3314, and 3317, above.

**3322.** is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than one additional employee;

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**3323.** does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 5200;

**3324.** a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

### **3400. FAMILY SUITE**

**3410. Family Suite.** A family suite is allowed as an accessory use, attached to a single family dwelling in R40, R80, FA, TR and LB zones including Cluster Developments, in accordance with the below listed (1-11) requirements. Except as noted; these requirements are not subject to relief through a variance.

- (1) The Family Suite shall not contain more than 800 square feet of floor area by right. The maximum floor area of a Family Suite may be enlarged, however, to a maximum floor area not to exceed 1,000 square feet upon the issuance of a Special Permit by the Planning Board. Common entries and open decks shall not be included in the square footage calculation of the Family Suite.
- (2) A Family Suite shall not contain more than one (1) bedroom; unless a Special Permit for a second bedroom is issued by the Planning Board, prior to occupancy. In no case shall a Family Suite have more than two (2) bedrooms.
- (3) The family suite shall be contiguous with the single family dwelling with direct access or connected with a common closed entry.
- (4) The family suite shall not have its own front door, however, may have a side or rear exit with an open deck and egress.
- (5) Any structural addition of a family suite must meet all front, side and rear setbacks and lot coverage requirements for the zone unless variances are granted by the Tewksbury Zoning Board of Appeals in accordance with MGL § 40A.
- (6) There are no more than three (3) related persons occupying the family suite.
- (7) A minimum of one additional off-street parking space shall be provided, however, a separate driveway is not permitted.
- (8) Annual Certification by notarized affidavit shall be provided to the Building Commissioner that the owner of the property, except for bona fide temporary absence shall occupy one of the two dwelling units.
- (9) The Family Suite shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). The family suite shall be required to hook-up to town sewer if available and, if not, as soon as town sewer is available.
- (10) Only one Family Suite may be constructed onto any dwelling.

- (11) Subordination Agreements (as required) and Restriction Agreements shall be completed by the applicant, submitted to the Building Commissioner, then approved and recorded at the North Middlesex Registry of Deeds by Town Counsel.
- (12) Notwithstanding anything else contained herein to the contrary, nothing herein shall be construed as to require a family suite to be under its own roof.
- (13) Notwithstanding anything else contained in the Zoning By-Law to the contrary, if the owner, or a child of the owner, is disabled and requires assistance with Activities of Daily Living (ADL's) then the other dwelling unit may be occupied by a Personal Care Attendant (P.C.A.) who need not be related to the owner. In such case, a letter from a licensed physician, verifying the disability and the need for assistance with ADL's is to be submitted to the Building Commissioner.

### **3500. ACCESSORY STRUCTURES**

**3510. Permitted Accessory Structures.** The following accessory structures are permitted in all districts:

**3511.** An accessory building not more than 20 feet in height above the average grade level around the structure. Accessory buildings shall not be more than one and one-half (1-1/2) stories and shall not be habitable.

**3512.** Fences of a height not to exceed six (6) feet and flag poles of a height not to exceed 20 feet shall be exempt from the setback requirements of this Section. Fences that serve as a buffer between abutting residential and industrial /commercial uses and between industrial and commercial uses may exceed six feet and are not subject to setback requirements upon approval of the Planning Board. A building permit is required for a fence exceeding six feet. Any fence or flagpole erected prior to enactment of this By-Law may be repaired or replaced to original configuration and location.

**3513.** A satellite dish for reception of microwave signals from geostationary satellites is allowed subject to the following regulations:

**a.** The satellite dish shall consist of a parabolic reflector (microwave dish) with a microwave receiver at the reflector focus. Satellite dishes are permitted in any district provided that such dish shall not exceed two feet in diameter. In districts other than the R40 and R80, a satellite dish larger than two feet in diameter may be authorized by special permit from the Board of Appeals.

**b.** The satellite dish shall be permanently mounted on the ground on a concrete slab or piers and set back from lot lines as an accessory structure in conformance with this By-Law;

**c.** The manufacturer or a structural engineer shall certify to the Building Department that the satellite dish and its support is satisfactory to withstand wind speeds to 100 miles per hour without being carried away;

**d.** The antenna and its base shall not be located in the front yard or within 50 feet of any public way.

**e.** For lots 20,000 square feet or less, the Building Commissioner shall require screening such as fences or shrubs where the antenna is visible from abutting lots.

**3514.** Swimming pools, game courts, and the like are accessory structures and shall comply with the State Building Code and all applicable setback requirements of this Zoning By-Law.

**3520. Prohibited Accessory Structures.** The following accessory structures are prohibited in all districts:

**3521.** A "truck box" shall not be deemed to constitute a permissible accessory structure or use.

**3522.** A "conex box" shall not be deemed to constitute a permissible accessory structure or use.

**3523.** A steel storage unit shall not be deemed to constitute a permissible accessory structure or use.

### **3600. NONCONFORMING USES AND STRUCTURES**

**3610. Applicability.** This Zoning By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. c. 40A, s. 5 at which this Zoning By-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

**3620. Nonconforming Uses.** The Board of Appeals may issue a special permit to extend a nonconforming use in only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The Board of Appeals shall not allow an existing nonconforming use to be changed to another nonconforming use.

**3630. Nonconforming Structures.** The Board of Appeals may issue a special permit to reconstruct, extend, alter, or change a nonconforming structure only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

**3640. Variance Required.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to nonconforming single and two family residential structures, which shall be governed by Section 3650, below.

**3650. Pre-Existing Nonconforming Single and Two Family Residential Structures.** Pre-Existing Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon the issuance of a building permit after a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following five (5) conditions shall not be deemed to increase the nonconforming nature of said structure and shall be used in the Building Commissioner's determination.

- 1.** Any reconstruction, extension, alteration or change to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the reconstruction, extension or alteration or change will also comply with all of said current requirements.

2. Any reconstruction, extension, alteration or change to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the reconstruction, extension or alteration or change will also comply with all of said current requirements.
3. Any reconstruction, extension, alteration or change to a structure which encroaches upon one or more required yard or setback areas, where the reconstruction, extension or alteration or change will comply with all current setback, yard, building coverage and building height requirements; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.
4. Any extension, alteration or change to the side or face of a structure which encroaches upon a required yard or setback area, where the extension or alteration or change will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements. The setbacks for this provision shall not be less than 25ft. front and 10ft. side and rear.
5. Any extension, alteration or change to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded. The setbacks for this provision shall not be less than 25ft. front and 10ft. side and rear.

**3651.** In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

**3660. Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning By-law.

**3670. Reconstruction after Catastrophe or Demolition.** A nonconforming structure may be reconstructed after a catastrophe or after demolition, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within two years after such catastrophe or demolition, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure or provided that the building meets all applicable requirements for yards, setback, and height. In the event that the proposed reconstruction would cause the structure to exceed the volume or area of the original nonconforming structure or exceed applicable requirements for yards, setback, and/or height, a special permit shall be required from the Board of Appeals.

**3680. Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **SECTION 4000. DIMENSIONAL REGULATIONS**

**4100. GENERAL.** No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless exempted by this By-Law or by statute.

**4110. One Structure per Lot.** Except as otherwise provided herein, not more than one principal structure may be placed on any lot.

**4120. Change of Lot.** No existing conforming or nonconforming lot shall be changed in size or shape except through a public land taking or donation for road widening, drainage, or utility improvements or except where otherwise permitted herein, so as to create a nonconformity or increase the degree of nonconformity that presently exists. If land is subdivided, conveyed, devised or otherwise transferred in violation hereof, no building or other permit shall be issued with reference to said transferred land until the lot retained meets the requirements of this By-Law.

**4130. Table of Dimensional Requirements.** See Appendix B.

**4131.** Lots of 10,000 square feet or less upon which the existing primary residence was erected prior to March 18, 1992, may reduce the fifteen foot (15') side and rear setback requirement to ten feet (10') providing proof is submitted to the Building Commissioner that the lot existed prior to the acceptance of Master Zoning (March 18, 1992.)

**4132.** Pre-existing non-conforming residential lots (R-40, R-80, TR) of 15,000 square feet or less shall be allowed to have a maximum lot coverage of up to 20%.

### **4140. Dimensional Table Interpretation.**

**4141.** The front yard setback shall be measured from any structure to the established street line. All structures on streets less than 40 feet wide shall be 45 feet minimum from the street centerline. Side and rear yards shall be measured from any structure used for a principal use to the nearest lot line, except where the lot line is a street. In this case, the setback shall be as required for front yard setback.

**4142. Accessory Dimensional Requirements.** No accessory building or structure, except a permitted sign or roadside stand, shall be located within a required front yard setback.

**4143.** A detached accessory building or structure shall be located on the same lot and behind the front line of the principal building, provided that not more than twenty-five (25) percent of the required yard area shall be so occupied, and further provided that an accessory structure shall not be located nearer than ten (10) feet from the principal building and at least ten (10) feet from any side or rear lot line.

**4144.** An accessory building attached to its principal building or within ten (10) feet of it shall be considered an integral part thereof and as such shall be subject to the front, side, and rear yard requirements applicable to the principal building.

**4145.** In all districts, no lot shall be less than forty feet in width in any location except in a portion of the lot where two lines meet at a point. In addition no lot shall have more than one foot of perimeter for every "Z" square feet of lot area, where "Z" is determined by the following:

- a. Lot size of one acre or larger, but less than two acres;  $Z = 39.6$
- b. Lot size two acres or larger, but less than three acres;  $Z = 55.9$
- c. Lot size three acres or larger, but less than four acres;  $Z = 68.5$
- d. Lot size four acres or larger, but less than five acres;  $Z = 79.1$

- e. Lot size five acres or larger, but less than seven acres; Z = 88.4
- f. Lot size seven acres or larger, but less than ten acres; Z = 104.6
- g. Lot size ten acres or larger; Z = 125.0

**4146.** The limitations in height in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other necessary features usually carried above roofs, nor to towers or spires of churches and other buildings, if such features are in no way used for living purposes; provided, however, that any such features shall be allowed higher than 50 feet only upon the issuance of a special permit from the Board of Appeals. This provision shall not apply to wireless communications facilities under the Federal Telecommunications Act.

**4147.** On corner lots, no structures, fence, tree or shrub shall prevent vision clearance in the space between two (2) and eight (8) feet above ground and such provisions shall apply to the space between the corner and the line joining the two points fifteen (15) feet from the corner, measured on the lot lines.

**4148.** Not less than 50% of any minimum lot area required in the district the lot is located shall be contiguous uplands as defined by M.G.L. c. 131, s. 40. Proposed structures shall be located on said uplands.

#### **4200. SPECIAL DIMENSIONAL REGULATIONS**

**4210. Commercial District and Heavy Industrial District.** Structures may be allowed in excess of 35 feet or two and one-half stories in the Commercial District upon the issuance of a special permit from the Planning Board. In no event shall a special permit be issued for structures in excess of 60 feet or 5 stories.

**4211.** No automobile sales agency or any retail business establishment catering principally to the automobile trade, shall locate any stands or structures less than 50 feet from any established street line, except for signs as regulated elsewhere in this By-Law. No automobile sales agency or any retail business establishment catering principally to the automobile trade shall locate nor park any motor vehicle(s) less than 15 feet from any property line.

**4220. Heavy Industrial District.** The minimum side rear-yard setbacks for all buildings shall be fifty (50) feet except where said lots abuts an R40 or R80 Zone in which case the side and rear-yard setbacks shall be one hundred (100) feet minimum; provided, however, that this provision shall not be construed to regulate lots across a public way from lots located in the R40 or R80 Zone.

**4230. Multiple Principal Structures.** Except in the residential districts, more than one principal nonresidential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with Section 9300 herein and the following conditions:

- 4231.** No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;
- 4232.** All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles;
- 4233.** All of the multiple principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the premises, and to each principal building.

**4240. Single Family Structure Located In Commercial and Industrial Districts.** A single-family building designed exclusively for residential occupancy may be allowed in a Commercial (COM) District or Heavy Industrial (HI) District upon the issuance of a special permit from the Planning Board; provided, however, the Planning Board, after hearing and as a condition precedent to the granting of such special permit, shall find that the lot in question was in existence and on record on or before the date of adoption of this Section 4240; that said lot was clearly defined; not held in common ownership; and, conformed to the then existing zoning at the time of said recording or endorsement and continues to so conform or is otherwise determined to be legally “non-conforming” by written notification from the Building Commissioner. The provisions of this Section 4240 shall not apply to any lot created by any means whatsoever from and after said date of adoption, meaning and intending that only one (1) single-family building may be constructed on said lot.

## **SECTION 5000. GENERAL REGULATIONS**

### **5100. PARKING AND LOADING REQUIREMENTS**

**5110. General.** No building or structure shall be located upon any lot and no activity shall be conducted upon any lot unless the required parking facilities are provided on site in accordance with this section.

**5111. Change of use.** The use of any land or structure shall not be changed from a use described in one section of the Schedule of Uses to a use described in another section of the Schedule nor shall any net floor area of the building be increased in any manner unless the number of parking spaces for the new use are provided.

**5112. Undetermined uses.** In the case where the use of the building(s) has not been determined at the time of application for a building permit or special permit, the parking requirements applicable to the most intensive use allowed in the zoning district, which such undetermined use is to be located, shall apply.

**5120. Relief from Parking Regulations by Special Permit from the Planning Board.** The Planning Board, by special permit, may authorize a decrease in the number of parking spaces required hereunder provided that:

**5121.** The decrease in the number of parking spaces is no more than 30% of the total number of spaces required hereunder. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as "Reserve Parking" on the site plan.

**5122.** Any such decrease in the number of required parking spaces shall be based upon documentation of a special nature of a use or building.

**5123.** Reserved

**5124.** The parking spaces labeled "Reserve Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within an area counted as buffer, parking setback or open space.

**5125.** The decrease in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this By-Law.

**5126.** If, at any time after the Certificate of Occupancy is issued for the building or use, the Building Commissioner determines that additional parking spaces are needed, the Commissioner shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces shown on the approved site plan as "Reserve Parking" be constructed.

**5130. Table of Parking Requirements.** Except where a special permit authorizes reduced parking as set forth above, the number of parking spaces shall be as required in the Table of Parking Requirements, Appendix C.

**5131. Comparable use requirement.** Where a use is not specifically included in the Schedule of Uses, it is intended that the regulations for the most nearly comparable use specified shall apply.

**5132. Mixed use requirement.** In the case of mixed uses, the requirements shall be the sum of the requirement calculated separately for each area of use, so that adequate space shall be

provided to accommodate the cars of all persons on the premises at any one time. Parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times.

**5140. Standard Car Parking Dimensional Regulations.** Off-street parking facilities shall be laid out and striped in compliance with the following minimum provisions:

ANGLE OF PARKING (degrees)	WIDTH OF PARKING STALL (ft.)	PARKING STALL LENGTH OF LINE (ft.)	WIDTH OF MANEUVERING AISLE (ft.)
90 (two-way)	9.5	18.5	24
60 (one-way)	10.4	22.0	18
45 (one-way)	12.7	25.0	14
Parallel (one-way)	8.0	22.0	14
Parallel (two-way)	8.0	22.0	18

**5150. Reserved**

**5160. Design Requirements for Residential Parking Facilities.**

**5161.** One parking space may be provided directly behind another for each dwelling unit, provided that each stall shall meet the width and depth requirement and in no case shall such stalls, which are more than two deep, be considered in computing the required parking.

**5162.** Each driveway shall service not more than one lot. Subject to the granting of a special permit from the Planning Board, a driveway may be shared by not more than two lots. Each shared driveway shall be governed by a maintenance agreement running in perpetuity with the land. The frontage and area of such common driveway shall be in addition to the minimum frontage and area required under Section 4000.

**5170. Design Requirements for Business or Industrial Parking Facilities.** Required parking spaces, loading areas and driveways shall be provided and maintained with suitable grading, paved surfaces and adequate drainage. No parking space or other paved surface, other than access driveway(s) or walkways, shall be located within 10 feet of any lot line, and notwithstanding the foregoing, no parking space or other paved surface, other than access driveway(s) or walkways, shall be located within the limits of a landscape buffer area required hereunder.

**5171.** Each lot may have one access driveway which shall be at least 24 feet wide at its narrowest point but not more than the required width for safe vehicle movements onto the adjacent roadway, without entering into the opposing lane. Each lot may have one additional access driveway for each 200 feet of frontage provided all such access driveway(s) shall be at least 200 feet apart on the lot measured from the centerline of each access driveway. In the case of an access driveway, which shall be used for one-way traffic only, the minimum width may be reduced to 14 feet at its narrowest point.

**5172.** Interior driveways may be reduced to no less than 20 feet for two-way traffic and 14 feet for one-way traffic.

**5173. Common Driveway in the Business or Industrial Districts.** To the extent feasible, lots and parking areas shall be served by common private access ways, in order to minimize the number of curb cuts in these districts. Such common access ways shall be in conformance with the standards of the Department of Public Works. Proposed documentation (in the form of easements, covenants, or contracts) shall be submitted with the site plan demonstrating that proper maintenance, repair, and apportionment of liability for the common access way and any shared parking areas has been agreed upon by all lot owners proposing to use the common access way. Common private access ways may serve any number of adjacent parcels deemed appropriate by the Planning Board. Common private access ways shall not be wider than 24 feet at any point where it crosses required open space or any parking setback area required hereunder.

**5180. Loading Areas.** One or more off-street loading areas shall be provided for any business that may be regularly served by tractor trailer trucks or other similar delivery vehicles, so that adequate areas shall be provided to accommodate all delivery vehicles, expected at the premises at any one time. Loading areas shall be located at either the side or rear of each building and shall be designed to avoid traffic conflicts with vehicles using the site or vehicles using adjacent sites.

## **5200. SIGNS.**

**5210. General.** This By-Law is adopted for the regulation and restriction of billboards, signs and other advertising devices within this Town on public ways or on private property within public view of a public way, public park or reservation in order to protect and enhance the visual environment of this Town and the safety, convenience and welfare of its residents. This By-Law is hereby declared to be remedial and protective and is to be so construed as to secure the beneficial interests and purposes thereof. This By-Law is adopted pursuant to Chapter 93, 40A and 43B of the General Laws of Massachusetts.

**5220. Permit Required.** No sign shall be erected, refaced or enlarged until a permit is issued by the Sign Officer, except as otherwise provided herein. An application for a permit shall be made on forms furnished by the Sign Officer containing such information, including photographs, plans and scale drawings, as he/she may require. Such permit shall be issued only if the Sign Officer determines that the sign complies or will comply with all applicable provisions of this By-Law. A schedule of fees for such permits may be determined from time to time by the Board of Selectmen.

The Planning Board, acting as Special Permit Granting Authority, under Section 5200 may approve, approve with conditions, or disapprove requests to deviate from the requirements of Section 5200.

**5221. Sign Officer.** The Building Commissioner is hereby designated as the Sign Officer and is hereby charged with the enforcement of this By-Law. The Sign Officer and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.

**5222. Exemptions.** The provisions of this section shall not apply to:

- a. Signs permitted in residential districts;
- b. Temporary signs;
- c. House number or building numbers;

- d. Public utility identification markings;
- e. Signs or markers required or erected by local, state or federal government;
- f. Names on private residences not used for business purposes;
- g. Striped poles used at barber shops;
- h. Directional markers not exceeding one (1) square foot, such as arrows or entrance and exist markings;
- i. Temporary signs advertising the one time sale of personal property or household accessories, such sign to be posted not more than twice in one (1) year, nor more than seven (7) days at each posting;
- j. Any sign limited solely to directing traffic or providing direction or setting out restrictions on the use of parking areas and not exceeding four square feet in area.

**5230. Standards.** All signs shall conform with the following standards.

**5231. Movement.** No sign shall contain any moving, flashing or animated lights or visible moving parts. A sign consisting solely of indicators of time and/or temperature or of an automatically changing message shall be permitted only upon the issuance of a special permit by the Planning Board.

**5232. Illumination.** No sign shall be illuminated between the hours of 12 A.M. and 6 A.M. unless, in the case of an accessory sign, the premises on which it is locate are open for business. Signs may be illuminated only by the following means:

- a. By a white steady stationary light of reasonable intensity shielded and directed solely at the sign.
- b. By an interior light of reasonable intensity or by neon gas-filled tubes.
- c. Neon lights are prohibited on free-standing signs.

**5233.** No sign permit shall be issued for an electrically operated sign until the local wiring inspector has issued a permit therefor. Such permit shall be issued only if the proposed sign complies with all requirements and recommendations of the National Electrical Code and Massachusetts Electric Code.

**5234. Color.** No sign shall contain red or green lights if such colors would, in the opinion of the Police Chief, constitute a safety hazard.

**5235.** Tethered floating or inflated devices of any kind, sandwich or A-frame, and banners are prohibited where intended to serve as a sign.

**5240. Residence District Requirements.** The following requirements pertain in the R40, R80, MFD, MFD/55, and CDD Districts:

**5241.** One (1) sign not exceeding two square feet in area displaying the street number and/or name of occupant of the premises may be erected. Such sign may include identification of an accessory professional office or other accessory uses permitted in a residence district.

**5242.** One (1) for sale or for rent sign not exceeding six (6) square feet in area and advertising only the premises on which it is located may be erected.

**5243.** One (1) contractor's sign not exceeding twelve (12) square feet in area maintained on the premises while construction is in progress and containing information relative to the project may be erected. Such sign shall be removed promptly after the completion of construction.

**5244.** One (1) identification sign not exceeding twelve (12) square feet in area at any public entrance to a subdivision or multi-family development may be erected upon the issuance of a special permit by the Planning Board; such special permit shall specify limits on the size of the sign and the length of time to be maintained.

**5245.** One (1) bulletin or announcement board, identification sign or entrance marker for each public entrance to the premises upon which a church, synagogue or institution is located, not exceeding thirty (30) square feet in area may be erected, provided that there shall be not more than one such sign for each church, synagogue or institution.

**5250. Business, Commercial and Industrial District Requirements.** The following requirements pertain to all districts except the R40, R80, MFD, MFD/55, and CDD Districts:

**5251.** Accessory signs which are permitted in the R40 and R80 Districts may be erected in accordance with the rules of Section 5240.

**5252.** Attached signs may be erected if firmly affixed to the building. The sign shall not project beyond the face of any other wall of the building or above the highest point of the eave. The sign shall not project more than twelve (12) inches from the face of the wall to which it is attached.

**a.** The height of the sign shall not exceed three (3) feet. The aggregate length of these signs shall not exceed the full width of the store wall unless the store occupies the entire first floor of a detached building in which event the aggregate length may not exceed three-quarters of the width of the wall. Stores occupying other than the first floor of a building shall have signs not to exceed three (3) feet in length.

**b.** If a store has a direct entrance in a wall other than the store front, there may be secondary signs affixed to such wall, the aggregate length of which shall not exceed fifty (50) percent of the maximum permissible length of the signs on the store front.

**5253.** Standing signs. Standing signs may not be erected within fifteen (15) feet of any street lot line or ten (10) feet of any side lot line. Standing signs are limited to a height of twenty (20) feet from the nearest pavement grade to the top of the sign structure. Standing signs may be double faced; however, the permitted area will be measured on one side only.

**a.** A single business in a single building shall be limited to one (1) free standing not to exceed 60 square feet of sign area.

**b.** Multiple business in a single building: Multiple business buildings of three (3) businesses or more may be allowed one (1) free standing sign; the size of the sign shall be determined by the number of businesses in the building multiplied by ten (10) square feet, with a maximum of 60 square feet. Buildings of two businesses shall be allowed a sign with a maximum of 60 square feet.

**c.** A standing sign for a wholesale operation shall be limited to one (1) free standing sign with a maximum of 24 square feet.

**d.** A standing sign for a professional building shall be limited to one (1) free standing sign with a maximum size of 20 square feet.

**e.** A standing sign for a shopping centers shall be limited to one (1) free standing sign at each entrance, but not more than two (2) such signs. Each such sign may be a maximum of 60 square feet.

**5254.** Awnings. Awnings used as signs shall not project more than thirty-six (36) inches from the face of the wall to which it is attached. The signage on the awning must comply with the size requirements of this Section.

**5255.** Special signs. Signs painted or placed on the inside of the glass of a window shall be permitted, provided that the aggregate area of such sign does not exceed 30 percent of the area of the window glass.

**5256.** Multiple Signs. When more than one sign is permitted for a principal use, a combination of not more than two of the following types of signs shall be permitted per principal use; attached sign, projecting sign, awning sign, and freestanding sign.

**5260. Transitional District Requirements.** The following requirements pertain in the Transitional Districts:

**5261.** Accessory signs which are permitted in the R40 and R80 Districts may be erected in accordance with the rules of Section 5240.

**5262.** Attached Signs. Attached signs may be erected in compliance with Section 5252. Such sign shall contain no more than 3 colors. The sign shall not be illuminated from within. Sign lighting shall be extinguished during non-business hours.

a. One (1) sign per permitted use not exceeding 15 square feet in size shall be allowed.

**5263.** Standing signs. Signs identifying entrance and exit points may be erected; such sign shall not exceed 6 square feet in size. No other standing signs shall be permitted.

**5270. Temporary Signs.** Temporary signs which comply with these By-Laws shall be permitted (other than a temporary sign placed in a window).

**5271.** Temporary signs which do not comply with these By-Laws may be authorized by a special permit by the Board of Selectmen for private, nonprofit charitable organizations.

**5272.** Temporary signs which are specific in nature to announce an event, including but not limited to Real Estate Signs, Construction Signs, Yard Sale Signs and Ballot Issue Signs and other such signs shall be permitted as a matter of right. Said signs shall not exceed 6 SF and a maximum of 4 signs per lot. Said signs shall be located on private property, and a minimum of 10 Ft. from the edge of pavement. Said signs shall not obstruct traffic sight lines or pedestrian traffic. Said signs shall not be illuminated and must be removed within 4 days of the conclusion of the event.

**5280. Other Requirements.**

**5281.** Billboards and non-accessory signs. All billboards and non-accessory signs, erected prior to June 1, 1965, shall be permitted provided no substantial changes are made in location, size or design of the structure.

**5282.** Nonconformance of accessory signs. Accessory signs legally erected before the adoption of this By-Law which do not conform to the provisions of this By-Law may continue to be maintained, provided, however, that no such sign shall be permitted if it is, after the adoption of this By-Law, enlarged, refaced or redesigned, except to conform to the requirements of this By-Law.

**5283.** Unsafe signs. When any sign become insecure, endanger of falling or otherwise unsafe or if any sign shall be unlawfully installed erected or maintained in violation of any of the provisions of law, the owner thereof or the person or firm maintaining same, shall upon written notice of the Building Commissioner, forthwith in the case of immediate danger and

in any case within not more than ten (10) days make such sign conform to the provisions of this article or shall remove it. If within ten (10) days the order is not complied with, the Building Commissioner may remove such sign at the expense of the owner or lessee thereof.

**5284. Derelict signs.** Signs which become unsightly, incomplete, dilapidated, illegible or dangerous to the public safety, shall be condemned and removed by the Sign Officer. Costs may be recovered for such removal from the owner or lessor in the District Court.

### **5300. ENVIRONMENTAL PERFORMANCE STANDARDS**

**5310. General.** In all zoning districts no use shall be permitted which would be offensive because of injurious or obnoxious noises, vibrations, smoke, gas, fumes, odors, dust, debris, or other objectionable features, which shall include truck box bodies, or be hazardous to the community on account of fire or explosions or any other cause. No permit shall be granted for any use which may prove injurious to the safety or general welfare of the neighborhood into which it proposes to locate or which may prove destructive of property values because of any excessive nuisance qualities.

**5320. Stormwater Runoff.** No stormwater runoff in excess of rates existing prior to new construction shall be allowed and no stormwater runoff in excess of rates existing prior to new construction shall be discharged onto a public way or into a public drainage system unless there is, in the opinion of the Planning Board, sufficient capacity to handle the additional runoff. No point discharges to abutting properties will be created or expanded.

**5330. Outdoor Lighting.** All outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be aimed, located, designed, fitted and maintained to illuminate the task intended and to avoid glare and light spillover onto abutting and neighboring properties and roadways.

#### **5331. Lighting Fixture Types.**

Lighting fixture types are defined as follows:

Type 1. No light cutoff.

Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.

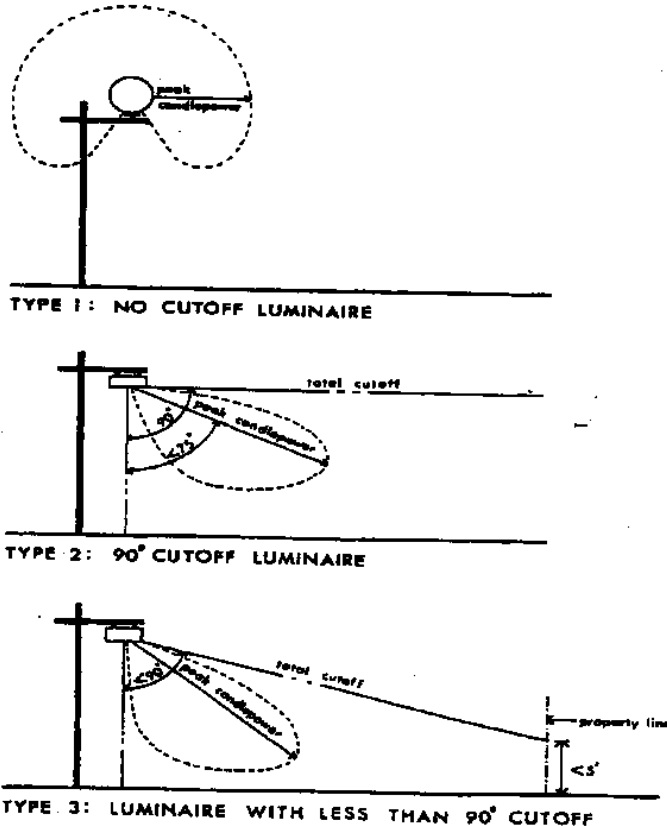
Type 3. Luminaire shielded such that total cutoff is at less than 90 degrees from vertical, and no light source is in direct view of an observer four (4) feet above the ground at any point off the premises.

ILLUSTRATION

TYPE 1: NO CUTOFF LUMINAIRE

TYPE 2: 90 DEGREE CUTOFF LUMINAIRE

TYPE 3: LUMINAIRE WITH LESS THAN 90 DEGREE CUTOFF



5332. Lighting limitations.

The following limitations shall be observed by all uses, unless during special permit proceedings the SPGA determines that it is inherently infeasible for that use (e.g. public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill onto residential premises and roadways.

Maximum luminaire mounting height (feet)

	Commercial & Industrial Uses	Residential Uses
Fixture Type 1	20	10
Fixture Type 2	20	15
Fixture Type 3	20	20

Maximum off-site overspill (foot-candles)

	Commercial & Industrial Uses	Residential Uses
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5

**5333.** No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either glare or flashing reflected from the sky.

**5334.** An exterior lighting plan is required in all applications for outdoor lighting, which plan shall include the location, mounting height, and orientation of luminaires, and sufficient technical information on the fixture to determine its type and resulting illumination levels.

**5340. Noise.** No use shall be permitted within the Town of Tewksbury which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, all in accordance with the provisions set forth in 310 CMR 7.10(1), which prohibit willful or negligent emissions of sound which may cause noise.

**5350. Solid Waste Storage.** Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this By-Law.

**5360. Other.**

**5361.** No vibration, odor, glare, or flashing shall be detectable without instruments at any lot line of a residential or institutional use.

**5362.** Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

**5363.** No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

**5364.** All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open, contrary to state law is prohibited.

**5365.** All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

**5400. LANDSCAPING, SCREENING, AND BUFFER REQUIREMENTS**

**5410. Open Space Landscaping Standards.** Any landscaping on open space shall be designed to enhance the visual impact of the use upon the lot and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements. Open space areas shall be kept free of encroachment by all buildings, structures, storage areas or parking. Open space landscaping shall be maintained as open planted areas and used to (1) ensure buffers between properties, (2) provide landscaped areas between buildings, (3) minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs and (4) minimize the impact of the use property on land and water resources.

**5411.** In the Commercial and R40 District where a business or industrial use abuts a residential district, a landscape buffer up to a minimum of 20 feet in depth designed to mitigate the impact of the business or industrial use on abutting residential districts may be

required by the Planning Board between the business or industrial use and the residential district, and that this provision shall be construed to regulate lots across a public way from lots located in the R40 or R80 Zone.

**5412.** In the Heavy Industry District where a business or industrial use abuts a residential district, a landscape buffer of a minimum of 30 feet up to a maximum of 60 feet in depth designed to mitigate the impact of the business or industrial use on abutting residential districts shall be required by the Planning Board between the business or industrial use and the residential district, and that this provision shall be construed to regulate lots across a public way from lots located in the R40 or R80 Zone.

**5413.** All parking lots and loading facilities shall be suitably landscaped to minimize their visual impact on the lot and upon adjacent property by the use of existing vegetation where appropriate and by the use of new trees, shrubs, walls, fences or other landscape elements. Any parking lot with more than 40 parking spaces shall include a landscaped area(s) shall not be less in area than five (5) percent of the total area of the parking lot and shall be in addition to any minimum open space required under Section 5. Landscaped area(s) shall be provided with a minimum width of at least 10 feet, curbing and shade trees of at least 12 feet in height or such other landscaping as may be required by the Planning Board.

**5414.** In the Heavy Industrial and MFD Districts,

- a.** The required front yard setback shall be suitably landscaped and shall not be used for parking, storage or other purposes inconsistent with the landscaped effect;
- b.** Each lot shall have access only at designated driveways; each lot may have not more than two (2) driveways and one (1) additional driveway for each 200 feet of street frontage above the minimum required; driveways shall conform to Section 5171 of this Bylaw;
- c.** A strip not less than 30 feet wide in all side and rear yards where adjacent to any R40 or R80 zone shall be suitably landscaped and not used for parking or any use prohibited in such an adjacent district.

**5420. Parking and Loading Area Design and Location for Nonresidential Facilities.** The following regulations shall apply to all uses other than single and two family dwellings and municipal uses:

**5421.** No off-street parking area shall be located within ten (10) feet of a property line, within twenty (20) feet of a property line abutting a street right-of-way, or in any required yard adjacent to a residential or institutional use.

**5422.** Sidewalks are required within the site where necessary for safe pedestrian access and circulation. There shall be a marked pedestrian aisle at each entrance to the building served by the parking lot. Sidewalks are required along all public ways to which the site abuts and must be connected to the sidewalks and pedestrian isles within the site to provide safe access to entrance(s) to the building from the public way(s). Sidewalks must be constructed in accordance with the Planning Board's Subdivision Rules and Regulations.

**5423.** Parking spaces more than five hundred (500) feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless the Planning Board determines that circumstances justify this greater separation of parking from use.

**5424.** All required parking areas except those serving single-family residences shall be paved, unless exempted on special permit from the Planning Board for cases such as seasonal

or periodic use where unpaved surfaces will not cause dust, erosion, hazard, or unsightly conditions.

**5425.** Parking areas shall not require vehicles to back onto a public way.

**5426.** Parking areas for ten (10) or more cars shall provide screening in accordance with Section 5000.

**5427.** No dead end aisle shall exceed five (5) parking spaces in width.

**5428.** Continuous curbing shall be provided to control access and drainage, unless the Planning Board determines that circumstances justify otherwise.

**5429.** Curb stops, planting strips or other means shall be provided to maintain a minimum usable sidewalk width of four feet or the minimum width required by the Americans with Disabilities Act.

**5430. Parking Areas with Twenty or More Spaces.** The following shall apply to entrances or exits to all parking areas with twenty (20) or more spaces:

**5431.** Entrance or exit center lines shall not fall within fifty (50) feet of an intersection of street sidelines or within one hundred fifty (150) feet of the centerline of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving twenty (20) or more spaces. Uses shall arrange for shared egress if necessary to meet these requirements, unless the Planning Board determines that circumstances justify otherwise.

**5432.** Safe sight stopping distance shall be provided for the roadway posted speed limits.

**5433.** Street entrances shall be designed consistent with Massachusetts DPW Traffic Regulations, section 10A-9 or subsequent revisions.

**5434.** Snow storage shall be designated as a separate area exclusive of required landscaping and paved parking areas. For lots greater than 100 spaces, snow storage is required at 5,000 square feet of area per 43,560 square feet (1-acre) of parking lot shown on a plan. The Planning Board may allow for a snow removal plan to reduce the amount of area specifically designated as snow storage.

**5440. Planted Area Requirements.** Planted areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

**5441.** Shrubs and hedges shall be at least 2 feet in height at the time of planting, and have a spread of at least 18 inches.

**5442.** Grass is preferable to mulch where practical.

**5443.** Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

**5444.** Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

**5450. Coordination with Site Plan Approval.** The Planning Board may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this section.

**5460. Maintenance of Landscaped Areas.** The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and non-plant ground surface materials shall be maintained so as to control weed growth.

## **SECTION 6000. SPECIAL REGULATIONS**

### **6100. ADULT USE ESTABLISHMENTS**

**6110. Purpose.** The purpose of this section is to regulate the location of the adult use establishments; to prevent the associated secondary effects of these establishments; and to protect and promote the general welfare, health and safety of the citizens of Tewksbury.

**6120. Special Permit Required.** The operation of an adult use establishment shall require a special permit from the Planning Board. The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

**6121.** Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;

**6122.** Modification of the exterior features or appearances of the structure(s);

**6123.** Limitation of size, number of occupants, method and time of operation and extent of facilities;

**6124.** Regulation of number, design and location of access drives, drive-up windows and other traffic features;

**6125.** Requirement for performance bonds or other security; and

**6126.** Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, glare, noise, vibration or any other objectionable impact generated by the use of land.

**6130. Conditions.** Development or operation of adult use establishments shall meet the following conditions:

**6131.** Adult use establishments shall be restricted to operation within the heavy industry district or the office research district only.

**6132.** There shall be no more than

**a.** one (1) adult bookstore permit, adult video permit or adult paraphernalia permit granted for each 15,000 residents of the Town as listed in the last state census; prior to a second adult bookstore permit being issued there shall be 30,000 residents of the Town as listed in the last state census; or

**b.** one adult motion picture theater permit granted for each 24,000 residents of the Town as listed in the last federal census; or

**c.** one adult cabaret permit for each 24,000 resident of the Town as listed in the last federal census.

**6133.** No adult use establishment permit shall be allowed to display for advertisements or other purpose any signs, placards other like materials to the general public on the exterior of the building or on the interior, through glass or other like transparent.

**6134.** No adult use establishment permit shall be granted if such proposed location is within 1320 feet of another presently existing or permitted adult use establishment.

**6135.** No adult use establishment permit shall be granted if such proposed location is within 1320 feet of an establishment licensed under M.G.L. c. 138, s. 12; a public school or playground; a municipal building or use; a cemetery; a commercial amusement center or park a hospital or nursing home; a private or religious, sectarian or denominational school, building or use including churches, parish houses and rectories.

**6136.** No permit shall be granted for an adult use establishment in an area otherwise properly zoned if the specific location is within 1000 foot radius of an interstate highway ramp where said ramp intersects with a town or state owned roadway.

**6137.** No permit shall be granted for an adult use establishment in an area otherwise properly zoned if the specific location is within a 1320 foot radius of an R40, R80, MFD or MFD/55 District unless the use is physically separated from the residential districts by an interstate right of way, with no direct access from the right of way to the residential, heavy industrial and office research district.

**6138.** No special permit for an adult use establishment shall be granted to any person convicted of violating the provisions of M.G.L. c. 119, s. 63 or M.G.L. c. 272, s. 28.

**6139.** The hours in which adult use establishments are open to the public shall be limited as follows: adult bookstore, adult paraphernalia store, adult video store or similar adult use establishment between the hours of 9:00 A.M. and 9:00 P.M., adult motion picture theater, adult cabaret club similar adult use establishment between the hours of 4:00 P.M. and 12:00 Midnight.

**6140. Design Standards.** Development or operation of adult use establishments shall meet the following design standards:

**6141.** The yard space, building height and any other provisions of the Zoning By-Laws applicable to the Commercial districts shall apply to lots within the Adult Entertainment District unless contrary to the provisions contained in this section.

**6142.** A landscaped buffer which shall be a minimum of 60 feet in depth designed to mitigate the impact of the adult use establishment on abutting properties shall be required by the Planning Board between the use and the adjacent properties.

**6143.** No adult use establishment may have any flashing lights visible from outside the establishment or theater.

**6150. Signs.**

**6151.** No adult use establishment shall be eligible to apply for a special permit requesting a freestanding accessory sign.

**6152.** Adult use advertisement signs may only be located on a building in which there is operating an adult use establishment pursuant to a special permit issue by the Planning Board.

**6153.** The highest point on any adult use advertisement sign may be no higher than twenty-four feet above ground level.

**6154.** No adult use advertisement sign may contain any moving, flashing or animated lights, or visible moving or movable parts.

**6160. Regulations and Fees.** The Planning Board shall adopt and, from time to time, amend regulations, not inconsistent with the provisions of this By-Law or Chapter 40A of the Massachusetts General Laws or other applicable provision of the General Laws, and shall file a copy of said regulations with the Town Clerk. Such regulations shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specification, the town boards or agencies form which the Planning Board shall request permits. The Planning Board may adopt, and from time to time, amend fees sufficient to cover reasonable costs incurred by the town in the review and administration of the Special Permit.

**6170. Mandatory Findings by the Planning Board.** The Planning Board shall not issue a special permit unless, without exception, it finds that:

**6171.** the proposed use is in harmony with the purpose and intent of this By-Law.

**6172.** the proposed use complies with all applicable requirements of this By-Law.

**6173.** the proposed use will not prove injurious to the safety or general welfare of the neighborhood into which it proposes to locate nor will the proposed use prove destructive of property values.

## **6200. TRANSITIONAL DISTRICT REGULATIONS**

**6210. Hours of Operation.** Hours of business within the zone shall be from no earlier than 7:00 AM to no later than 9:00 PM.

**6220. Structures.** It is the intent of these regulations that exiting structures located in the Transitional District shall remain residential in appearance regardless of the use, and that new structures shall be residential in appearance regardless of the use.

**6230. Pavement.** Any pavement within ten feet of any lot line requires site plan approval from the Planning Board with attention to protecting abutting property.

**6240. Parking.** Parking areas shall be limited to back yards or side yards, and only if such parking is screened from view from the front and side. No parking in the front yard may be permitted.

## **6300 OFFICE RESEARCH DISTRICT**

**6310. Dimensional requirements in the Office Research District** shall comply with the Dimensional Regulations: Appendix B, Sections 4000 and 4200 of the Heavy Industrial District. The Planning Board may waive the Heavy Industrial dimensional requirements in the Office Research District upon granting a Special Permit subject to findings of Special Permits, Section 9300 herein.

**6311. Landscaping Screening and Buffer Requirements in the Office Research District** shall comply with those of Section 5400 of the Heavy Industrial District. The Planning Board may waive the Landscaping Screening and Buffer requirements in the Office Research District upon granting a Special Permit subject to findings of Special Permits, Section 9300 herein.

**6320. Accessory Uses (ACC).** In the Office Research Districts, upon Special Permit findings, projects may also provide optional accessory use services on site, including but not limited to

local transportation, barber/beauty services, sundries for personal consumption, and other amenities, provided:

- 6321.** such uses serve primarily the employees of the development;
- 6322.** such uses are conducted within and may be entered only from a principal building;
- 6323.** there is no external evidence of such uses; and
- 6324.** the appearance and character of commercial uses are compatible with the project.
- 6325.** Upon approval by the Board, a project within the Office Research District may include Accessory Retail uses. The total amount of gross building floor area used for Accessory Retail uses shall not exceed five percent (5%) of the total gross building floor area of the entire OR project, or 10,000 square feet, whichever is greater. This requirement may be varied based upon a special permit finding of the Planning Board.
- 6326.** Upon approval by the Board, a project within the Office Research District may include Accessory Restaurant uses. The total amount of gross building floor area used for Accessory Restaurant uses shall not exceed five percent (5%) of the total gross floor area of the entire project, and shall contain a maximum of 100 seats. This requirement may be varied based upon a special permit finding of the Planning Board. In addition, upon approval by the Board, a free standing Restaurant may be allowed by Special Permit in the OR. The Special Permit may be granted if the board determines that the Restaurant use is necessary in meeting the needs of existing occupants within the Office Research District immediately adjacent thereto. Fast Food and Drive-thru facilities shall not be allowed.

#### **6400 WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT**

**6401. Purpose.** The purpose of this Section 6400 is to provide for a special permitting process for the siting of wireless communications facilities while minimizing adverse visual impacts on adjacent properties, residential neighborhoods, and areas of high scenic and artistic value; to limit the overall number and height of such facilities to what is essential to serve the public convenience and necessity; and to promote shared use of facilities to reduce the need for new facilities.

**6402 Applicability.** Towers and structures for Wireless Communication Facilities including a base station for a Distributed Antenna System (DAS) may be allowed only in:

- a.** Municipal Districts, and additional Municipal land only as shown on the Wireless Communications Facilities Overlay District Map,
- b.** Land within 200 feet of Federal Highways Routes 93 and 495 in Heavy Industrial Districts, and the Office Research District, as shown on the Wireless Communications Facilities Overlay District Map,
- c.** Electric power transmission line easements and/ or, lands where there are electric transmission lines on existing structures or poles with a height of at least 50 feet in Heavy Industrial Districts and the Office Research District, only as shown on the Wireless Communications Facilities Overlay District Map,
- d.** Churches, temples, synagogues and like buildings as determined by the Planning Board.

e. Golf Courses, only as shown on the Wireless Communications Facilities Overlay District Map.

f. Further, utility-pole-mounted DAS antennas are permissible on public and private ways according to the criteria in this bylaw.

Wireless Communication Facilities, including a DAS installation, shall be subject to the grant of a WIRELESS COMMUNICATIONS FACILITIES SPECIAL PERMIT by the Planning Board. Nothing in this Section shall be construed to regulate or prohibit amateur radio Towers used solely by a federally licensed amateur radio operator or wireless communications structures and devices used expressly and exclusively for television reception. Nothing in this Section 6400 shall be construed to regulate or prohibit a wireless communication facility on the basis of environmental effects of radio frequency radiation (RFR) emissions.

**6403 Special Permit Waiver of Applicability by the Planning Board.** To encourage wireless communications providers to deliver their services in an unobtrusive manner and produce the best coverage solution for the areas of the town, sitings of wireless communication facilities may be allowed in areas other than those listed in 6402, only by a grant of a Waiver by the Planning Board. This Waiver shall be subject to all other sections of 6400 and shall only be granted upon findings that the benefit of said waiver provides a substantially better solution in aesthetics and coverage than could be achieved in the available areas listed in 6402. Such Waiver shall include the use of those wireless facility options as are available, such as but not limited to, towers, stealth designs, rooftops, water tanks, existing structures and DAS facilities. The Planning Board encourages applicants for this Special Permit Waiver of Applicability to have a preliminary discussion with the Board prior to a formal application submittal.

**6404. Special Permit Granting Authority.** The special permit granting authority under this Section 6400 shall be the Planning Board.

#### **6410. Priority Location of Wireless Communication Facilities**

**6411.** Wireless communications facilities. Towers may be allowed provided that they comply with the priority requirements for the location of Towers as set forth below.

a. The first priority shall be given to the Municipal District and additional land only as shown on the Wireless Communications Facilities Overlay District Map.

b. The second priority shall be given to the concealment of antennas within Churches, and like buildings, such as in spires, steeples, belfries and the like.

c. The third priority shall be given to remaining areas of allowed use as stated in Section 6402.

Wireless Communications Facilities that do not have wireless communications antennas on site (with the exception of small antennas for GPS and geo-location services not exceeding 18 inches in height), such as DAS base station facilities, may be installed on any parcel

without regard for the priority hierarchy in this section. Such facilities remain subject to all other pertinent criteria under this bylaw and the other Zoning Bylaws.

**6412.** Applicant must provide documentation to the satisfaction of the Planning Board that alternatives in the higher priority locations are not feasible, if a lower priority location is proposed.

**6420. Definitions.** The following definitions are exclusive to this Section 6400.

**Antenna** means the device that transmits and/or receives radio frequency emissions in free space. Antenna can be modified by the addition of a clarifying term, such as GPS Antenna, or Personal Wireless Service Antenna, that delineates the specific type or purpose of the Antenna.

**Antenna Support Structure** means any structure whose purpose is primarily to support an Antenna, which includes such structures as Towers, masts, posts, poles, and the like.

**Base Station** means the equipment for one or more personal wireless services installed at a site to transmit and receive wireless communications. Typically, a Base Station is connected to a set of wireless antennas at the site of the Base Station, except in the case of the Base Station for a Distributed Antenna System, which is housed remotely from the antennas.

**Base Station Facility** means the place within which one or more wireless services install Base Stations that support the operation of a Distributed Antenna System without relying on wireless antennas at the site of the Base Station Facility.

**Distance** means measured on a horizontal plane.

**Distributed Antenna System (“DAS”)** means a geographically diversified Wireless Communications Facility with which the Base Station equipment is located remotely from the facility’s antennas. Typically, the Base Station is contained in a Base Station Facility at one location, and the antennas are placed on utility poles at other locations; the antennas are driven by Radio Access Nodes (“RAN”), which are electronics cabinets mounted on the utility poles, and are interconnected to the Base Station Facility by cables, usually fiber optic.

**Dwelling** means a building or portion thereof, designed exclusively for residential occupancy, including single family, two family or multiple family dwelling (apartment), but not including hotels and motels.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communications Commission.

**Height** means distance measured from the mean finished ground level at the base to the highest point on the structure.

**Nonresidential Structure** means a building, water Tower or other similar structure, but not a Dwelling.

**Personal Wireless Services** means the same as in 47 U.S.C. 332(c)(7)(C)(i), “commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.”

**Stealth Treatment** means any construction that is compatible with its surroundings that conceals or camouflages Antennas, wireless communications buildings, devices, facilities and/or Towers, such as, but not limited to: monopoles, trees, light poles, flag poles.

**Tower** means an Antenna Support Structure that measures twelve feet (12’) or more in height and is used by a Personal Wireless Service Provider to provide Personal Wireless Services.

**Wireless Communications Building** means a building or structure built or occupied for the primary purpose of providing Personal Wireless Services.

**Wireless Communications Device** means any antenna, dish, appurtenance, wiring or equipment used by a Personal Wireless Service provider to provide Personal Wireless Services. This term does not include Towers or other structures intended to house or support Wireless Communications Devices. It also does not include Personal Wireless Service components placed within a building to serve the occupants of the building, as well as personal, portable, and mobile Personal Wireless Service devices.

**Wireless Communications Facility** means the installation consisting of any of the following at a site that is intended to provide Personal Wireless Services: any and all materials, equipment, buildings, Towers, Wireless Communications Devices and structures.

### **6430. Siting and Height Requirements.**

- a** Wherever feasible, Wireless Communications Devices shall be located on existing Towers, or other existing structures and be subjected to Stealth Treatment appropriate for the context of the facility.
- b.** Wireless communications facilities may be located on the same lot as other structures or uses lawfully in existence, subject to the provisions of Sections 6400.
- c.** The minimum distance from the base of a Tower, including Towers with Stealth Treatment to any property line, road, right-of-way, power line easement or railroad right-of-way shall be at least equal to the height of the Tower. The Planning Board may waive this requirement up to the district set-back upon findings that the waiver will result in a design more compatible with the surrounding area.
- d.** A Tower shall be setback a minimum distance of 400 feet from abutting Residential and Multifamily Districts, except that this distance may be reduced for Towers if the Planning Board finds that reduction in the setback distance would produce a better result (aesthetically) to the neighborhood than alternative proposals, but in no event shall the setback minimum distance be less than 100 feet, from Residential and Multifamily Districts. This Requirement

shall supersede 6430.c, above, where applicable. This requirement may be waived subject to a grant of the Special Permit Waiver in 6403.

e. The maximum allowed height of a Tower shall not exceed one hundred (100) feet unless the applicant demonstrates that a greater height is required to allow for provision of the wireless communications services and the Planning Board finds that a height over 100 feet is desirable based on a balanced review of aesthetics and wireless coverage for the area.

#### **6440. Design Requirements.**

a. Wherever feasible and appropriate, wireless communications facilities, including their constituent Devices and Towers shall be subjected to Stealth Treatment appropriate for the context of the facility.

b. All building mounted wireless communications devices that are visible from the ground or another property shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that are compatible with those of the building or landscape.

c. The wireless communications facility may be fenced to control access, as determined by the Planning Board. Fencing shall be compatible with and of similar materials and character of surrounding buildings, structures and neighborhood.

d. There shall be no signs or advertisements at any wireless communications facility, except for no trespassing signs and a required sign giving a phone number where the responsible party can be reached on a 24-hour basis.

e. If a building is needed for the equipment associated with the use of the device, said building shall be of similar style and materials as the other buildings on the site, or nearby site, as determined by the Planning Board.

**6450. Application Process.** The Planning Board encourages applicants for this Special Permit to have a preliminary discussion with the Board prior to a formal application submittal. Applications for a special permit for siting wireless communications facilities shall be filed in accordance with Section 9300 Special Permits, and shall further include the following:

a. Location of the Wireless Communications Facility, and its components, such as Base Station Equipment, Antennas, Tower or other Antenna Support Structure, cables, and the like.

b. Plans for anchoring, attaching and supporting the structure and devices, including specifications of hardware and all other building material.

c. Plans for accessory buildings.

**d.** Layout and details of surfacing for access road and parking.

**e.** Amenities such as lighting, fencing and landscaping.

**f.** Three (3) view lines from most visible locations within in a one mile radius of the site, plus additional view lines from any historic, scenic or other prominent areas of Town determined by the Planning Board. View lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five feet (5') above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing view lines with the facility in place. Photographic simulations shall be rendered from locations as recommended by the Planning Board. The Visibility Analysis of the facility shall include a Visibility Map prepared by a qualified professional that indicates geographically where the Antenna Support Structure and/or Antennas will be visible year-round and seasonally.

**g.** A map showing the existing coverage of the Personal Wireless Service in the area surrounding the proposed facility; and a map showing existing plus proposed coverage from the proposed facility. The maps should be accompanied by a scale, a legend, and a detailed explanation of what the maps show as well as why the particular coverage thresholds were selected.

**h.** A locus map at a suitable scale to clearly indicate the proposed Tower site, and shall include street, building structures, and landscape features within a 300 foot radius of the Tower site.

**i.** A narrative report written by the carrier and qualified engineering or other professionals, acceptable to the Planning Board, which shall:

1. Describe the justification and need of proposed site demonstrating a significant gap in coverage.
2. Describe the capacity of the structure, including the number and type of additional facilities and antennas it can accommodate.
3. Describe special design features to minimize the visual impact of the proposed wireless communications facility.
4. State whether a stealth treatment appropriate to the context of the facility is proposed and if not, the reason why such treatment is not feasible or appropriate.
5. Information including: manufacturer's product literature or photos of existing Towers that illustrate the characteristics of equipment, cabling or antennas that would be exposed to public view.

**j.** List of all other approvals and all other necessary permits needed for construction and operation.

**k.** As determined by the Planning Board, the applicant shall arrange to fly a balloon of at least 4 feet in diameter at the site of a proposed wireless Antenna Support structure at the maximum height of the proposed installation.

**6451.** To site a wireless communications facility at an existing Tower or nonresidential structure, the applicant shall be required to comply with Sections 6450 herein above, except that the Planning Board may waive some of said requirements if it finds that they are not applicable or not reasonably necessary to evaluating the proposal. It is encouraged that applicants for collocation have a preliminary discussion with the Planning Board.

**6452.** The above information shall be submitted in accordance with Section 9300, and additionally to the Board of Selectmen and the Town Manager.

**6460. Approval.**

**6461.** The Planning Board may grant a special permit for a wireless communications facility only upon making the findings required by M.G.L. c. 40A, s. 9 and the following:

- a.** That the applicant has demonstrated to the satisfaction of the Planning Board that the requirements of this Section 6400 have been met.
- b.** That the size and height of the structure are the minimum necessary, taking into account the applicant's objectives and any proposed collocation.
- c.** That adverse impact on adjacent properties, residential neighborhoods, historic and artistic structures or scenic views is minimized to the extent practical.
- d.** That there will be no nuisance or serious hazard associated with the use.
- e.** That any reasonable alternatives identified in the pre-application meeting have been determined not to be preferable or feasible.

**6462.** When suitable and appropriate as determined by the Planning Board, collocation is encouraged. As a condition of the special permit for a wireless communication facility, the Planning Board may require that the structure and/ or facility be designed and built so that it is able to accommodate future wireless communications devices operated by another carrier with little or no modification, provided that such collocation does not materially interfere with the transmission or reception of communications signals to or from the existing facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communications device. At the request of Town officials, the Planning Board may require the applicant to provide reasonable access to the facility for municipal communications.

**6463.** Any expansion or extension of wireless communications facilities or construction of new or replacement Towers or facilities shall require an amendment to the special permit. An increase in the number of antennas or the size of the antennas beyond that applied for and approved in the special permit, if such antennas are visible or if it changes the character of the stealth treatment, also requires amendment to the special permit.

**6464.** Any special permit granted under this section shall automatically lapse within one (1) year of the date of the grant, not including the time required to pursue or await the

termination of an appeal, if construction has not commenced, except if the applicant applies to the Planning Board and it determines good cause to grant an extension.

**6470. Conditions of Use.**

**6471.** The applicant shall be required to maintain and keep in good repair all facilities, devices and Towers.

**6472.** Based on the nature of the facility, the Planning Board may require the applicant to post a bond for the removal of wireless communication Antenna Support Structures in the event of non-operation. The amount of the surety shall be established by a consultant for the Town, such as an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts as provided for in Section 6480.

**6480. Fees for Outside Consultants.** In addition to the special permit filing fees, the applicant shall pay reasonable fees and costs of retaining outside professional consultant services, including but not limited to professional review of the applicant's proposal by a professional or radio frequency engineer or other qualified professional, if such services are deemed necessary by the Planning Board, in accordance with M.G. L. c. 44, §53G.

**6490. Severability.** If any section or subsection of this Section 6400 is ruled invalid, such ruling will not affect the validity of the remainder of the Section.

## **SECTION 7000. SPECIAL RESIDENTIAL REGULATIONS**

### **7010. AFFORDABLE HOUSING REQUIREMENT**

#### **7011. Purpose and Intent:**

The purpose of this bylaw is to outline and implement a set of policies and objectives for the development of affordable housing in compliance with G.L. c. 40B sect. 20-23 and various initiative programs developed by state, county and local government. It is intended that the Affordable Housing Units that result from this bylaw be considered as Local Initiative Units in compliance with the requirements for the same as specified by the Department of Housing and Community Development. (DHCD)

#### **7012. Applicability:**

Multiple Unit Development: A special permit from the special permit granting authority (SPGA) shall be required when the construction of dwelling units is requested, whether on one or more contiguous parcels, within a Multiple Family District or a Multiple Family District/55. The total number of dwelling units within the proposed development shall be counted and are subject to the provisions of Section 7014, below. The SPGA shall deny a special permit application if, in the opinion of the SPGA, the land or parcels of land, held in common ownership, were subdivided or otherwise modified resulting in a reduction of the potential number of Affordable Housing Units.

#### **7013. Definitions:**

**a. Affordable Housing Unit**. A Dwelling Unit available at a purchase price for which a purchaser earning eighty percent (80%) of the Middlesex County median income, as reported by the U.S. Department of Housing and Urban Development, could obtain mortgage financing and will not spend more than thirty percent (30%) of household income on the payment of principal, interest, real estate taxes, condominium or homeowner's fees, mortgage insurance, and homeowner's insurance premiums, as shall be calculated by DHCD in its sole discretion. Mortgage financing shall be based on thirty (30) year fixed rate mortgages with interest rates no greater than conforming, conventional market rate mortgages.

**b. Qualified Affordable Housing Unit purchaser or tenant**. An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD) and the Commonwealth's Local Initiative Program.

**c. Affordable Housing Trust Fund**. An account established by the Town for the specific purpose of creating Affordable Housing Units, available for use by the Local Housing Partnership for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants. (Annual Town Meeting, May 6, 2002 Art 3-28.)

#### **7014. Provisions:**

**a.** An application for a Multiple Unit Development special permit shall require that at least fifteen (15) percent of the total Dwelling Units in the Multiple Unit Development be established as Affordable Housing Units (7013a): The calculation of the number of designated affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

1. An application for an Open Space Residential Design Special Permit shall require that at least ten (10) percent of the total Dwelling Units shall be established in perpetuity as Affordable Housing Units (7013.a) Total Dwelling Units shall mean the Basic Maximum Number from the Determination of Yield. Dwelling Units in addition to this number achieved through density bonus provisions (7544.f.) of this bylaw shall not be subject to the ten (10) percent requirement of this section. The calculation of the number of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

**b.** The SPGA may waive the construction or provision for Affordable Housing Units for an equivalent fee-in-lieu-of units payment made to the Town of Tewksbury for disbursement to the Affordable Housing Trust Fund, subject to the provisions and policies of the Tewksbury Local Housing Partnership for the creation of Affordable Housing Units (7013a) in the Town of Tewksbury.

**c.** Timing of construction, provision or payments of fees-in-lieu of affordable units. Where feasible, Affordable Housing Units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below.

<b>Market-rate Unit %</b>	<b>Affordable Housing Unit %</b>
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

Fractions of units shall not be counted.

**d. Siting of Affordable Housing Units.**

All affordable units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. Affordable Housing Units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units. Interior features of affordable units shall comply in all respects to the minimum design and construction standards set forth in the Local Initiative Guidelines by the Department of Housing and Community Development, July 1996, or as amended.

**e. Marketing Plan for Affordable Units.**

The Applicant under this bylaw, in conjunction with the Tewksbury Local Housing Partnership, shall submit a marketing plan to the SPGA for its approval, which describes how the affordable units will be marketed to potential homebuyers or tenants. This plan shall give priority to Tewksbury residents and include a description of the lottery or other process to be used for selecting buyers or tenants.

**f. Maximum Incomes and Selling Prices: Initial Sale:**

To ensure that only eligible households purchase or rent Affordable Housing Units, the purchaser or renter of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or their agent, and within thirty (30) days following transfer of title, to the Tewksbury Housing Authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development.

The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.

**g. Preservation of Affordability; Restrictions on Resale:**

Each Affordable Housing Unit created in accordance with this bylaw shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a deed restriction on the property and shall be in force in perpetuity.

1. Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall be at a purchase price for which a purchaser earning eighty percent (80%) of the Middlesex County median income, as reported by the U.S. Department of Housing and Urban Development, could obtain mortgage financing and will not spend more than thirty percent (30%) of household income on the payment of principal, interest, real estate taxes, condominium or homeowner's fees, mortgage insurance, and homeowner's insurance premiums, as shall be calculated by DHCD in its sole discretion. Mortgage financing shall be based on thirty (30) year fixed rate mortgages with interest rates no greater than conforming, conventional market rate mortgages.
2. Right of first refusal to purchase. The purchaser of an Affordable Housing Unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.
3. The SPGA shall require, as a condition for special permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 7014g.1. The Building Commissioner shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

**h. Conflict with Other Bylaws/Ordinances:**

The provisions of this bylaw shall be considered supplemental to existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

**i. Review by Special Permit Granting Authority (SPGA):**

The Planning Board shall be designated as the SPGA under this bylaw.

**7015. Severability:**

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Tewksbury zoning bylaw.

**7100. MULTIPLE FAMILY DWELLINGS IN THE MFD.**

**7110. Purpose.** This section is intended to regulate the development of multiple family dwellings by establishing eligibility requirements and reasonable conditions for construction in the MFD. This section is not intended to supersede, modify or conflict with the powers and duties delegated to the Planning Board pursuant to the Subdivision Control Law, M.G.L. c. 41, ss: 81K - 81GG.

**7120. Special Permit Required.** Multiple-family dwellings will be permitted only upon the issuance of a special permit by the Planning Board. The following eligibility standards apply:

**7121.** Where proposed for multiple family dwellings, the site shall have a minimum lot area of 4 acres with the 150 feet of frontage on a public way. By special permit, the Planning Board may vary the requirement of 150 feet of frontage on a public way to not less than 40 feet of frontage on a public way provided that a suitable private access road into the site area can be constructed with the reduced frontage. These provisions shall not apply to the development of single-family dwellings.

**7130. Application.** An application for a special permit shall be filed in accordance with the regulations set forth in Section 9300.

**7140. Parking.** Provision shall be made for not less than two (2) parking spaces per unit, one (1) of which shall be completely enclosed. Detached parking garages will be permitted and designed so as to complement the building design and site layout, but shall not be constructed within the setback areas.

**7141.** Enclosed parking spaces shall be 10 feet in width and 20 feet in length; unenclosed parking spaces shall be not less than 9 feet wide and 18.5 feet in length.

**7142.** Additional enclosed or unenclosed parking spaces shall be provided for guests and recreational areas as indicated below:

Guest	1 parking space per two dwelling units
Tennis Court	2 parking spaces per court
Recreation buildings/swimming pools	1 parking space per 10 dwelling units, but not less than 10 parking spaces

**7150. Design Standards.** A multiple family dwelling shall meet the following standards:

**7151.** Not more than 100 dwelling units shall be authorized by special permit. Commercial and industrial uses are prohibited.

**7152.** All lighting shall be directed away from adjoining property.

**7153. Services.**

- a) All utilities shall be installed underground using standards promulgated by the Planning, Health, Building and DPW Departments of the Town of Tewksbury and sewage shall be disposed of by means of adequate connections as required by State and local Departments and Board of Health.
- b) If curbside pick-up of trash and recycling materials is not viable, then shared waste disposal facilities (such as dumpsters for household trash and dumpsters for recycling) shall be adequately sized for the development as recommended by the Board of Health.

**7154.** There shall not be more than a maximum of seven (7) units per acre nor more than fourteen (14) bedrooms per acre. This will allow for flexibility in the number of bedrooms per unit to vary from 1 to 3 bedrooms. The ratio of three (3) bedroom market rate units to three (3) bedroom Affordable Housing Units shall be 1 to 1. No more than 5% of the total MFD site area within the wetlands and/or flood plain shall be used in calculating the density requirements of site. If more than 5% of the total MFD site area is in wetlands and/or flood plains that exceeds the 5% requirement shall be deleted from the area used to determine density requirements.

**7155.** The maximum coverage of the site available for use by all buildings, including garages, and carports shall not exceed 30 percent of the site area.

**7156.** The maximum building height shall be 35 feet measured from base floor level.

**7157.** Any roadway/driveway located in an area that is within 50 feet of a property line shall be shielded from the property line by a planting of shielding type trees satisfactory to the Planning Board between the roadway and property line for the entire length of the roadway within the 50 foot area. This planting shall be in addition to any existing vegetation between the property line and the proposed roadway and shall be placed a maximum of 10 feet apart.

**7158.** Walkways, tables, benches, flowering bushes/trees may be allowed in 50 to 100 foot buffer areas at the discretion of the Planning Board to improve the aesthetics of the site area.

**7159.** Television, radio and communications services shall be supplied by a central system with underground connections.

**7160. Distance Parameters.** The Planning Board shall determine the distance between the buildings that are structurally connected together by roofing, fencing or other means but not enclosed or heated. The distance parameters will be determined on the aesthetics, created by the design, practicality of design, and the effect on the development by the design. The Planning Board shall determine any distance parameters between buildings not covered under this Zoning By-Law. Within the site area the following distance parameters shall apply:

**7161.** Any building abutting the main roadway within the site development shall have a minimum distance of 17 feet from the closes exterior protruding surface of the building (steps, decks, balconies) to the edge of the traveled way segment of the roadway. (Berm is not considered part of a traveled way).

**7162.** Any building abutting the main roadway within the site development with parking facilities between the main roadway and the building shall have a minimum distance of 45 feet from the closest exterior protruding surface of the building (decks, balconies, steps) to the edge of the traveled way segment of the roadway. There shall be a minimum 2 foot

landscaped buffer strip between the edge of the traveled way and the parking area with allowances for drive entrances and exits.

**7163.** No proposed structure shall be located nearer than 50 feet from any public way.

**7164.** Separate, enclosed garages, assigned to a specific building may be located no closer than 30 feet from the closest points on the buildings (decks, balconies, steps) to the closest entrance to the garage.

**7165.** No building within the site area shall be constructed within 50 feet of any perimeter border of site or 100 feet from any public way providing access to the site.

**7166.** The minimum distance between buildings on site not structurally connected together shall be as listed below:

**NO PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

Between the side of one building and the side of another building	25 feet
Between the side of one building and the rear of another building	30 feet
Between the side of one building and the front of another building	40 feet
Between the front of one building and the front of another building	60 feet
Between the front of one building and the rear of another building	60 feet
Between the rear of one building and the rear of another building	60 feet

**PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

No parking allowed between the side of one building and the side of another building	
Between the side of one building and the rear of another building	58 feet
Between the side of one building and the front of another building	70 feet
Between the front of one building and the front of another building	100 feet
Between the front of one building and the rear of another building	80 feet
Between the rear of one building and the rear of another building	58 feet

**7170. Special Permit to Vary Requirements.** The Planning Board by special permit may vary the distance parameters if in the opinion of the Planning Board the site development plan would be improved.

**7180. Open Space.**

**7181.** Suitable recreational facilities shall be provided on the required open space. Not less than 60% of the upland area of the site available for use shall remain free from structures, parking and drives, and such area shall be left either in its natural state, attractively landscaped, or developed for uncovered recreational facilities.

**7182.** The owner or owners shall be responsible for the maintenance of common areas, including but not limited to snow plowing within the site limits and rubbish disposal. No outside burning of rubbish or inside incineration shall be permitted.

**7200. MULTIPLE FAMILY DWELLINGS IN THE MFD/55.**

**7210. Purpose.** This section is intended to regulate the development of multiple family dwellings by establishing eligibility requirements and reasonable conditions for construction in the MFD/55. This section is not intended to intended to supersede, modify or conflict with the powers and duties delegated to the Planning Board pursuant to the Subdivision Control Law, M.G.L. c. 41, s. 81K - 81GG.

**7220. Special permit required.** Multiple-family dwellings will be permitted only upon the issuance of a special permit by the Planning Board. The following eligibility standards apply:

**7221.** Where proposed for multiple family dwellings, the site shall have a minimum lot area of 12 acres with the 150 feet of frontage on a public way. By special permit, the Planning Board may vary the requirement of 150 feet of frontage on a public way to not less than 40 feet of frontage on a public way provided that a suitable private access road into the site area can be constructed with the reduced frontage. These provisions shall not apply to the development of single-family dwellings.

**7222.** Such multiple family dwellings for persons over the age of 55 may also be authorized by special permit in the Commercial District and the Multiple Family District.

**7230. Application.** An application for a special permit shall be filed in accordance with the regulations set forth in Section 9300.

**7240. Parking.** Provision shall be made for not less than two (2) parking spaces per unit, one (1) of which shall be completely enclosed. Detached parking garages will be permitted and designed so as to complement the building design and site layout, but shall not be constructed within the setback areas.

**7241.** Enclosed parking spaces shall be 10 feet in width and 20 feet in length; unenclosed parking spaces shall be not less than 9 feet wide and 18.5 feet in length.

**7242.** Additional enclosed or unenclosed parking spaces shall be provided for guests and recreational areas as indicated below:

Guest	1 parking space per two dwelling units
Tennis Court	2 parking spaces per court
Recreation buildings/swimming pools	1 parking space per 10 dwelling units, but not less than 10 parking spaces

**7250. Design Standards.** A multiple family dwelling shall meet the following standards:

**7251.** Not more than 150 dwelling units shall be authorized by special permit. Commercial and industrial uses are prohibited.

**7252.** Outdoor lighting shall be in compliance with Section 5330 of this Bylaw.

**7253. Services.**

- a) All utilities shall be installed underground using standards promulgated by the Planning, Health, Building and DPW Departments of the Town of Tewksbury and

sewage shall be disposed of by means of adequate connections as required by State and local Departments and Board of Health.

- b) If curbside pick-up of trash and recycling materials is not viable, then shared waste disposal facilities (such as dumpsters for household trash and dumpsters for recycling) shall be adequately sized for the development as recommended by the Board of Health.

**7254.** There shall not be more than a maximum of seven (7) units per acre nor more than fourteen (14) bedrooms per acre. This will allow for flexibility in the number of bedrooms per unit to vary from 1 to 3 bedrooms. The ratio of three (3) bedroom market rate units to three (3) bedroom Affordable Housing Units shall be 1 to 1. No more than 5% of the total MFD/55 site area within the wetlands and/or flood plain shall be used in calculating the density requirements of site. If more than 5% of the total MFD/55 site area is in wetlands and/or flood plains that exceeds the 5% requirement shall be deleted from the area used to determine density requirements.

**7255.** The maximum coverage of the site available for use by all buildings, including garages, and carports shall not exceed 30 percent of the site area. Any structure that exceeds three (3) stories in height shall be required to provide vertical access by means of an elevator. Vertical Access or "elevator" shall be applicable only to Garden Style Units.

**7256.** Reserved.

**7257.** Any roadway/driveway located in an area that is within 50 feet of a property line shall be shielded from the property line by a planting of shielding type trees satisfactory to the Planning Board between the roadway and property line for the entire length of the roadway within the 50 foot area. This planting shall be in addition to any existing vegetation between the property line and the proposed roadway and shall be placed a maximum of 10 feet apart.

**7258.** Walkways, tables, benches, flowering bushes/trees may be allowed in 50 to 100 foot buffer areas at the discretion of the Planning Board to improve the aesthetics of the site area.

**7259.** Television, radio and communications services shall be supplied by a central system with underground connections.

**7260. Distance Parameters.** The Planning Board shall determine the distance between the buildings that are structurally connected together by roofing, fencing or other means but not enclosed or heated. The distance parameters will be determined on the aesthetics, created by the design, practicality of design, and the effect on the development by the design. The Planning Board shall determine any distance parameters between buildings not covered under this Zoning By-Law. Within the site area the following distance parameters shall apply:

**7261.** Any building abutting the main roadway within the site development shall have a minimum distance of 17 feet from the closes exterior protruding surface of the building (steps, decks, balconies) to the edge of the traveled way segment of the roadway. (Berm is not considered part of a traveled way).

**7262.** Any building abutting the main roadway within the site development with parking facilities between the main roadway and the building shall have a minimum distance of 45 feet from the closest exterior protruding surface of the building (decks, balconies, steps) to the edge of the traveled way segment of the roadway. There shall be a minimum 2 foot landscaped buffer strip between the edge of the traveled way and the parking area with allowances for drive entrances and exits.

**7263.** No proposed structure shall be located nearer than 50 feet from any public way.

**7264.** Separate, enclosed garages, assigned to a specific building may be located no closer than 30 feet from the closest points on the buildings (decks, balconies, steps) to the closest entrance to the garage.

**7265.** No building within the site area shall be constructed within 50 feet of any perimeter border of site or 100 feet from any public way providing access to the site.

**7266.** The minimum distance between buildings on site not structurally connected together shall be as listed below:

**NO PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

Between the side of one building and the side of another building	25 feet
Between the side of one building and the rear of another building	30 feet
Between the side of one building and the front of another building	40 feet
Between the front of one building and the front of another building	60 feet
Between the front of one building and the rear of another building	60 feet
Between the rear of one building and the rear of another building	60 feet

**PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

No parking allowed between the side of one building and the side of another building	
Between the side of one building and the rear of another building	58 feet
Between the side of one building and the front of another building	70 feet
Between the front of one building and the front of another building	100 feet
Between the front of one building and the rear of another building	80 feet
Between the rear of one building and the rear of another building	58 feet

**7270. Special Permit to Vary Requirements.** The Planning Board by special permit may vary the distance parameters and/or maximum building height, if in the opinion of the Planning Board the site development plan would be improved.

**7280. Open Space.**

**7281.** Suitable recreational facilities shall be provided on the required open space. Not less than 60% of the total upland area of the site available for use shall remain free from structures, parking and drives, and such area shall be left either in its natural state, attractively landscaped, or developed for uncovered recreational facilities.

**7282.** The owner or owners shall be responsible for the maintenance of common areas, including but not limited to snow plowing within the site limits and rubbish disposal. No outside burning of rubbish or inside incineration shall be permitted.

**7283.** Those portions of the undeveloped land dedicated to recreational use, open space, wetlands and flood plain may, notwithstanding any provision of this By-Law to the contrary,

may be utilized as a public or private golf course. The term "golf course" shall encompass all uses and structures customarily incidental to such use; provided, however, use and structure shall not be deemed incidental to golf if it has function separate and independent from said golf course, provided further, such use and structure shall be in operation only during the period of time that the golf course is otherwise operable. In any case where such land shall be under the control of a corporation, trust or unincorporated association, whose members or beneficiaries are the unit owners, such organization may lease such undeveloped land for a term of years to a person or entity for the development, use, oversight and maintenance of such land for use as a golf course and such accessory use as is incidental thereto.

**7284.** A minimum of 1,000 square feet per unit shall be dedicated to recreational use not otherwise utilized as a public golf course. Such area is to be no less than 30 feet in width and shall be configured as a buffer between the golf course and such recreational uses.

**7300. CLUSTER DEVELOPMENT**

**7310. Purpose.** The purpose of cluster development is to encourage the preservation of open space for conservation and recreation uses; to promote the better utilization of land in harmony with its natural features and with the general intent of the Zoning By-Law through a greater flexibility in design; to allow for a more efficient provision of municipal services.

**7320. Special Permit Required.** The Planning Board may grant a special permit for land to be subdivided as a cluster development, subject to the requirements and conditions set forth herein. The application for a special permit for a cluster development shall be, in addition to any other documents required by the Planning Board, accompanied by a preliminary subdivision plan. Plans for cluster development must also show the following:

- 7321.** soil characteristics as shown on Soil Conservation Service Maps;
- 7322.** existing vegetation and the proposed landscaping;
- 7323.** use of land which is to be reserved for recreation, conservation or park use, including any structures therein and the proposed ownership of all unsubdivided land.

Copies of the preliminary subdivision plan and all additional information as required above shall also be submitted to the Tewksbury Department of Public Works, the Tewksbury Board of Health and the Tewksbury Conservation Commission.

**7330. Number of Lots Permitted.** The total number of building lots in a cluster development shall be no greater the number of building lots that would otherwise be allowed in the district where the land is located as specified in this By-Law.

**7340. Dimensional Requirements.** The following standards shall be observed in all cluster developments. The Planning Board may, in appropriate cases, impose further restrictions upon the tract or parts thereof, as a condition to the granting of a special permit.

Area	No less than 20,000 square feet per building lot
Frontage	Not less than 75 feet on a public way
Building Line	Not less than 100 feet
Front Setback	Not less than 25 feet

Minimum Open Space Access	20 feet in width shall be provided to each parcel of unsubdivided land in the subdivision. Such access shall be identified in a manner as specified by the Planning Board in the conditions of the special permit
Lot Shape and Perimeter	The lot shape and perimeter requirement set forth herein shall not apply to cluster developments. The Planning Board shall have the authority to require changes in lot shape and perimeter as required or deemed necessary to maintain the quality of the development.
Minimum percent uplands	No new lot created in a cluster development shall have less than 75% contiguous uplands as defined by M.G.L. c. 131, s. 40. Proposed structures shall be located on said uplands.
All Other Lot Coverage and Dimensional Requirements	As per the standards prescribed for that district as set forth herein

**7350. Conditions.** The following conditions shall apply to cluster developments.

**7351.** The total area of the subdivision shall not be less than 12 acres.

**7352.** The unsubdivided land when added to the building lots shall be at least equal in area to the land area required by this By-Law for the total number of units or buildings contemplated in the development.

**7353.** At least 30% of the unsubdivided land shall not be subject to the provisions of M.G.L. Chapter 131, Section 40, the Wetlands Protection Act, or have slopes in excess of 25%.

**7354.** In addition to the conditions set forth in 7351, 7352 and 7353, one or more of the following conditions must be met:

- a.** The total area of the unsubdivided land shall be no less than 8 acres;
- b.** There shall be a minimum of 4 acres of unsubdivided land that is not subject to M.G.L. Chapter 131, Section 40, nor have slopes in excess of 25%;
- c.** The unsubdivided land shall be contiguous to existing land that is dedicated to open space, recreation or conservation use;
- d.** The unsubdivided land shall be part of the shoreline of and provide access to the Shawsheen River, the Merrimack River, Ames Pond, Round Pond or Long Pond;
- e.** The unsubdivided land is contiguous to an existing or proposed recharge area for the Tewksbury municipal water supply;
- f.** The unsubdivided land is above the elevation of 300 feet on Ames Hill.

**7360. Use of Unsubdivided Land.** The unsubdivided land within the subdivision shall be used for conservation, outdoor recreation or park purposes. This section 7360 shall not apply to any cluster development approved prior to May 1993.

**7361.** The unsubdivided land shall be in one (1) or more parcels of size and shape appropriate for its intended use. However, no parcel less than 3 acres shall remain unbuilt upon except that a maximum of 20% of such land may be devoted to paved areas or structures used as an accessory to active outdoor recreation and consistent with the open space uses of land.

**7362.** Reserved.

**7370. Ownership of Unsubdivided Land.** The unsubdivided land shall either be conveyed to the Town of Tewksbury and accepted by it for park, conservation or open space use, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots within the subdivision. In any case, where such land is not conveyed to the Town of Tewksbury, a restriction enforceable by the Town of Tewksbury shall be recorded providing that such land shall be kept in its open and natural state and not built upon for residential use or developed for an accessory use except as provided for herein. In order to insure that the corporation, non-profit organization or trust will properly maintain the unsubdivided land or open space, an instrument(s) shall be recorded at the Middlesex North Registry of Deeds which shall provide as a minimum the following requirements:

**7371.** A legal description of the unsubdivided land or open space;

**7372.** A statement of the purposes for which the unsubdivided land or open space is intended to be used and the restrictions on its use and alienation;

**7373.** The type and name of the corporation, non-profit organization, or trust which will own, manage and maintain the unsubdivided land or open space;

**7374.** The ownership or beneficial interest in the corporation, non-profit organization or trust of each owner of a dwelling to which it relates and may not be conveyed or encumbered separately therefrom;

**7375.** Provision for the number, term of office, and the manner of election to office and the filling of vacancies in, the office of directors and/or officers in the corporation or non-profit organization or trustees of the trust;

**7376.** Procedures for the conduct of the affairs and business of the corporation, non-profit organization or trust, including provisions for the calling and holding of meetings of members and directors and/or officers of the corporation or non-profit organization of beneficiaries and trustees of the trust and provision for quorum and voting requirements for action to be taken. Each owner of a dwelling shall have voting rights proportional to his ownership or beneficial interest in the corporation, non-profit organization or trust;

**7377.** Provision for the management, maintenance, operation improvement and repair of the unsubdivided land or open space and facilities therein, including provisions for obtaining and maintaining adequate insurance and levying and collecting from the dwelling owners common charges to pay for expenses associated with the subdivided land or open space, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership or beneficial interests in the corporation, non-profit organization or trust, and that each dwelling owner's share of the common charge shall be a lien against his real estate in the cluster development, which shall have priority over all other liens with the exception of municipal liens and first mortgages of record;

**7378.** The method by which such instrument(s) may be amended.

**7379. Nonprofit Organization.** A non-profit organization for the purpose of this by-law shall be defined as an organization incorporated for the purpose of land conservation and shall meet all of the following criteria:

- a. have been incorporated as a non-profit organization for a minimum of five years.
- b. have adopted procedures and guidelines for open space or conservation land management which shall be submitted to the Planning Board and Conservation Commission for review.
- c. have existing open space or conservation land holdings which shall total a minimum of 100 acres within the Commonwealth of Massachusetts.

**7380. Action of the Planning Board.** In granting a special permit, the Planning Board may impose additional conditions and safeguards in order to protect the health, safety and welfare of the inhabitants of the neighborhood and the Town of Tewksbury. In determining whether to grant a special permit for a proposed cluster development which meets the minimum standards stated herein, the Planning Board shall consider:

**7381.** The general objectives of cluster developments.

**7382.** The existing and probable future development of surrounding areas.

**7383.** The appropriateness of the proposed development in relation to topography, soils and other characteristics of the tract in question.

**7384.** The recommendations of the Department of Public Works, the Board of Health and the Conservation Commission.

**7385.** The Planning Board shall not grant a special permit for the subdivision of land into lots having reduced area and frontage, as provided in this section, if it appears that because of soil characteristics, drainage, traffic or other conditions, the granting of such a permit would be detrimental to the health, safety or welfare of the neighborhood or Town or inconsistent with the intent of cluster development.

**7390. Other Requirements.**

**7391.** Nothing contained herein shall in any way exempt a proposed subdivision from compliance with other sections of the Zoning By-Law (except as specifically stated in this section), the Subdivision Rules and Regulations of the Town of Tewksbury, regulations of the Tewksbury Department of Public Works, Tewksbury Board of Health, the Tewksbury Conservation Commission, or any rules and regulations issued by the Commonwealth of Massachusetts.

**7392.** Any change in the number of lots, the lines of the streets, or any significant changes in the reserved open spaces, its ownership or use or any other conditions stated in the original special permit shall require a new special permit issued in accordance with the provisions in this By-Law.

**7400. COMMUNITY DEVELOPMENT DISTRICT**

**7410. Purpose.** The purpose of the Community Development District (CDD) is to provide an alternative and supplement to residential, institutional and public elderly housing in Tewksbury in a manner that encourages the preservation of open space and is consistent with the scale of

residential development in the community. The Town has determined that a necessity exists for the adoption of a Community Development District for the benefit of and for the general welfare of the community.

**7420. Applicability.** A Community Development Project (CDP) is permitted in a CDD. Properties within the CDD must apply to the Planning Board for site plan approval to construct a CDP consistent with the guidelines set forth in this section 7400 and all other requirements set forth in Section 9400.

**7430. CDP Requirements.** Only those CDP which meet the following requirements shall be permitted:

**7431. Minimum Area of Development:** The total area of each CDD development lot shall not be less than twelve acres of contiguous property.

**7432. Development Capacity:** The maximum allowable development capacity for units devoted to Independent Living Facility use shall be 65% of six (6) dwelling units per acre of the development area. The remaining 35% of the development capacity of six (6) dwelling units per acre shall be used for Assisted Living Facility/ Long Term Care Facility. There shall not be more than a maximum of six (6) units per acre nor more than 2 bedrooms per unit, nor more than twelve bedrooms per acre. No more than ten percent of the project area within the wetland and/or flood plain shall be used in calculating the density requirements of the site. The independent living facility units to assisted living facility units ratio shall remain 65/35. *(Original text deleted as per Attorney General response of August 21, 2002)*

**7433. Minimum side and rear setback:** No building or structures shall be located within fifty (50) feet of the perimeter legal lot lines of a Community Development District. (See exemptions and requirements, 7433 a.)

**a. Fences and Gates Exempt and Required:** Fences and gates shall be required around and set back no less than 10 feet from, the entire perimeter of the CDP site area. Location, style and landscaping of the fences and gates are subject to Planning Board approval, for the protection of the CDP residents. Entrance gate(s) shall be accessible by means of Board approved security system.

**7434. Living Space requirement:** No living space shall be located below the finished grade contiguous to a dwelling.

**7435. Maximum Lot Area Coverage:** Not more than thirty (30) percent of the total lot area may be devoted to buildings or structures. This requirement shall not apply to at grade parking areas but shall apply to parking above grade. If the Planning Board makes findings of fact that it will benefit residents to provide enclosed parking areas for residents of the development area and/or for every one percent increase in non-wetlands as defined in M.G.L. c. 131, s.40 and open space that is not part of any set-backs above the requirements set forth herein, the Planning Board may waive or modify the requirements of this paragraph so not more than thirty-five (35) percent of the total lot area may be devoted to buildings or structures.

**7440. Parking Requirements.** The following minimum parking standards shall be met; provided, however, that if the Planning Board makes finding of fact that the clustering of structures around parking areas will be more convenient to travel from the parking area to the structures and will preserve open space or determines parking in an adjacent area across the street may serve staff and visitor parking needs, the Planning Board may waive or modify these parking requirements.

**7441.** Adult Day Care facilities and/or structures shall provide a minimum of one parking space per each employee on the largest shift plus one parking space for the number of clients the facility is licensed to serve divided by the number five (5), and rounded to the next highest whole number.

**7442.** Assisted Living and Long Term Care facilities and/or structures shall provide a minimum of one parking space for each employee on the largest shift plus one space for each visiting staff person plus one parking space for the number of residents the facility is licensed to serve divided by the number two (2) and rounded to the next highest whole number.

**7443.** Independent Living facilities and/or structures shall comply with the parking requirements of Section 5100 of the Zoning By-Law.

**7444.** Requirements for curbs within the parking area shall be determined by Planning Board rules and regulations.

**7450. Open Space.** A minimum of twenty-five percent (25%) of the total site area shall be set aside for open space as defined by this By-Law and shall not include any parking area except as described above. Open Space shall be used as permitted in Section 7300 of the Zoning By-Law, and further shall be subject to conservation restrictions running with the land and recorded at the Middlesex North District Registry of Deeds and/or the Land Court.

**7460. Permitted Uses.** Each CDP must contain one or more of the following uses: Adult Day Care Facility; Independent Living Facility; Assisted Living Facility; Long Term Care Facility.

**7461.** Reserved.

**7462.** Recreational facilities, dining rooms for on-premises use only, kitchen, swimming pools, meeting and function rooms administrative offices and medical facilities for diagnosis and out-patient services are permitted for residents of the CDP only.

**7463.** Suitable recreational space with a minimum cost of one percent of the fair market value of each unit of the Independent Living Facility and one-half of one percent of the construction cost for any Assisted Living and/or any Long-Term Care Facility shall be provided. The best effort shall be made to determine the fair market value of a unit and construction cost. Recreation facilities shall include a clubhouse and no occupancy permit shall be granted until the recreational facilities are completed.

**7464.** Within a clubhouse facility or structure, up to fifty percent of the clubhouse facility or structure may be allocated to use as an Adult Day Care facility during the hours of 7:00 A.M. to 6:00 P.M.

**7470. Accessory Uses.** CDPs may also provide optional accessory use services on site including but not limited to local transportation, barber/beauty services, sundries for personal consumption, and other amenities, provided:

**7471.** such uses serve primarily the residents of the development;

**7472.** such uses are conducted within and may be entered only from a principal building;

**7473.** there is no external evidence of such uses; and

**7474.** the appearance and character of commercial uses are compatible with the project.

**7475.** Upon approval by the Board, CDP may include Accessory Retail uses. The total amount of gross building floor area used for Accessory Retail uses shall not exceed five percent (5%) of the total gross building floor area for the entire CDP, or 10,000 square feet, whichever is greater.

**7476.** Upon approval by the Board, a CDP may include Accessory Restaurant uses. The total amount of gross building floor area used for Accessory Restaurant uses shall not exceed five percent (5%) of the total gross building area for the entire CDP, and shall contain a maximum of 100 seats.

**7477.** Upon approval by the Board, a CDP also may include a Community Center or Community Building(s) intended for use and benefit of the CDP residents, provided that such use(s) shall occupy not more than ten percent (10%) of the gross building floor area constructed within the approved CDP, and only if the Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the residents, owners or their agents, and that the residents, owners or their agents will bear all expenses related thereto.

**7478.** Upon approval by the Board, a CDP also may include an Adult Day Care facility intended for use and benefit of the CDP residents, provided that such use shall occupy not more than ten percent (10%) of the gross building floor area constructed within the approved CDP, and only if the Board finds that adequate assurances and covenants exist, to ensure proper maintenance of such facilities by the residents, owners or their agents, and that the residents, owners or their agents will bear all expenses related thereto.

**7480. Rules and Regulations.** The Planning Board shall adopt and from time to time amend, rules and regulations not inconsistent with the provisions of this Section or M.G.L. c. 40A or other applicable provision of the General laws, and shall file a copy of said regulations with the Town Clerk. Such rules shall prescribe as a minimum the size, form, contents, style and numbers of copies of plans and specifications, the Town boards or agencies from which the Planning Board shall request written reports, and the procedure of submission and approval of a CDP.

#### **7500. OPEN SPACE RESIDENTIAL DESIGN (OSRD) SPECIAL PERMIT**

**7510.** The Planning Board may grant a Special Permit for an Open Space Residential Design (OSRD) in the:

Residential Districts- R40, R80 and Farming.

#### **7520. PURPOSE AND INTENT**

The Purposes for OSRD are the following:

- a.** To allow for greater flexibility and creativity in the design of residential developments;
- b.** To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, and historical resources in a manner that is consistent with Tewksbury's Master Plan;
- c.** To encourage a more efficient form of development that decreases burden on municipal economy, consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- d.** To further the goals and policies of the Town of Tewksbury's Master Plan;
- e.** To increase environmental protection, by conserving open space, scenic areas, views, streams, recreational opportunities and other community assets;

- f. To promote efficiency and economy of street and utility layout; lessening storm run-off, erosion and sedimentation normally associated with more conventional patterns of residential development; retain natural drainage courses and wetlands; and in general promoting the health, safety, convenience and welfare of residential areas and of the Town of Tewksbury as a whole;
- g. To encourage development out of view from the road, and promote alternatives to strip residential development lining roadsides in the Town.

**7530. ELIGIBILITY**

**7531.** To be eligible for consideration as an OSRD:

- a. The tract shall be located in the Residential Districts: R40 and R80, and Farming,
- b. The minimum tract area shall be three (3) acres.
- c. The tract shall consist of a parcel or set of contiguous parcels.

**7532.** Housing Types

- a. Housing Units shall be Single Family detached units.
- b. No common wall or multi- family structures shall be allowed.

**7540. SPECIAL PERMIT REQUIRED**

The Planning Board may authorize an OSRD pursuant to the grant of a Special Permit. Such special permits shall be acted upon in accordance with the following provisions:

**7541. PRE-APPLICATION**

**a.** Conference.

The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board.

The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.

**b.** The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the plans to be submitted for a pre-application review.

**7542. DESIGN PROCESS**

At the time of the application for a Special Permit for OSRD in conformance with 7544. **SITE SPECIFIC DESIGN STANDARDS**, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, and open space.

**a.** Step One: Identifying Conservation Areas.

Identify preservation land.

1. Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated as determined by the Conservation Commission or the Department of Environmental Protection.
2. The Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

**b. Step Two: Locating House Sites.**

Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

**c. Step Three: Aligning the Streets.**

Align streets and driveways in order to access the house lots.

Common Driveways may be allowed subject to the requirements of the Planning Board's Rules and Regulations.

**d. Step Four: Lot Lines.**

Establish lot lines for each of the individual parcels and open space.

**7543. PROCEDURES**

**a. Application.**

An application for a Special Permit for an OSRD shall include a Sketch Plan, (1 below) The Planning Board shall adopt rules and regulations relative to the size, form, number and contents of the Sketch Plan.

**1. Sketch Plan.**

The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multidisciplinary team of which one member must be a certified Landscape Architect, and shall address the general features of the land, give approximate configurations of the lots, locations and sizes (footprints) of the houses, examples and elevations of the home types, open space, and roadways, a description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them, and include the information listed under the Subdivision Rules and Regulations. The Sketch Plan shall be submitted in accordance to the requirements as set forth in the Planning Board's Rules and Regulations (7542.b.) The Sketch Plan shall incorporate the Four-Step Design Process, according to 7542 above, and the Design Standards according to 7544 below, when determining a proposed design for the development.

**2. Relationship Between the OSRD Special Permit and OSRD Definitive Subdivision Plan**

The issuance of an OSRD Special Permit allows the applicant to submit an Open Space Definitive Subdivision Plan to the Planning Board for approval under the Subdivision Control Law. Any OSRD Special Permit issued by the Planning Board shall specifically state that the Open Space Definitive Subdivision Plan shall substantially comply with the OSRD Special Permit.

An Open Space Definitive Subdivision Plan will be considered not to substantially comply with the OSRD Special Permit if the Planning Board determines that any of the following conditions exist:

- a. an increase in the number of building lots;
- b. a significant decrease in the open space acreage;
- c. a significant change in the lot layout;
- d. a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- e. significant changes to the storm water management facilities; and/or,
- f. significant changes in the wastewater management systems.
- g. significant change or receipt of information which deviates from the information used as a basis for the approval of the OSRD Special Permit issued by the Planning Board.

If the Planning Board determines that the Open Space Definitive Subdivision Plan does not substantially comply with the OSRD Special Permit, the Board may disapprove the OSRD Definitive Subdivision Plan.

The Planning Board may conditionally approve an Open Space Definitive Subdivision Plan that does not substantially comply with the OSRD Special Permit. However, such conditional approval must identify where the plan does not substantially comply with the OSRD Special Permit and shall require that the OSRD Special Permit be amended to be in compliance with the significant changes identified by the Planning Board. The Planning Board shall also require that the applicant file an application to amend the OSRD Special Permit within a specified time period.

The public hearing on the application to amend the OSRD Special Permit shall be limited to the significant changes identified by the Planning Board in their conditional approval of the Open Space Definitive Subdivision Plan.

**b. General Procedures.**

Whenever an application for a OSRD Special Permit is filed with the Planning Board, with a copy filed forthwith with the Town Clerk, applicant shall also file, within five (5) working days of the filing of the completed application, additional copies to be provided according to the Planning Board's Rules and Regulations, accompanying development plan of the entire parcel under consideration, prepared by a professional architect, engineer or landscape architect, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement.

Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having

received copies of all such required materials shall be deemed a lack of opposition thereto.

In the event that the public hearing by the Planning Board is held prior to the expiration of the 35 day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

**c. Site Visit.**

Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the public hearing.

**d. Other Information.**

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for an application for a Special Permit for a OSRD with the public hearing required for approval of a Definitive Subdivision Plan.

**7544. SITE SPECIFIC DESIGN STANDARDS**

**a. Basic Maximum Number of Housing Units shall be determined by one of the following methods:**

**1. Determination of Yield Formula**

The Basic Maximum Number shall be derived from the following calculation to determine the total number of lots (or dwelling units):

$$\text{Total Number of Lots} = \frac{\text{TA} - (0.5 \times \text{WA}) - (0.1 \times \text{TA})}{\text{Existing minimum lot area (1 acre)}}$$

TA = Total Area of Parcel (Acres)

WA = Wetlands and Riverfront Areas of Parcel (Acres)

The calculation of the number of Basic Maximum Number of Housing Units shall be rounded to the next whole number for units equal to 0.5 or greater.

**OR:**

**2. Determination of Yield Plan**

The Basic Maximum Number shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots (or dwelling units) resulting from the design and engineering specifications shown on the Yield Plan.

**b. Affordable Housing Requirement.**

An application for an Open Space Residential Design Special Permit shall be subject to the Affordable Housing Requirements of Section 7010 of the Town of Tewksbury Zoning Bylaws as follows:

Ten Percent (10 %) Rate with matching Density Bonus:

Such application shall require that at least ten (10) percent of the total Dwelling Units be established as Affordable Housing Units (Section 7013.a) in perpetuity.

Total Dwelling Units shall mean the Basic Maximum Number from the Determination of Yield. Dwelling Units in addition to this number achieved through density bonus provisions (Section 7544.f.) of this bylaw shall not be subject to the ten (10) percent requirement of this section.

The calculation of the number of affordable units shall be rounded to the next whole number for units equal to 0.5 or greater.

For each Affordable Housing Unit provided as required under this section, one market rate unit shall be added to the Basic Maximum Number of Dwelling units. This bonus unit shall not be subject to the Affordable Housing Requirement. (Reference Section 7014 a.1.)

**c. Dimensional Requirements**

Lots sizes may be reduced in area from the requirements of the Zoning Bylaws of the Town of Tewksbury according to the following schedule:

R40 and Farming Districts, 43,560 Sq.Ft. to 10,000 Sq. Ft.

R80 District, 2 acres to 10,000 Sq. Ft.

The Planning Board may waive lot size requirements when significant benefit relating to the Purpose and Intent of the OSRD Special Permit are found as determined by the Planning Board.

**d. Flexible Frontage**

1. The combined frontage of the lots of an Open Space Residential Design shall equal or exceed 50 feet for each lot created. *[For example, in an R40 development, to create a six-lot development, the combined frontage of the parcels must be a minimum of 300 feet, not to include frontage on existing public ways.]*
2. Provided that all other requirements of this bylaw are met, the minimum frontage required for individual lots within an Open Space Residential Design shall be 40 feet with the exception described in 7544.d.3.below. Each lot shall have adequate access on a public or private way which meets the standards in this Section.
3. To the extent feasible, protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public or private road shall have the frontage normally required in the zoning district.

**e. Groups of House Lots and location of Open Space shall be determined per the requirements of the Planning Board's Rules and Regulations.**

**f. Increases in Permissible Density**

An increase in the Basic Maximum Number of Housing Units shall be allowed according to the following:

1. For every additional one (1) dwelling unit, above the Basic Maximum Number and the Affordable Housing Requirement, Section 7544.b., restricted to an affordable housing unit in perpetuity, as defined in Section 7013.a. one (1) additional market rate dwelling unit may also be added as a density bonus; provided, however, each development shall be allowed one additional market rate unit for one additional Affordable Housing Unit above the Basic Maximum Number as a density bonus, or, a fifteen percent (15%) maximum density bonus over the Basic Maximum Number, whichever is greater.
  2. For each additional ten percent (10%) of the site (over and above the required fifty percent (50%)) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded upon findings of significant benefit relating to the Purpose and Intent of the OSRD Special Permit are found as determined by the Planning Board, provided, however, that this density bonus shall not exceed fifteen percent (15%) of the Basic Maximum Number.
- g. Open Space Restriction:
1. A minimum of fifty percent (50%) of the development tract shall be Open Space.
  2. No more than fifty percent (50%) of the designated open space may be comprised of wetlands, or land having an average grade greater than twenty-five percent (25%).
  3. Wastewater and stormwater management systems serving the OSRD may be located within the open space.
  4. Ownership of Open Space. The Open Space land shall either be conveyed to the Town of Tewksbury and accepted by it for park, conservation or open space use, or be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space. In any case, where such land is not conveyed to the Town of Tewksbury, a restriction enforceable by the Town of Tewksbury shall be recorded providing that such land shall be kept in its open and natural state and not built upon for residential use or developed for an accessory use except as provided for herein, such as wastewater and stormwater management systems serving the OSRD. In order to insure that the corporation, non-profit organization or trust will properly maintain the unsubdivided land or open space, an instrument(s) shall be recorded at the Middlesex North Registry of Deeds which shall provide as a minimum the requirements of Section 7371 through 7379 of this bylaw inclusive.

#### **7545. PUBLIC HEARING**

After the opportunity for review by other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of G.L. Chapter 40A, S9 and of the zoning bylaw and regulations of the Planning Board.

#### **7546. DECISION OF THE PLANNING BOARD**

The Planning Board may grant a special permit for a OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:

- a. whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
- b. whether the OSRD promotes permanent preservation of open space, agricultural land forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;
- c. whether the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- d. whether the OSRD reduces the total amount of disturbance on the site;
- e. whether the OSRD furthers the goals and policies of the open space/ master plan.
- f. whether the OSRD facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner.
- g. whether the OSRD and its supporting narrative documentation complies with all sections of this zoning bylaw.
- h. whether the OSRD complies with the recommendations of the Department of Public Works, the Board of Health and the Conservation Commission.
- i. whether it appears that because of soil characteristics, drainage, traffic or other conditions , the granting of such a permit would be detrimental to the health, safety or welfare of the neighborhood or Town or inconsistent with the intent of the OSRD bylaw.

**7600. MULTIPLE FAMILY DWELLINGS IN THE SENIOR VILLAGE DISTRICT/55 (SVD/55)**

**7601. Purpose and Intent.** The purpose of this section is to encourage development of communities for persons fifty-five (55) years of age and older, by allowing a greater variety of multi-family building types at a higher density than would normally be allowed. It is intended that this section provide a mechanism for development of a range of multi-family housing types and facilities that are responsive to the socio-cultural needs of senior residents; to achieve land development that is responsive to an analysis of the environmental assets and constraints of a site; and to encourage well-integrated development in terms of land use and major design elements such as buildings, roads, utilities, drainage systems and open space.

This bylaw is intended to be used in conjunction with other regulations adopted by the Town not in conflict with this Section 7600, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate and consistent patterns of village development in the Town. This section is not intended to supersede, modify or conflict with the powers and duties delegated to the Planning Board pursuant to the Subdivision Control Law, M.G.L. c. 41, ss: 81K - 81GG.

**7602. Definitions.**

As used in this bylaw, a Senior Village Development shall mean a residential community constructed expressly for use and residency by persons who have achieved a minimum age requirement for residency of fifty five (55) years of age or older in accordance with M.G.L. Chapter 151B, Section 4, Subsection 7.

A Senior Village Development, as defined herein, is an overlay district superimposed on all underlying zoning districts. Where the SVD/55 authorizes uses not otherwise allowed in the underlying district, the provisions of the SVD/55 shall control.

**7603. Overlay District.** The SVD/55 is an overlay district superimposed on all underlying zoning districts. Where the SVD/55 authorizes uses not otherwise allowed in the underlying district, the provisions of the SVD/55 shall control.

**7604. Location.** The SVD/55 Overlay District shall be defined as those portions of the Town of Tewksbury sited on the Westerly Side of Andover Street and shown as Lots 2, 3, 4, 5 and 6 on Tewksbury Assessor's Map 53 and Lots 45, 46, 47, 48, 49, and 50 on Tewksbury Assessor's Map 39., being further described as follows:

Beginning at a point on the southerly line of Andover Street at the intersection of the easterly line of North Street, said point being the north west corner of land of now or formerly Joseph Marques, thence; Easterly along the southerly line of Andover Street, a distance of 1,198 feet, more or less, to a point at the northeast corner of land now or formerly of Yvon Cormier Construction Company, thence; Southwesterly along said Cormier land and land now or formerly of Marc & Gerald Weitz a distance of 660 feet, more or less, to a point, thence; westerly by land now or formerly of Stephen & Eleanor Pirello a distance of 68.46 feet, more or less, to a point at the northeast corner of land now or formerly of Frank & Marie Ciccolella, thence; Southwesterly by said Ciccolella a distance of 279.55 feet more or less, to a point on the northwesterly line of North Street, thence; Northwesterly by said easterly line of North Street a distance of 670 feet, more or less to the point of beginning.

**7605. Special Permits for Senior Village Developments.**

- A. The special permit granting authority (SPGA) for this bylaw shall be the Planning Board.
- B. Senior Village Developments will be authorized only by Special Permit granted by the Planning Board. A special permit shall be required where a Senior Village Development use has been discontinued or abandoned for more than two (2) years.
- C. An application for a special permit shall be filed in accordance with the regulations set forth in Section 9300. No more than one such special permit may be approved by the Planning Board for any Senior Village Development.
- D. A Senior Village Development site shall have a minimum lot area of five (5) contiguous acres with 150 feet of frontage on a public way. By special permit, the Planning Board may vary the requirement of 150 feet of frontage on a public way to not less than 40 feet of frontage on a public way provided that a suitable private access road into the site area can be constructed with the reduced frontage. These provisions shall not apply to the development of single-family dwellings.
- E. All dwellings in a Senior Village Development shall be subject to an age restriction described in a deed/deed rider, restrictive covenant, or other document approved by the Planning Board that shall be recorded at the Registry of Deeds or the Land Court. The age restriction shall restrict occupancy of the dwelling units to seniors age 55 or older, and their spouses and children of any age. In the event of the death of a qualifying owner/occupant of a unit in a Senior Village Development, the surviving spouse of a qualifying owner/occupant, regardless of age, shall be allowed to remain until death or remarriage to a non-qualifying individual.

**7606. Concept Plan.** Prior to the application for approval of any special permit for a Senior Village Residential Development, (hereinafter SVD/55-SP), a preliminary plan called for purposes of this Section 7600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of this SVD/55 District and

shall include: (a) a preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, changes in grading and topography, parking, landscaping, roads, walkways and access ways, open space, and wetlands; (b) a preliminary utilities plan showing the proposed location and types of water, wastewater and stormwater facilities, including hydrants; (c) a preliminary lighting plan; (d) a preliminary sign plan; and, (e) preliminary subdivision plan(s), if applicable. The Planning Board may solicit public comment on the Concept Plan. Any comments of the Planning Board on the Concept Plan shall be advisory in nature only and shall be without binding effect on either the Planning Board or the Applicant.

**7607. Special Permit to Vary Requirements.** The Planning Board by special permit may vary the design standards and distance parameters if in the opinion of the Planning Board the site development plan would be improved.

**7608. Density.** There shall not be more than a maximum of seven (7) units per acre nor more than fourteen (14) bedrooms per acre. This will allow for flexibility in the number of bedrooms per unit to vary from 1 to 3 bedrooms.

**7609. Design.** The Planning Board shall have the authority to adopt from time to time suitable regulations to specify design standards within the Senior Village Development. Such standards may include regulation of building form and features, architectural details, and historic buildings.

**7610. Parking.** There shall be at least two (2) off-street parking spaces per dwelling unit, one of which shall be completely enclosed. Detached parking garages will be permitted and designed so as to complement the building design and site layout, but shall not be constructed within the setback areas. Additional parking in proximity to any other Senior Village Use serving residents in common, or guest parking, may be required, as determined by the Planning Board. The Planning Board may waive the minimum parking requirements, at the request of the applicant, if sufficient evidence of the adequacy of the proposed parking is provided.

- (a) Enclosed parking spaces shall be 10 feet in width and 20 feet in length; unenclosed parking spaces shall be not less than 9.5 feet wide and 18.5 feet in length.
- (b) Additional enclosed or unenclosed parking spaces shall be provided for guests and recreational areas as indicated below:

Guest	1 parking space per two dwelling units
Tennis Court	2 parking spaces per court
Recreation buildings/swimming pools	1 parking space per 10 dwelling units, but not less than 10 parking spaces

**7611. Design Standards.** A Senior Village Development shall meet the following standards:

- (a) Regardless of the total acreage of the Senior Village Development site, not more than 100 dwelling units shall be authorized by special permit. Commercial and industrial uses are prohibited.
- (b) All lighting shall be directed away from adjoining property and shall be in compliance with Section 5300.
- (c) Services
  - (i) All utilities shall be installed underground using standards promulgated by the Planning, Health, Building and DPW Departments of the Town of

Tewksbury and sewage shall be disposed of by means of adequate connections as required by State and local Departments and Board of Health.

- (ii) If curbside pick-up of trash and recycling materials is not viable, then shared waste disposal facilities (such as dumpsters for household trash and dumpsters for recycling) shall be adequately sized for the development as recommended by the Board of Health.
- (d) The maximum coverage of the site available for use by all buildings, including garages, and carports shall not exceed 30 percent of the site area.
- (e) The maximum building height shall not exceed 2.5 stories nor be greater than 35 feet in height measured from base floor level.
- (f) Any roadway/driveway located in an area that is within 50 feet of a property line shall be shielded from the property line by a planting of shielding type trees satisfactory to the Planning Board between the roadway and property line for the entire length of the roadway within the 50 foot area. This planting shall be in addition to any existing vegetation between the property line and the proposed roadway and shall be placed a maximum of 10 feet apart.
- (g) Walkways, tables, benches, flowering bushes/trees may be allowed in 50 to 100 foot buffer areas at the discretion of the Planning Board to improve the aesthetics of the site area.
- (h) Television, radio and communications services shall be supplied by a central system with underground connections.

**7612. Distance Parameters.** The Planning Board shall determine the distance between the buildings that are structurally connected together by roofing, fencing or other means but not enclosed or heated. The distance parameters will be determined on the aesthetics, created by the design, practicality of design, and the effect on the development by the design. The Planning Board shall determine any distance parameters between buildings not covered under this Zoning By-Law. Within the site area the following distance parameters shall apply:

- (a) Any building abutting the main roadway within the site development shall have a minimum distance of 17 feet from the closest exterior protruding surface of the building (steps, decks, balconies) to the edge of the traveled way segment of the roadway. (Berm is not considered part of a traveled way).
- (b) Any building abutting the main roadway within the site development with parking facilities between the main roadway and the building shall have a minimum distance of 45 feet from the closest exterior protruding surface of the building (decks, balconies, steps) to the edge of the traveled way segment of the roadway. There shall be a minimum 2 foot landscaped buffer strip between the edge of the traveled way and the parking area with allowances for drive entrances and exits.
- (c) No proposed structure shall be located nearer than 50 feet from any public way.
- (d) Separate, enclosed garages, assigned to a specific building may be located no closer than 30 feet from the closest points on the buildings (decks, balconies, steps) to the closest entrance to the garage.
- (e) No building within the site area shall be constructed within 50 feet of any perimeter border of site or 100 feet from any public way providing access to the site.

- (f) The minimum distance between buildings on site not structurally connected together shall be as listed below:

**NO PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

Between the side of one building and the side of another building	15 feet
Between the side of one building and the rear of another building	25 feet
Between the side of one building and the front of another building	40 feet
Between the front of one building and the front of another building	60 feet
Between the front of one building and the rear of another building	60 feet
Between the rear of one building and the rear of another building	60 feet

**PARKING AND/OR ROADWAY BETWEEN BUILDINGS**

No parking allowed between the side of one building and the side of another building	
Between the side of one building and the rear of another building	58 feet
Between the side of one building and the front of another building	70 feet
Between the front of one building and the front of another building	100 feet
Between the front of one building and the rear of another building	80 feet
Between the rear of one building and the rear of another building	58 feet

**7613. Open Space.**

- (a) Suitable recreational facilities shall be provided on the required open space. Not less than 25% of the upland area of the site available for use shall remain free from structures, parking and drives, and such area shall be left either in its natural state, attractively landscaped, or developed for uncovered recreational facilities.
- (b) The owner or owners shall be responsible for the maintenance of common areas, including but not limited to snow plowing within the site limits and rubbish disposal. No outside burning of rubbish or inside incineration shall be permitted.

**7614. Non-Applicability.** The provisions of Section 7000 shall be of no application to the provisions of this Section 7600.

**7615. Affordable Housing Requirement.** An application for a SVD/55 Special Permit shall conform to the following Affordable Housing requirements:

- (a) An application that proposes a maximum density of seven (7) units per acre shall require that at least fifteen (15%) percent of the total Dwelling Units in the Senior Village Development be established as Affordable Housing Units. The calculation of the number of designated affordable units shall be rounded to the next whole number of units equal to 0.5 or greater, provided that at no time shall a SVD/55 Special Permit be granted with less than one (1) Affordable Dwelling Unit. The Planning Board may waive the construction or provision for Affordable Housing Units for an equivalent fee – in – lieu of unit payment made to the Town of Tewksbury for disbursement to the Affordable Housing Trust Fund, subject to the provisions and policies of the Tewksbury Local Housing Partnership for the creation of Affordable Housing Units in the Town of Tewksbury.
- (b) An application for a SVD/55 Special Permit that proposes a maximum density of six (6) units per acre shall require that at least five (5%) percent of the total Dwelling Units in the Senior Village Development be established as Affordable Housing Units. The calculation of the number of designated affordable units shall be rounded to the next whole number of units equal to 0.5 or greater, provided that at no time shall a SVD/55 Special Permit be granted with less than one (1) Affordable Dwelling Unit. The Planning Board may waive the construction or provision for Affordable Housing Units for an equivalent fee – in – lieu of unit payment made to the Town of Tewksbury for disbursement to the Affordable Housing Trust Fund, subject to the provisions and policies of the Tewksbury Local Housing Partnership for the creation of Affordable Housing Units in the Town of Tewksbury.
- (c) An application of a SVD/55 Special Permit that proposes a maximum density of five (5) units or less per acre shall require that at least two (2%) percent of the total Dwelling Units in the Senior Village Development be established as Affordable Housing Units. The calculation of the number of designated affordable units shall be rounded to the next whole number of units equal to 0.5 or greater, provided that at no time shall a SVD/55 Special Permit be granted with less than one (1) Affordable Dwelling Unit. The Planning Board may waive the construction or provision for Affordable Housing Units for an equivalent fee – in – lieu of unit payment made to the Town of Tewksbury for disbursement to the Affordable Housing Trust Fund, subject to the provisions and policies of the Tewksbury Local Housing Partnership for the creation of Affordable Housing Units in the Town of Tewksbury.
- (d) All affordable units constructed or rehabilitated under this Section 7615 shall be situated within the Senior Village Development so as not to be in less desirable locations than comparable market-rate units in the development, and shall on average be no less accessible to public amenities such as open space than the market-rate units. Affordable Housing Units within the Senior Village Development shall be integrated within the development and shall be compatible in design, appearance, construction and quality of materials with other units. Interior features of Affordable Housing Units shall comply in all respects to the minimum design and construction standards set forth in the Local Initiative Guidelines

promulgated by the Department of Housing and Community Development, July 1996, as amended from time to time.

- (e) A marketing plan shall be developed by the project developer which describes how the affordable units will be marketed to potential homebuyers. This plan shall give priority to Tewksbury residents and include a description of the lot.

**7616. Historic Preservation Incentive.**

A. Objectives

To encourage, permit flexibility and provide incentives for the preservation of historic buildings, structures, sites and settings, and elements of historical or architectural significance, in a development as defined.

B. Historic Eligibility Defined

Any historic element, as defined below, may qualify for Historic Preservation Incentives, in a development, if it is included on any of the following lists or surveys:

1. National Register of Historic Places
2. State (Commonwealth of Massachusetts) Register of Historic Places
3. Inclusion by the Tewksbury Historical Commission in its Historic Survey, or identification by that Commission of historic and/or architectural significance and thereby potential inclusion in the Historic Survey.

C. Findings Required

In order to grant a density bonus for the specific purpose of preserving an architecturally significant building on the site on which it was constructed, the SPGA shall, in accordance with and pursuant to its authority under Section 7607, first determine that it is necessary to maintain said historic or architecturally significant building, structure or element on the site on which it was originally constructed, and that the granting of the density bonus set forth in Section D below is compatible with the general land use goals and objectives set forth in this Section 7600; provided, however, that no use other than residential shall be permitted within the historic building.

D. Increases In Permissible Density

Subject to the requirements of Section 7616, Historic Preservation Incentives, qualified dwelling units restored or constructed with the Planning Board approval of an Historic Preservation Incentive in an SVD/55 development shall NOT count toward the Section 7608 density, thus allowing for a “1 for 1” density bonus for every one (1) “Historic” housing unit, one (1) dwelling unit within the SVD/55 development. The “historic” housing unit shall NOT be subject to the Affordable Housing Requirements herein.

**7617. Severability.** If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Tewksbury zoning bylaw.

**7618. Inapplicability of Certain Other Regulations.** Where this Section 7600 specifies some standard or makes some other requirement contrary to a requirement elsewhere in this Zoning Bylaw, the provisions of this Section 7600, as may be amended from time to time, shall prevail.

## **SECTION 8000. OVERLAY DISTRICTS**

### **8100. FLOODPLAIN DISTRICT**

**8110. Statement of Purpose.** The purposes of the Floodplain District are to:

1. Ensure public safety through reducing the threats to life and personal injury.
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

### **8120. Floodplain District Boundaries.**

The Floodplain District is herein established as an overlay district. The District includes all the special flood hazard areas within the Town of Tewksbury designated as Zone A and AE, on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP. The map panels of the Middlesex RIRM are wholly or partially within the Town of Tewksbury are panel numbers 25017C0142E, 25017C0144E, 25017C0163E, 25017C0164, 25017C0256E, 25017C0257E, 25017C0259E, 25017C0276E, 25017C0277E, 25017C0278E, 25017C0279E, 25017C0281E, and 25017C0283E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and the Town Engineer. The above referenced maps and study booklet may be amended from time to time.

### **8130. Base Flood Elevation and Floodway Data.**

**8131.** Floodway data. In Zone A, A1-A30, and AE along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

**8132.** Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lessor, within unnumbered A zones.

### **8140. Notification of Watercourse Alteration.**

**8141.** Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

1. Adjacent Communities,
2. NFIP State Coordinator
3. Massachusetts Office of Water Resources
4. NFIP Program Specialist
5. FEMA Region 1

### **8150. Use Regulations**

**8151.** Reference to existing regulations. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-

structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and the following:

1. 780 CMR (Massachusetts State Building Code), “Flood Resistant Construction”, (currently Chapter 3107.0) which addresses floodplain;
2. 310 CMR (Commonwealth of Massachusetts Regulations), Department of Environmental Protection, Wetlands Protection Regulations. (currently Section 10.00);
3. Inland Wetlands Restriction, DEP (currently 302 CMR 6.00); and
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

**8152. Other Use Regulations.**

1. In Zone AE, along watercourses that have a regulatory floodway within the Town of Tewksbury as designated on the Middlesex County Flood Insurance Rate Maps, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
3. Applicant shall be required to submit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

*(Note: Original text of 8152 subparagraph 2 deleted as per Attorney General response of August 21, 2002)*

**8160. Permitted Uses.**

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticultural, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

**8170. Administration.**

**8171.** In order to insure the proper administration of the Floodplain District, the Building Commissioner shall;

1. Review proposed development to insure that all necessary permits have been obtained from those governmental agencies from which approval is required by federal or state law.
2. Obtain and maintain records of:

- a) The elevation to which any structure has been floodproofed;
- b) The floodproofing certificates required under the Floodplain District;
- c) Whether or not the structure has a basement.

**8180. Definitions**

The following definitions are exclusive to the FLOOD PLAIN DISTRICT:

**AREA OF SPECIAL FLOOD HAZARD** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE or V.

**BASE FLOOD** means the flood having a one percent chance of being equaled to or exceeded in any given year.

**DEVELOPMENT** means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**DISTRICT** means floodplain district.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (The floodway designation is included on the FIRM.)

**FLOOD INSURANCE RATE MAP (FIRM)** means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means an examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building

access or storage in an area, other than a basement area, is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

**MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

**MANUFACTURED HOME PARK OR SUBDIVISION** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at the minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**ONE-HUNDRED-YEAR FLOOD** – see **BASE FLOOD**.

**REGULATORY FLOODWAY** – see **FLOODWAY**

**SPECIAL FLOOD HAZARD AREA** means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

**START OF CONSTRUCTION** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed.

**ZONE A** means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE use the best available federal, state, local or other data.

**ZONE A1-30** and **ZONE AE** means the 100-year floodplain where the base flood elevation has been determined.

**ZONES B, C AND X** are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

## **8200. ARTS CRAFTS OVERLAY DISTRICT**

**8210. Location.** This overlay district shall include property zoned R40 and R80 and listed on one of the following arterial/primary streets: WHIPPLE ROAD, SHAWSHEEN STREET, EAST STREET, SOUTH STREET, and SALEM ROAD. The overlay district shall not extend further than 150' of depth into the lot from the street edge. Lots in the R40 or R80 Districts that do not contain frontage on one of the listed streets are not to be construed as located in the overlay district.

**8220. Requirements.** Arts, crafts, antiques or cottage Industries shall be allowed by Special Permit from the Board of Appeals, with the following conditions:

**8221.** The lot must have frontage of at least 100' on one of the streets set forth above.

**8222.** The use shall not extend beyond the overlay district which is limited to 150' from the edge of the street into the depth of the lot.

**8223.** The use shall not alter the character of the premises or the neighborhood into which it locates.

**8224.** The premises shall be owner occupied, and the home occupation must be operated by the owner of the premises. No more than one employee on site during hours of operation. The Special Permit Granting Authority may require that all employees be residents of the premises or members of the owner's family.

**8225.** A parking requirement of two (2) parking spaces for the residence is provided, as well as one space for each 180 feet of net floor area designated to Arts, Crafts, Antiques/Cottage Industry, with a maximum of four parking spaces installed for the business use. There shall be no parking variances allowed for the additional parking requirements.

**8226.** The Special Permit Granting Authority shall set limits on the hours of operation.

## **8300. GROUND WATER PROTECTION DISTRICT**

**8301. Purpose of District:** The purpose of this Groundwater Protection District is to:

- a. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Tewksbury;
- b. preserve and protect existing and potential sources of drinking water supplies;
- c. conserve the natural resources of the town; and
- d. prevent temporary and permanent contamination of the environment.

**8302. Scope Of Authority.** The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/ uses in a portion of one of the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

**8303 Definitions.** For the purposes of this section, the following terms are defined below:

- a. **AQUIFER:** Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.
- b. **GROUNDWATER PROTECTION DISTRICT:** The zoning district defined to overlay other zoning districts in the Town of Tewksbury. The groundwater protection district may include specifically designated recharge areas.
- c. **IMPERVIOUS SURFACE:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
- d. **MINING:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.
- e. **POTENTIAL DRINKING WATER SOURCES:** Areas which could provide significant potable water in the future.
- f. **RECHARGE AREAS:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III.
- g. **TOXIC OR HAZARDOUS MATERIAL:** Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Tewksbury. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (M.G.L.) Chapter(c.) 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

**8310. Location.** The Groundwater Protection District shall be defined as all lands within the Town of Tewksbury that are delineated as Zone II on the map titled “Town of Tewksbury Zone II Delineation” and dated September, 2001, which map(s), as amended from time-to-time, shall be kept on file with the Town Clerk, the Planning Board, the Building Commissioner, the Board of Health, and the Town Engineer. Additionally, a section in the southeasterly part of Town as defined on the attached map shall be included in the Groundwater Protection District. Said map, revises the most recent Zoning Overlay District Map dated 3/25/05

**8311.** If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

**8312.** The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation. Any changes to the Zone II or Zone III delineation via this process must occur in conformance with the criteria set forth in 310 CMR 22.00 and must be approved by the Massachusetts Department of Environmental Protection.

**8320. Development Regulations.** In the Groundwater Protection District the following regulations shall apply:

8321. Permitted Uses. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- a. conservation of soil, water, plants, and wildlife;
- b. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- c. foot, bicycle and/or horse paths, and bridges;
- d. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- e. maintenance, repair, and enlargement of any existing structure, subject to Section 8322 (prohibited uses) and Section 8323 (special permitted uses);
- f. residential development, subject to Section 8322 (prohibited uses) and Section 8323 (special permitted uses);
- g. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 8322 (prohibited uses) and Section 8323 (special permitted uses);
- h. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.
- i. Underground storage tanks related to these activities are not categorically permitted.

**8322. Prohibited Uses.** The following uses are prohibited:

- a. Landfills and open dumps as defined in 310 CMR 19.006;
- b. Automobile graveyards and junkyards, as defined in M.G.L.c. 140B, §1;
- c. Landfills receiving only wastewater and/or septage residuals including those approved by the Department pursuant to M.G.L.c. 21, §26 through 53; M.G.L.c. 111, §17; M.G.L. c. 83, §6 and 7, and regulations promulgated thereunder;
- d. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L.c. 21C and 310 CMR 30.00, except for the following:
  - 1) very small quantity generators as defined under 310 CMR 30.000;

- 2) household hazardous waste centers and events under 310 CMR 30.390;
  - 3) waste oil retention facilities required by M.G.L. c. 21, § 52A; and
  - 4) water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.
- e. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and any other subsequent amendments;
- f. Storage of liquid hazardous materials, as defined in M.G.L.c. 21E, and/or liquid petroleum products unless such storage is:
- 1) above ground level, and;
  - 2) on an impervious surface, and
  - 3) either: (i) in container(s) or above ground tank(s) within a building, or; (ii) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;
  - 4) 310 CMR allows for the replacement of existing tanks/systems for the keeping, storage or dispensing of gasoline; and
  - 5) 310 CMR exempts above-ground home heating oil systems from the containment requirement, and indoor tanks on impervious surfaces such as a basement floor, are allowed.
- g. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31
- h. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- i. Storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;
- j. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- k. Discharge to the ground of non-sanitary wastewater including industrial and commercial process waste water, except:
- 1) the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - 2) treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13);
  - 3) publicly owned treatment works;

- l. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district;
- m. Storage of commercial fertilizers, as defined in M.G.L. c. 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- n. The rendering impervious of greater than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater except under the provisions of subsection 8323 c.

**8323. Uses and Activities Requiring a Special Permit.** The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

- a. Enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
- b. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 8322). Such activities shall require a special permit to prevent contamination of groundwater;
- c. A system of storm water management and artificial recharge of precipitation must be designed, and approved by the SPGA, to: prevent untreated discharges to wetland and surface water; preserve hydrologic conditions that closely resemble pre-development conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize erosion and sedimentation; not result in significant degradation of groundwater; reduce suspended solids and other pollutants to improve water quality and provide increased protection of sensitive natural resources. These standards may be met using the following or similar best management practices:

1) For lots occupied, or proposed to be occupied, by single or two family residences, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation in order to maintain pre-development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways and other impervious surfaces shall be routed through grassed water-quality swales, as sheet flow over lawn areas, or into constructed stormwater wetlands, sand filters, organic filters and/or similar systems capable of removing nitrogen from stormwater;

2) For lots occupied, or proposed to be occupied by other uses, a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation, and through the use of constructed (stormwater) wetlands, wet (detention) ponds, water quality swales, sand filters, organic filters, or similar site-appropriate best management practices capable of removing nitrogen and other contaminants from stormwater. The stormwater management plan shall meet the Stormwater Management Standards and technical guidance contained in the most recent version of the Massachusetts Department of Environmental Protection's Stormwater Management Handbook, for the type of use proposed, and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, and other surface water bodies, wetlands, or vernal pools. Dry wells shall be prohibited;

3) Except when used for roof runoff from non-galvanized roofs, all infiltration facilities (including wetlands, ponds, and swales) shall be preceded by oil, grease and sediment traps or other best management practices to facilitate control of hazardous materials spills and removal of contamination, and to avoid sedimentation of treatment and leaching facilities;

4) All artificial recharge systems shall be maintained in full working order by the owner(s), under the provisions of an operations and maintenance plan approved by the SPGA, to ensure that systems function as designed. Artificial recharge systems shall be located at least one hundred (100) feet from drinking water wells. Any infiltration basins or trenches shall be constructed with a three (3) foot minimum separation between the bottom of the structure and maximum groundwater elevation. The Planning Board may allow for a reduction of this separation based upon the submittal of sufficient information so long as it would not exceed the requirements of the Department of Environmental Protection's Stormwater Management Policy in effect at the time of the application.

### **8330. Administrative Procedures.**

**8331.** The Special Permit Granting Authority (SPGA) under this bylaw shall be the Planning Board. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, and the Department of Public Works that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.

**8332.** Upon receipt of the special permit application, the SPGA shall transmit one copy each to the Board of Health, the Conservation Commission, Fire Department, Police Department, Building Commissioner, Town Manager, Planning Board and Town Department of Public Works for their written recommendations. The necessary number of copies of the application shall be furnished by the applicant. Each agency listed shall, within forty-five (45) days after the plan is filed, report to the SPGA, in writing, their approval or disapproval of the subject application:

- a. In the event of disapproval, the agencies shall make specific findings and reasons therefore, and, where possible, shall make recommendations for the adjustment thereof;
- b. Failure to respond in writing within 45 days of receipt shall indicate approval or no desire to comment by said agency.

**8333.** The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 8320 of this bylaw, and any regulations or guidelines adopted by the SPGA. The proposed use must:

- a. In no way, during construction or thereafter, adversely affect the existing or potential quality of quantity of water that is available in the Groundwater Protection District; and
- b. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.

**8334.** The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with special permit regulations adopted by the municipality.

**8335.** The applicant shall file 16 copies of a site plan and attachments with the Department of Community Development. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

a. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

b. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Director of Emergency Management, Fire Chief, and Board of Health. The plan shall include:

1) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;

2) provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;

3) evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.

4) proposed down-gradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.

**8336.** The SPGA shall hold a hearing, in conformity with the provision of MGL Chapter 40A, Section 9, within 65 days after the filing of the application and after the review by the Town Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties of interest" as defined in MGL Chapter 40A, §11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by §11.

**8337.** Written notice of any violations of this Section shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Town Engineer/Department of Public Works, and Water Department. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

**8340. Severability.** A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

## **8400. INTERSTATE OVERLAY DISTRICT**

**8401. Purpose.** The purpose of this Overlay District is to provide for the controlled development and utilization of those portions of land located within the Town of Tewksbury that are intersected by roadways that are part of the Federal Interstate Highway System.

**8402. Scope of Authority.** The Interstate Overlay District is an overlay district that may be superimposed on all Heavy Industrial (HI) zoning districts. All uses permitted in the underlying Heavy Industrial (HI) District shall be allowed in the Interstate Overlay District as further described in Appendix A: Table of Use Regulations subject to said existing by-right and special permit requirements. The following additional uses shall also be allowed in the Interstate Overlay District upon the issuance of a Special Permit from the Planning Board: (a) Automotive Refueling Station and accessory uses incidental thereto; (b) Car Wash; and, (c) Garaging and Towing of Motor Vehicles; and, (d) Motor Vehicle Rental or Leasing Agencies, as an accessory use only.

In implementing the provisions of this Section 8000, the Planning Board may approve pursuant to the provisions of this Section 8000, not more than one (1) additional Special Permit for the operation of an Automotive Refueling Station during any subsequent calendar year, January 1 – December 31. Such approvals shall be in addition to those Automotive Refueling Stations (a/k/a Gas Stations) existing on the effective date of this Zoning Bylaw that are authorized by Special Permit or do otherwise exist on said date as an authorized grand-fathered use. The establishment of this limitation shall not be deemed to impair or prevent the renewal of any license, special permit, or other governmental approval necessary to operate and maintain an Automotive Refueling Station use granted prior to the effective date of this Section 8000.

### **8410. Location. The Interstate Overlay District shall be defined as follows:**

1. That portion of the Town of Tewksbury (a) situated within a one half (½) mile radius of a circle, the radius point of which is the intersection of the Massachusetts Highway Department layout of Route Interstate Route 93 and Dascomb Road, in Andover.
2. That portion of the Town of Tewksbury situated within a one quarter (¼) mile radius of a circle, the radius point of which is the intersection of the Massachusetts Highway Department layout of Route 38 (Main Street) and Interstate Route 495.

**8411.** In the event that the location of a boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation

### **8420. Dimensional Regulations.**

**8421. Dimensional Regulations.** All dimensional regulations in the Interstate Overlay District shall be in accordance with the provisions of Section 4000, Dimensional Regulations and Appendix B.

### **8430. General Regulations**

**8431. Parking and Loading Requirements.** Parking and loading requirements shall be in accordance with the provisions of Section 5100 and Appendix C.

**8432. Signs.** Sign requirements shall be in accordance with the provisions of Section 5200.

**8433. Environmental Performance Standards.** Environmental Performance Standards shall be in accordance with the provisions of Section 5300.

### **8440. Landscaping, Screening and Buffer Requirements**

**8441.** All landscaping, screening and buffer Requirements in the Interstate Overlay District shall be in accordance with the provisions of Section 5400, Landscaping, Screening and Buffer Requirements.

### **8450. Site Design**

**8451.** Applicants requesting to sell diesel fuel shall provide: Site design and signage standards including but not limited to: low canopies and slow rate pumps for the sale of diesel fuel, “No Tractor Trailer Service” signs, and on site landscaping and parking designed to deter and exclude sale of diesel fuel to tractor trailers in combination, as approved by the Planning Board.

## **8500. HIGHWAY CORRIDOR OVERLAY DISTRICT**

**8501. Purpose.** The purpose of the Highway Corridor Overlay District (hereinafter referred to as the HCOD District) is:

- (a) To promote and facilitate a development proposal for a Regional Retail Shopping Center that will be accessible only via an interstate highway without any connection to a public or private way within the Town of Tewksbury other than the Ring Road;
- (b) to facilitate integrated physical design and to encourage interaction among activities located within the HCOD;
- (c) to establish controls which will facilitate development while protecting the public interest by setting regulations which limit the aggregate amount of development within the HCOD and set other district wide requirements while permitting flexible development scale and configuration on individual lots within the HCOD.

**8502. Definitions.** The following definitions shall apply in the HCOD:

- (a) **Accessory Uses and Structures:** Uses and structures incidental and subordinate to the principal use of a Regional Retail Shopping Center, including the following:

- i. Water tank to facilitate fire protection and domestic supply.
  - ii. Garage for automotive storage.
  - iii. Transformer station, substation, gas regulator station, or pumping station and related utility uses designed primarily to serve development within the District.
- (b) **Frontage**: In the HCOD for the development of a Regional Retail Shopping Center, frontage shall be computed without regard to the individual lots that may be created and shall be computed as if all adjacent lots constitute a single parcel. Such frontage shall be on (a) any internal site drive of any length (including a ring road); or (b) a public way which the Town Clerk certifies is maintained and used as a public way, or (c) a way shown on a plan heretofore approved and endorsed in accordance with the subdivision control law. Frontage shall be measured in a single, continuous, uninterrupted line along a street or streets. Notwithstanding any contrary provision in this Bylaw, vehicular access to an individual lot on the combined development area of the Regional Retail Shopping Center need not be obtained exclusively through the legal frontage of the individual lot.
- (c) **Gross Leasable Area (GLA)**: Gross leasable area is the total floor area designed for tenant occupancy and exclusive use (including but not limited to basements, kitchens, restrooms, storage rooms, private corridors, stairways, areas devoted to kiosks or pushcarts, mezzanines and upper floors), expressed in square feet and measured from the centerline of interior walls or other interior tenant partitions and from outside wall faces. GLA does not include public or common areas; i.e., public restrooms, corridors, stairwells, elevators, lobbies or mall areas, nor does it include mechanical rooms, equipment and/or machine rooms or mechanical chases.
- (d) **Library**: A facility for the storage of books, films, manuscripts, videos, records and similar materials whose purpose is to allow free public use of said materials.
- (e) **Museum**: A use which entails the display of educational, scientific, or historic and similar materials open to the public, and nonprofit in its operation.
- (f) **Regional Retail Shopping Center**: A group of retail, service and/or consumer oriented establishments the maintenance of which is under common management and having at least 500,000 square feet of gross leasable area, but not more than 805,000 square feet of gross leasable area, and 1.2 million square feet of gross building area. The Regional Retail Shopping Center shall be located in a single structure (excluding accessory parking structures and other accessory structures) and may be on single or multiple contiguous lots within the HCOD.
- (g) **Ring Road**: A private or public way encircling the Regional Retail Shopping Center, with public access ways connecting thereto.

**8503. Overlay District.** The HCOD is an overlay district superimposed on all underlying zoning districts. All uses permitted by right or by special permit in the pertinent underlying zoning district shall be similarly permitted in the HCOD subject to the provisions of this Section. Where the HCOD authorizes uses not otherwise allowed in the underlying district, the provisions of the HCOD shall control.

**8504. Location.** The HCOD shall be defined as those portions of the Town of Tewksbury located on the Westerly Side of Interstate Route 93 and shown on Tewksbury Assessor's Map 109 Lots 76, Map 114 Lot 1 and 2 and Map 115 Lot 1 and 2, being further described as follows:

Beginning at the southeast corner of the premises on the westerly sideline of Interstate Route 93 at the intersection of the Town line dividing the Towns of Tewksbury and Wilmington, thence; Southwesterly by said Town line to land of now or formerly Anthony Rocco, John and Jan Cave being shown as Lot 69 on Tewksbury Assessor's Map 109, said land being the discontinued Salem and Lowell Railroad, thence; Northwesterly said Lot 69 to the southwest corner of land of now or formerly John and Jan Cave, being shown as Lot 75 on Tewksbury Assessor's Map 109, thence; Northeasterly and Northerly by said Cave's land to a point on the southerly line of other land of now or formerly John and Jan Cave, being shown as Lot 58 Tewksbury Assessor's Map 109, thence Northeasterly by said Cave's land to a stone bound at the northeast corner of said Lot 58, thence; Northeasterly by the northerly line of said Perkins land and the southerly line of the subdivision know as Jennie's Way, along Lots 26,24,23,22,21 and 20 on Tewksbury Assessor's Map 115 and Lot 13 on Tewksbury Assessor's Map 116, to a point on the westerly line of said Route 93, said point being the northeast corner of land of now or formerly Bror and Sonya Berg, thence; Southerly by said Route 93 to the point of beginning.

**8505. Concept Plan.** Prior to the application for approval of any special permit for a Regional Retail Shopping Center, (hereinafter HC-SP), a preliminary plan called for purposes of this Section 8500 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of this HCOD and shall include: (a) a preliminary site development plan (signed by a registered architect or other pertinent design/engineering professional) showing the location and footprint(s) of all proposed buildings, changes in grading and topography, parking, landscaping, roads, walkways and access ways, open space, and wetlands; (b) a preliminary utilities plan showing the proposed location and types of water, wastewater and stormwater facilities, including hydrants; (c) a preliminary lighting plan; (d) a preliminary sign plan; and, (e) preliminary subdivision plan(s), if applicable. The Planning Board may solicit public comment on the Concept Plan. Any comments of the Planning Board on the Concept Plan shall be advisory in nature only and shall be without binding effect on either the Planning Board or the Applicant.

**8506. Time Limit.** Until such time as a special permit (HC-SP) is issued for a Regional Retail Shopping Center, the restrictions of the underlying zoning shall solely govern the use and development of the property comprising the HCOD. At the time of the issuance of a certificate of use and occupancy for the Regional Retail Shopping Center, the underlying zoning shall no longer be applicable in the HCOD. If no such special permit is issued, however, within eight (8) years after the date of enactment of this by-law by Town Meeting, or, in the alternative, whichever is sooner, if that certain Development Agreement dated as of May 4, 2004 between the Town and Mills Corporation (a copy of which is available for inspection in the office of the Town Clerk) is terminated and written notice thereof is provided to the Town Clerk, the provisions of this HCOD by-law shall expire, and, in such event, the underlying zoning in effect on the date of adoption of this bylaw shall govern the use of the property described in Section 8504.

**8507. Special Permit Required.** The development of a Regional Retail Shopping Mall within the HCOD shall require the issuance of a Highway Corridor Special Permit (HC-SP) by the Planning Board. An application for a HC-SP shall be on a form provided by the Planning Board and shall be submitted in accordance with the rules and regulations of the Planning Board for an HC-SP.

**8508. Dimensional Requirements.** For a Regional Retail Shopping Center to be eligible to apply for a HC-SP, the following dimensional requirements shall apply in lieu of any other contrary dimensional requirements contained in this By-Law:

- (a) **Minimum Area.** The parcel or set of contiguous parcels containing the Regional Retail Shopping Center for which the HC-SP is requested shall not be less than eighty (80) acres prior to any dedication of any portion of said parcel or set of contiguous parcels for purposes of, by way of example only, public or private ways, and common or open space areas. All of said eighty (80) acre parcel shall be located exclusively in the Town of Tewksbury and shall be comprised of the HCOD in its entirety.
- (b) **Maximum Lot Coverage.** The total lot coverage by structures and impervious surfaces shall not exceed fifty-five (55%) percent of the HCOD in its entirety.
- (c) **Minimum Frontage.** The minimum frontage shall be 150 feet for the contiguous combined area of the Regional Retail Shopping Center.
- (d) **Building and Parking Setbacks.** The principal structure containing the Regional Retail Shopping Center and all associated parking shall be placed within the Ring Road. No accessory use or structure shall be located within 50 feet of any boundary of the HCOD.
- (e) **Maximum Building Height.** No building shall exceed more than two (2) stories and sixty (60) feet in height above grade plane; provided, however, that forty percent (40%) of the building may be three (3) stories and eighty (80) feet in height above grade plane. Greater height may be allowed by a separate special permit. Fill shall be limited in depth to the minimum amount required to comply with the Stormwater Management Policy of the Commonwealth's Department of Environmental Protection (DEP). This definition excludes penthouses, bulkheads and other allowable super-structures above the roof line.
- (f) **Maximum Building Coverage.** The maximum building coverage of any legal subdivided lot within the HCOD Project shall be permitted to have up to a maximum building coverage of one hundred (100%) percent provided that the maximum lot coverage for the project is not exceeded. For purposes of this Section 8500, land use principally dedicated for a coordinated, integrated retail use such as a Regional Retail Shopping Center, shall be deemed to be one lot for density regulation and parking purposes notwithstanding that legal ownership in the land is divided, by lease, in fee or otherwise, among two or more owners.

**8508.1 Use Regulations.** Within a Regional Retail Shopping Center, the uses available shall be as set forth in the HCOD Table of Uses Available in a Regional Retail Shopping Center, which follows Section 8516 (HCOD Table). There shall be no restriction on combining different categories of use as of right within a Regional Retail Shopping Center other than those imposed by the State Building Code or other federal, state or local regulations. Retenancing within the

Regional Retail Shopping Center shall be allowed as of right, where such retenanting complies with such HCOD Table, or by special permit where allowed in compliance with such HCOD Table.

**8509. Parking and Loading Standards.** The following parking and loading standards shall apply in the HCOD:

- (a) **Location.** All parking shall be provided within the Ring Road.
- (b) **Minimum Parking Ratio.** Parking spaces shall be provided at the rate of not less than 4.8 parking spaces per one thousand (1,000) square feet of gross leasable area (GLA).
- (c) **Minimum Parking Dimensions.** Standard parking spaces shall be nine (9.0') feet wide by eighteen (18') feet deep.
- (d) **No Backing.** Parking and loading areas shall not require vehicles to back onto an access way or the Ring Road.
- (e) **Screening.** All loading areas and parking areas for ten (10) or more cars shall provide screening in accordance with Section 5000.

**8510. Performance Standards.** The development of a Regional Retail Shopping Center in the HCOD shall comply with the following performance standards:

- (a) **Sidewalks.** Concrete sidewalks are required within the HCOD where necessary for safe pedestrian access and circulation. There shall be a marked pedestrian aisle at each entrance to the building served by the parking lot. Sidewalks must be constructed in accordance with the Planning Board's Subdivision Rules and Regulations and in accordance with the regulations of the Massachusetts Architectural Access Board.
- (b) **Landscape Buffer Area.** Whenever required by the Planning Board pursuant to the provisions of Section 5400 and this Section 8510, a landscaped buffer area shall consist of natural and intact vegetation or a landscaped strip and may include fences, walls or berms, which shall serve to provide an effective year round visual screening at the time of installation.

The following additional requirements shall pertain to all landscape buffer areas located in the HCOD:

- i. Driveways or other private ways necessary for access and egress to and from the tract for emergency access purposes may cross such buffer areas.
- ii. No vegetation in a buffer area will be disturbed, destroyed or removed, except for construction of and/or normal maintenance of structures and landscapes approved as part of the project.
- iii. The Planning Board may waive the buffer requirement of Section 5400 when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.
- iv. A landscape buffer area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided such use does not reduce the

effectiveness of the buffer area as year round visual screen. No other uses are permitted in landscape buffer areas.

- v. Wastewater and stormwater management systems serving the HCOD District may be located within the landscape buffer areas.
- vi. All plant materials required by this Section and Section 5400 shall be maintained in a healthful condition. Dead limbs refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and non-plant ground surface materials shall be maintained so as to control weed growth.

- (c) **Outdoor Lighting.** The key to effective lighting design and outdoor lighting codes is to define the lighting equipment and design criteria that minimize the causes of sky glow, light trespass and glare while providing a comfortable, visually effective, energy efficient and safe / secure outdoor environment. Therefore, outdoor lighting fixtures utilized for lighting parking areas, sidewalks, roadways (except as herein provided), buildings and structures, and recreation and landscape areas shall be designed to improve safety, and to minimize glare and light trespass. All outdoor lighting fixtures except those with an initial output less than 5,000 lumens shall be Semi-Cutoff, Cutoff or Full Cutoff (as defined by the Illuminating Engineering Society of North America's (IESNA) standards to the maximum allowed under the Massachusetts Energy Code) and shall be installed and maintained in such a manner as to be horizontal to the ground so that the cutoff characteristics of the fixture are maintained. Beyond the cutoff requirements set forth herein, all light fixtures shall be located, aimed or shielded so as to minimize light trespass and glare across property boundaries.

No outdoor lighting shall be installed to exceed the maximum maintained luminance levels as recommended by the IESNA for the designated activity. When no maximum level is defined by IESNA, no lighting shall be installed to exceed 400% of the minimum maintained luminance levels as recommended by the Illuminating Engineering Society of North America (IESNA) for the designated activity so as to obtain a uniform luminance level ratio of 4:5. Spacing of poles shall be designed such that the luminance on the ground is uniform to the greatest extent practicable.

The lighting of building facades is allowed and Cutoff fixtures as defined by the IESNA are not required so long as shielded and directional fixtures are used. Fixtures must be installed and aimed so as to minimize glare, sky glow and light trespass.

The following are exempt from the provisions hereof:

- i. The lighting of flags - Cutoff fixtures as defined by the IESNA are not required so long as shielded and directional fixtures are used. Fixtures must be installed and aimed so as to minimize glare, sky glow and light trespass.

- ii. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction for as long as the emergency exists.
- iii. Temporary lighting, such as that used at construction sites or other uses of a temporary nature. However temporary lighting shall be aimed so as to minimize glare and light trespass to adjacent properties and turned off upon the completion of the project.
- iv. Lighting for Town, State or Federal roadways.

Light pole and all fixture types shall not exceed forty-five (45') feet in height above the average grade around the structure.

Waivers from these provisions may be granted by the Planning Board upon documentation that meeting specific provisions hereof would result in an unsafe condition, impede normal operations or inflict undue financial hardship.

- (d) **Reduced Lighting Levels.** Lighting levels shall be reduced to security levels within one (1) hour after the close of business or the end of the business activity. Sufficient security lighting shall be permitted at all times.
- (e) **Solid Waste Storage.** Any accessory receptacle or structure with holding capacity of at least one hundred (100) cubic feet for temporary storage of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with this By-Law.
- (f) **Street Width.** The Ring Road shall have a paved surface width of not less than thirty (30') feet and a minimum travel way width of twenty-eight (28') feet. Berming or curbing shall be provided in accordance with the standards of the Planning Board's Subdivision Rules and Regulations.
- (g) **Stormwater Management.** Stormwater management facilities shall comply with the Stormwater Management Policy of the DEP and the standards of the Planning Board's Subdivision Rules and Regulations.
- (h) **Emergency / Public Safety Access.** Access to the HCOD site locus from any abutting public or private way, other than the access or Ring Road, so-called, or by means of such other access way not normally open to vehicular traffic, shall be permitted only for the express purpose of allowing emergency and or public safety vehicular access to the HCOD, notwithstanding the underlying zoning district within which such way is located. Such access shall be subject to the reasonable satisfaction of the Tewksbury Fire Department and the Tewksbury Police Department.

**8511. Signs.** This By-Law is adopted for the regulation and restriction of billboards, signs and other advertising devices within the Town on public ways or on private property within public view of a public way, public park or reservation in order to protect and enhance the visual environment of the Town and the safety, convenience and welfare of its residents.

- (a) **Permit Required.** No sign shall be erected, refaced or enlarged until a permit is issued by the Sign Officer, except as otherwise provided herein. An application

for a permit shall be made on forms furnished by the Sign Officer containing such information, including photographs, plans and scale drawings, as he/she may require. Such permit shall be issued only if the Sign Officer determines that the sign complies or will comply with all applicable provisions of this By-Law. A schedule of fees for such permits may be determined from time to time by the Board of Selectmen.

- (b) **Sign Officer.** The Building Commissioner is hereby designated as the Sign Officer and is hereby charged with the enforcement of this By-Law. The Sign Officer and his duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.
- (c) **Exemptions.** The provisions of this section shall not apply to:
  - i. Temporary signs;
  - ii. Building numbers;
  - iii. Public utility identification markings;
  - iv. Signs or markers required or erected by local, state or federal government;
  - v. Directional signs not exceeding 150 square feet;
  - vi. Directional markers not exceeding four (4) square feet, such as arrows or entrance and exit markings;
  - vii. Any sign limited solely to directing traffic or providing direction or setting out restrictions on the use of parking areas, or designating loading areas, and not exceeding four (4) square feet in area per face.
- (d) **Standards.** All signs shall conform to the following standards.
  - i. **Movement.** No sign shall contain any moving, flashing or animated lights or visible moving parts. A sign consisting solely of indicators of time and/or temperature or of an automatically changing message shall be permitted only upon the issuance of a special permit by the Planning Board.
  - ii. **Illumination.** No sign shall be illuminated between the hours of 1 A.M. and 6 A.M. unless, in the case of an accessory sign, the premises on which it is located are open for business. Signs may be illuminated only by the following means:
    - 1. By a white steady stationary light of reasonable intensity shielded and directed solely at the sign.
    - 2. By an interior light of reasonable intensity or by neon gas-filled tubes.
    - 3. Neon lights are prohibited on free-standing signs.
- (e) **Electrically Operated Sign.** No sign permit shall be issued for an electrically operated sign until the local wiring inspector has issued a permit therefore. Such permit shall be issued only if the proposed sign complies with all requirements and recommendations of the National Electrical Code and Massachusetts Electric Code.

- (f) **Color.** No sign shall contain red or green lights if such colors would, in the opinion of the Police Chief, constitute a safety hazard.
- (g) **Tethered / Floating Devices.** Tethered floating or inflated devices of any kind, and banners are prohibited where intended to serve as a sign.
- (h) **Accessory Signs.** Accessory signs which are permitted in the Business, Commercial and Industrial Districts may be permitted in the HCOD.
- (i) **Attached Signs.** Attached signs may be erected if firmly affixed to the building. The sign shall not project beyond the face of any other wall of the building or above the highest point of the eave. The sign shall not project more than twelve (12) inches from the face of the wall to which it is attached.
  - i. The height of each wall mounted Anchor Store Building Sign shall not exceed six (6') feet in height and 350 square feet of sign area. The aggregate length of all such Anchor Store Building Signs shall not exceed in the aggregate seventy-five (75%) percent of the length of the store wall.
  - ii. If a store has a direct entrance in a wall other than the store front, there may be secondary Anchor Store Building Signs affixed to such wall not to exceed six (6') feet in height and 350 square feet of sign area, and the aggregate length of all such Anchor Store Signs shall not exceed fifty (50%) percent of the maximum permissible length of the signs on the store front.
  - iii. One attached wall mounted entry sign per building entrance not to exceed a maximum height of six (6') feet in height and 300 square feet of sign area.
- (j) **Standing signs.** Standing signs may not be erected within fifteen (15) feet of any street lot line or ten (10) feet of any side lot line. Standing signs are limited to the height set forth below to be measured from the nearest pavement grade to the top of the sign structure. Standing signs may be double faced; however, the permitted area will be measured on one side only.
  - i. One (1) free standing Reader Board sign not greater than twenty-five (25) feet in height and not to exceed two (200) square feet of sign area per face.
  - ii. (ii) One (1) free standing sign at each entrance, but not more than three (3) such signs. Each such sign shall be not greater than sixty (60) feet in height, and may be a maximum of two (200) hundred square feet per face.
- (k) **Awnings.** Awnings used as signs shall not project more than thirty-six (36) inches from the face of the wall to which it is attached. The signage on the awning must comply with the size requirements of this Section.
- (l) **Special Signs.** Signs painted or placed on the inside of the glass of a window shall be permitted, provided that the aggregate area of such sign does not exceed 30 percent of the area of the window glass.
- (m) **Temporary Signs.** Temporary signs which comply with these By-Laws shall be permitted (other than a temporary sign placed in a window).

Temporary signs which do not comply with these By-Laws may be authorized by a special permit by the Board of Selectmen for private, nonprofit charitable organizations.

**8512. Landscaping, Screening and Buffer Requirements.** All landscaping, screening and buffer requirements that are requirements in the Commercial (COM) District pursuant to the provisions of Section 5400, Landscaping, Screening and Buffer Requirements, shall also apply in the HCOD District and shall be in addition to those requirements set forth herein under Section 8510(b).

**8513. Special Permit Decision.** The Planning Board may approve, approve with conditions, or deny an application for a HC-SP, where the Regional Retail Shopping Center complies with the dimensional requirements, parking and loading requirements, and performance standards set forth herein, and after consideration of the criteria set forth in Section 9490 and the following:

- (a) Impact of the Regional Retail Shopping Center on the environment (land and water resources, air quality), public utilities, and traffic safety;
- (b) Impact of the Regional Retail Shopping Center on the economy of the Town, including employment opportunities, contributions to tax base and impact on property values;
- (c) Impact of the Regional Retail Shopping Center on neighborhood character.

**8514. Special Permit Conditions.** It shall be a condition of any HC-SP that the applicant shall comply with the commitments made by the developer to the Town contained in that certain Development Agreement dated as of May 4, 2004 between the Town and Mills Corporation (a copy of which is available for inspection in the office of the Town Clerk). In addition to the conditions of said Development Agreement, where the Planning Board grants a HC-SP with conditions, the Board may impose additional reasonable conditions, safeguards and limitations on time and use, including, but not limited to, those set forth in Section 9491 and the following:

- (a) If circumstances so warrant, to impose conditions regarding hours of operation, delivery times, and lighting schedule;
- (b) Approved Special Permits and Site Plans shall be recorded in the North Middlesex Registry of Deeds prior to the issuance of any building permits or the start of any construction on site;
- (c) The Planning Board, or its representative, shall have the authority to make inspections during the construction process. All drainage installed on the site shall be inspected and approved by the Planning Board's Consulting Engineers. In the event that the developer does not comply with conditions set forth in the HC-SP, said Special Permit may be modified or revoked after a public hearing held by the Planning Board. The owner of the property shall be responsible for the maintenance and upkeep of the on-site drainage system;
- (d) All development within the approved site shall be conducted in accordance with plans approved by the decision of the Planning Board and with all statutes, laws, rules, and regulations of the Commonwealth of Massachusetts and the Town of Tewksbury.

- (e) If circumstances so warrant, to impose conditions of compliance with recommendations of the Planning Board with regard to ingress and egress to the site locus for emergency and/or safety vehicle purposes.
- (f) If circumstances so warrant, to require continued monitoring of off-site impacts to traffic safety and the environment in site locations immediately abutting the site locus of the HCOD development;
- (g) If circumstances so warrant, to require additional plantings within the site upon review of the as-built plan and after an on-site inspection. The developer shall be required to add more plantings if desired by the Planning Board. This condition, if imposed, must be satisfied prior to any formal release issued by the Planning Board.
- (h) If circumstances so warrant, to require that the property owner shall be responsible for maintenance of the building and landscape area surrounding and abutting any building on site.

**8515. Relation to Other Requirements.** The submittals and special permit of this section shall be in addition to any other requirements of the Subdivision Control Law to the extent that the site or any portion thereof is approved as a subdivision thereunder.

**8516. Inapplicability of Certain Other Regulations.** Where this Section 8500-8516 specifies some standard or makes some other requirement contrary to a requirement elsewhere in this Zoning Bylaw, the provisions of this Section 8500-8516, as may be amended from time to time, shall prevail.

**TABLE OF USES AVAILABLE IN REGIONAL RETAIL SHOPPING CENTER**

	USES	
<b>A.</b>	<b>RESIDENTIAL USES</b>	
1.	Single-family dwelling	N
2.	Two-Family dwelling	N
3.	Multi-family dwelling	N
4.	Multi-family dwelling/55	N
5.	Community Development Project	N
6.	Cluster Development	N
<b>B.</b>	<b>EXEMPT AND INSTITUTIONAL USES</b>	
1.	Use of land or structures for religious purposes	Y
2.	Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y
3.	Child care facility in existing building	Y
4.	Child care facility in new building	Y

5.	Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five (5) acres in area	Y
6.	Facilities for the sale of produce, and wine and dairy products on exempt agricultural sites	Y
7.	Cemeteries, private	N
8.	Municipal parks and playgrounds	Y
9.	Other municipal facilities	Y
10.	Essential services	Y
11.	Water towers and reservoirs	Y
12.	Hospital	N
<b>C.</b>	<b>COMMERCIAL USES</b>	
1.	Nonexempt farm stand for wholesale or retail sale of products	N
2.	Nonexempt educational use	N
3.	Nonexempt agricultural use	N
4.	Animal clinic or hospital; kennel	N
5.	Personal service establishment	Y
6.	Funeral home	N
7.	Hotel/motel	N
8.	Bed and Breakfast	N
9.	Retail food or drug store	Y
10.	Retail sale of alcoholic beverages	Y
11.	Retail sales not elsewhere set forth	Y
12.	Motor vehicle, motorcycle, trailer, snowmobile, or boat sales and rental	N
13.	Motor vehicle light service; Motor vehicle general and body repair	N
14.	Car wash	N
15.	Garage for automotive storage	Y
16.	Limousine, taxicab or livery business	N
17.	Automotive stereo systems installations	PB
18.	Restaurant	Y
19.	Restaurant, fast- food or drive-through	Y
20.	Business or professional office	Y
21.	Freestanding ATM or kiosk for public use	N
22.	Adult day care	N
23.	Indoor commercial recreation; provided, however, that such use shall not exceed 30% of the GLA without authorization by a separate special permit of the Planning Board	Y
24.	Outdoor commercial recreation	PB
25.	Membership club, civic, social, professional or fraternal organization	N
26.	Adult use establishment	N
27.	Wireless Communications Facility	N

28.	Airport, airfield or airstrip	N
29.	Mobile parked food service	N
30.	Itinerant roadside vending	N
31.	Massage parlor	N
32.	Major Commercial Project	NOT APPLICABLE
33.	Massage Therapy (Licensed)	N
34.	Garaging or parking of one light commercial vehicle. (Accessory use only)	Y
35.	Garaging or parking of two light commercial vehicles. (Accessory use only)	Y
36.	Garaging or parking of three or more light commercial uses (Accessory use only)	Y
37.	Garaging or parking of one heavy commercial (Accessory use only)	Y
38.	Garaging or parking of two or more heavy commercial vehicles (Accessory use only)	Y
39.	Drive-through facility	PB
40.	Casino, gambling facility	N
<b>D.</b>	<b>INDUSTRIAL USES</b>	
1.	Removal of loam, sand or gravel	N
2.	Research laboratories, manufacture of equipment, electronics industry, assembling of electrical appliances	N
3.	Welding shop	N
4.	Machine shop	N
5.	Stone or monument works	N
6.	Ceramic products manufactured by electrical kilns	N
7.	Manufacturing	N
8.	Manufacturing, Light	N
8.	Sale of products at retail manufactured on the premises	N
9.	Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N
10.	Farm supply warehouse	N
11.	Heating fuel storage and sales	N
12.	Contractor's yard or landscaping business	N
13.	Junkyard or automobile salvage yard	N
14.	Transportation or freight terminal	N
15.	Truck stop	N
16.	Steel Fabrication	N

## **8600. TOWN CENTER OVERLAY DISTRICT**

**8601. Purpose:** The purposes of the Town Center Overlay District (TCOD) are to:

- a) encourage a mix of business, residential, cultural, educational and civic uses;
- b) promote compact development that is pedestrian-oriented and preserves the historic value and character of the area;
- c) minimize impacts on public services and maximize the efficient use of public infrastructure;
- d) increase the town's tax base by creating a thriving small business environment, attracting new investment and promoting economic development;
- e) provide diverse housing opportunities; and
- f) encourage the reuse of existing underutilized or vacant properties.

The following bylaw is intended to support the goals, objectives and recommendations outlined in the Town's Master Plan, and the Town of Tewksbury Affordable Housing Plan and Housing Production Strategy. Applications submitted under the TCOB bylaw shall meet the criteria and guidelines outlined in the corresponding Town Center Design Guidelines.

**8602. Boundaries.** The boundaries of the TCOB shall be as shown on the Town of Tewksbury Town Center Overlay Zoning Map, on file in the office of the Town Clerk.

**8603. Relationship to Existing Zoning.** The underlying zoning shall remain an integral part of the Tewksbury Zoning Bylaw and shall be neither modified, repealed nor amended by this section. The property owners in the TCOB shall possess all current zoning rights and be subject to the requirements applicable in the underlying zones. In the event that an owner desires to use their property for development as defined herein, the rules and regulations of the TCOB shall apply and by filing an application for development subject to such rules and regulations, the owner shall be deemed to accept and agree to them. Municipal Zoned properties located within the TCOB are not eligible to apply for a permit under the provisions of the TCOB. Where the TCOB provisions are silent on a zoning rule or regulation, the requirements of the underlying zoning shall apply (e.g. off street parking and open space requirements). In addition, projects allowed under the underlying zoning are not eligible to apply under the TCOB unless they meet all of the requirements of the TCOB.

**8604. Use Regulations and Definitions.** The following uses are allowed in the TCOB subject to the requirements outlined in these TCOB regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Artist Lofts: All or a portion of a building that has been converted into an artist's workspace and living area.
  - c. Assisted living facilities
2. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Post Office
  - e. Recreation
3. Business Uses

- a. Retail Store, not exceeding 7,500 sq. ft. of gross floor area per individual establishment.
  - b. Professional Offices, not exceeding 10,000 sq. ft. of gross floor area per individual office establishment
  - c. Financial Services/Bank
  - d. Restaurant, fast food, general or limited service, not exceeding 4,000 sq. ft. of gross floor area. The square footage requirement does not include a patio or outdoor seating area operated in connection with an indoor-service restaurant
  - e. Hotel, Inn
  - f. Bed and Breakfast
  - g. Lodge or Club (Membership)
  - h. Personal Services
  - i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate paintings, sculptures, statues, photography, furniture and similar art forms.
  - j. Commercial Recreation, Indoor
  - k. Parking Facility: A public or private parking area or structure that is open to shelter or storage of motor vehicles by residents, customers and employees for permitted uses in the TCOD.
  - l. Day Care Facility
  - m. Performance Theater: A building or structure designed for theatrical and other staged entertainment services.
  - n. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
  - o. Art Gallery: A room or series of rooms where works of art are exhibited.
4. Mixed use development: A single building with the ground floor used primarily for retail, commercial, service or office and the upper floor(s) used for residential use.

**8605. Prohibited Uses.** Any use not listed above is to be considered prohibited. Drive through services and windows, and Adult Use Establishments are not allowed for any use in the TCOD district.

**8606. Site Plan Special Permit.** All uses and structures in the TCOD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria of the TCOD shall apply as described in the Town Center Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

**8607. Concept Plan.** Prior to the application for approval of any special permit for a TCOD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of this TCOD and shall include: (a) a site development plan showing the location and footprint(s) of all proposed buildings, changes in grading and topography, parking, landscaping, roads, walkways and access ways, open space, and wetlands; (b) a utilities plan showing the proposed location and types of water, wastewater and stormwater facilities, including hydrants; (c) a lighting plan; (d) a sign plan; and, (e) subdivision plan(s), if applicable. The Planning Board may solicit public comment on the Concept Plan. Any comments of the Planning Board on the

Concept Plan shall be advisory in nature only and shall be without binding effect on either the Planning Board or the Applicant.

To attain the goals of the TCOD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan should describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of TCOD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

**8608. Dimensional Requirements.**

Buildings within the TCOD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	10 feet
Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	3 stories or 45 feet

**8609. Special Provisions.** The following special provisions apply to all development within the TCOD:

1. The Planning Board may modify all dimensional requirements outlined in Section 8608 and all square foot limitations as set forth in 8604.3, except Maximum Building Height of 3 stories or 45 feet, if, in its opinion, such modifications will result in improved design that is in keeping with Section 8601 above.
2. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access as defined in paragraph 3 below, for two or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to Town Counsel and approved by the Planning Board.
3. Site access is preferred to be provided via Main Street, East Street or Pleasant Street in a fashion that is acceptable to the Planning Board and by means that are not primarily residential in nature. Site access by only; Dewey Street, Summer Street, Town Hall Avenue, Cross Street, Robinson Avenue, Cross

Street, Kelley Terrace, and Lee Streets may be allowed by the Planning Board if it finds that said access does not unreasonably impact residential neighborhoods with consideration given for properly mitigated noise, traffic, visual and environmental impacts attributable to the project.

**8610. Parking Requirements.** The parking requirement for any use in the TCOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the TCOD based on the following considerations:

1. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
2. The availability of public transportation.

**8611. Criteria for Granting TCOD Special Permit.** In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this TCOD bylaw and shall take into consideration the following:

- a. Social, economic or community needs which are served by the proposal;
- b. Traffic flow and safety, including parking and loading;
- c. Adequacy of utilities and other public services;
- d. Neighborhood character and social structures;
- e. Impacts on the natural environment; and
- f. Potential fiscal impact, including impact on town services, tax base, and employment.
- g. Protects adjoining premises by minimizing adverse effects on the natural environment;
- h. Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;
- i. Provides an adequate arrangement of parking and loading spaces in relation to the proposed uses of the premises;
- j. Provides adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the site;
- k. Complies with all applicable requirements of this By-Law.

**8612. Special Permit Conditions** The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

- a. Dimensional requirements greater than the minimum required by this By-Law;
- b. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;
- c. Modification of the exterior features or appearances of the structure(s);
- d. Limitation of size, number of occupants, method and time of operation and extent of facilities;

- e. Regulation of number, design and location of access drives, drive-up windows and other traffic features;
- f. Requirement of off-street parking and other special features;
- g. Requirement for performance bonds or other security; and
- h. Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.

## **8620 VILLAGE RESIDENTIAL OVERLAY DISTRICT**

**8621. Purpose:** The purposes of the Village Residential Overlay District (VROD) shall be the same purposes as described in the 8601, Town Center Overlay District, in its entirety.

**8622. Boundaries:** The boundaries of the VROD shall be as shown on the Town of Tewksbury Town Center Overlay Map, on file at the office of the Town Clerk.

**8623. Relationship to Existing Zoning:** The relationship to existing zoning shall be the same as described in the Town Center Overlay District, in its entirety.

**8624. Use Regulations and Definitions:** The following uses are allowed in the VROD subject to the requirements outlined in these VROD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Artist Lofts: All or a portion of a building that has been converted into an artist's workspace and living area.
  - c. Assisted living facilities
2. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Public or Private Utility Facilities
  - e. Post Office
  - f. Recreation
3. Business Uses
  - a. Retail Store, not exceeding 1,200 sq. ft. of gross floor area per individual establishment.
  - b. Professional Offices, not exceeding 2,400 sq. ft. of gross floor area per individual office establishment
  - c. Financial Services/Bank
  - d. Restaurant, fast food, general or limited service, not exceeding 1,200 sq. ft. of gross floor area. The square footage requirement does not include a patio

- or outdoor seating area operated in connection with an indoor-service restaurant
- e. Hotel, Inn
- f. Bed and Breakfast
- g. Lodge or Club (Membership)
- h. Personal Services
  - i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate sculptures, statues, furniture, structures and other art forms.
  - j. Day Care Facility
  - k. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
  - l. Art Gallery: A room or series of rooms where works of art are exhibited.
- 4. Mixed use development: A single building with the ground floor used primarily for retail, commercial, service or office and the upper floor(s) used for residential use.

**8625. Prohibited Uses.** Any use not listed above is prohibited. Adult use establishments are not allowed for any use in the VROD district.

**8626. Site Plan Special Permit.** All uses and structures in the VROD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria as described in the Village Residential Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

**8627. Concept Plan.** Prior to the application for approval of any special permit for a VROD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of TCOD Section 8607 a. through e.

To attain the goals of the VROD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan should describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of VROD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

**8628. Dimensional Requirements.**

Buildings within the VROD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet

Minimum Front Yard Setback	20 feet
Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	2.5 stories or 35 feet

**8629. Special Provisions.** The following special provisions apply to all development within the VROD:

1. The minimum separation between two or more buildings on the same lot shall be 20 feet.
2. The Planning Board may modify all dimensional requirements outlined in Section 8628, except Maximum Building Height of 2.5 stories or 35 feet, and Section 8629.1. if, in its opinion, such modifications will result in improved design that is in keeping with Section 8621 above.
3. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access, for two or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to the Planning Board and approved by Town Counsel.
4. The Zoning Board of Appeals shall not grant a variance of any use not allowed under Section 8625, nor grant a variance from any Section 8628 Dimensional Requirements or Section 8629 Special Provisions.

**8630. Parking Requirements.** The parking requirement for any use in the CSOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the VROD based on the following considerations:

- a. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
- b. The availability of public transportation.

**8631. Criteria for Granting VROD Special Permit.** In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this VROD bylaw and shall take into consideration the same criteria as set forth in the Town Center Overlay District Section 8611.

**8632. Special Permit Conditions** The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to same conditions as set forth in the Town Center Overlay District Section 8612.

#### **8640. VILLAGE MIXED-USE OVERLAY DISTRICT**

**8641. Purpose:** The purposes of the Village Mixed-Use Overlay District (VMOD) shall be the same purposes as described in the 8601, Town Center Overlay District, in its entirety.

**8642. Boundaries:** The boundaries of the VMOD shall be as shown on the Town of Tewksbury Town Center Overlay Map, on file at the office of the Town Clerk.

**8643. Relationship to Existing Zoning:** The relationship to existing zoning shall be the same as described in the Town Center Overlay District, in its entirety.

**8644. Use Regulations and Definitions:** The following uses are allowed in the VMOD subject to the requirements outlined in these VMOD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Artist Lofts: All or a portion of a building that has been converted into an artist's workspace and living area.
  - c. Assisted living facilities
2. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Public or Private Utility Facilities
  - e. Post Office
  - f. Recreation
3. Business Uses
  - a. Retail Store, not exceeding 7,500 sq. ft. of gross floor area per individual establishment.
  - b. Professional Offices, not exceeding 10,000 sq. ft. of gross floor area per individual office establishment
  - c. Financial Services/Bank
  - d. Restaurant, fast food, general or limited service, not exceeding 4,000 sq. ft. of gross floor area. The square footage requirement does not include a patio or outdoor seating area operated in connection with an indoor-service restaurant
  - e. Hotel, Inn
  - f. Bed and Breakfast
  - g. Lodge or Club (Membership)
  - h. Personal Services

- i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate sculptures, statues, furniture, structures and other art forms.
  - j. Commercial Recreation, Indoor
  - k. Parking Facility: A public or private parking area or structure that is open to shelter or storage of motor vehicles by residents, customers and employees for permitted uses in the VMOD.
  - l. Day Care Facility
  - m. Performance Theater: A building or structure designed for theatrical and other staged entertainment services.
  - n. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
  - o. Art Gallery: A room or series of rooms where works of art are exhibited.
4. Mixed use development: A single building with the ground floor used primarily for retail, commercial, service or office and the upper floor(s) used for residential use.

**8645. Prohibited Uses.** Any use not listed above is prohibited. Adult use establishments are not allowed for any use in the VMOD district.

**8646. Site Plan Special Permit.** All uses and structures in the VMOD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria of Village Mixed-Use Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

**8647. Concept Plan.** Prior to the application for approval of any special permit for a CNOD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of TCOD Section 8607 a. through e.

To attain the goals of the VMOD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan should describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of VMOD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

**8648. Dimensional Requirements.**

Buildings within the VMOD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	20 feet

Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	2.5 stories or 35 feet

**8649. Special Provisions.** The following special provisions apply to all development within the VMOD:

1. The minimum separation between two or more buildings on the same lot shall be 20 feet.
2. The Planning Board may modify all dimensional requirements outlined in Section 8648, and Section 8649.1. if, in its opinion, such modifications will result in improved design that is in keeping with Section 8641 above.
3. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access, for two or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to the Planning Board and approved by Town Counsel.
4. The Zoning Board of Appeals shall not grant a variance of any use not allowed under Section 8645, nor grant a variance from any Section 8648 Dimensional Requirements or Section 8649 Special Provisions.

**8650. Parking Requirements.** The parking requirement for any use in the VMOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the VMOD based on the following considerations:

- a. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
- b. The availability of public transportation.

**8651. Criteria for Granting VMOD Special Permit.** In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this VMOD bylaw and shall take into consideration the same criteria as set forth in the Town Center Overlay District Section 8611.

**8652. Special Permit Conditions** - The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to same conditions as set forth in the Town Center Overlay District Section 8612.

## **8660. SOUTH VILLAGE OVERLAY DISTRICT**

**8661. Purpose:** The purposes of the South Village Overlay District (SVOD) shall be the same purposes as described in the 8601, Town Center Overlay District, in its entirety.

**8662. Boundaries:** The boundaries of the SVOD shall be as shown on the Town of Tewksbury Overlay Map, on file at the office of the Town Clerk.

**8663. Relationship to existing Zoning:** The relationship to existing zoning shall be the same as described in the Town Center Overlay District, in its entirety.

**8664. Use Regulations and Definitions:** The following uses are allowed in the SVOD subject to the requirements outlined in these SVOD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Artist Lofts: All or a portion of a building that has been converted into an artist's workspace and living area.
  - c. Assisted living facilities
  
2. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Public or Private Utility Facilities
  - e. Post Office
  - f. Recreation
  
3. Business Uses
  - a. Retail Store
  - b. Professional Offices
  - c. Financial Services/Bank
  - d. Restaurant
  - e. Hotel, Inn
  - f. Bed and Breakfast
  - g. Lodge or Club (Membership)
  - h. Personal Services
  - i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate sculptures, statues, furniture, structures and other art forms.
  - j. Day Care Facility
  - k. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
  - l. Art Gallery: A room or series of rooms where works of art are exhibited.

4. Mixed use development: A single building with the ground floor used primarily for retail, commercial, service or office and the upper floor(s) used for residential use.

**Affordable Housing Requirement.**

An application for an SVOD Special Permit as a Mixed use development may require that certain dwelling units, as determined by the Planning Board at the Concept Plan meeting, be established as Affordable Housing Units (7013.a) in perpetuity. Timing of establishment of affordable units to be determined by the Planning Board.

**8665. Prohibited Uses.** Any use not listed above is to be considered prohibited. Adult use establishments are not allowed for any use in the SVOD district.

**8666. Site Plan Special Permit.** All uses and structures in the SVOD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria as described in the Village Residential Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

**8667. Concept Plan.** Prior to the application for approval of any special permit for a SVOD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of TCOD 8607 a. through e.

To attain the goals of the SVOD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan should describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of SVOD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

**8668. Dimensional Requirements.**

Buildings within the SVOD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback	

when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	2.5 stories or 35 feet

**8669. Special Provisions.** The following special provisions apply to all development within the SVOD:

1. The minimum separation between two or more buildings on the same lot shall be 20 feet.
2. The Planning Board may modify all dimensional requirements outlined in Section 8668, and 8669.1. if, in its opinion, such modifications will result in improved design that is in keeping with Section 8661 above.
3. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access, for two or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to the Planning Board and approved by Town Counsel.
4. The Zoning Board of Appeals shall not grant a variance of any use not allowed under Section 8665, nor grant a variance from any 8668 Dimensional Requirements or 8669 Special Provisions.

**8670. Parking Requirements.** The parking requirement for any use in the SVOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the SVOD based on the following considerations:

- a. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
- b. The availability of public transportation.

**8671. Criteria for Granting SVOD Special Permit.** In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this SVOD bylaw and shall take into consideration the same criteria as set forth in the Town Center Overlay District 8611.

**8672. Special Permit Conditions -** The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to same conditions as set forth in the Town Center Overlay District 8612.

## **8680. Community Village Overlay District**

**8681. Purpose:** The purposes of the Community Village Overlay District (CVOD) shall be the same purposes as described in the Section 8601, Town Center Overlay District, in its entirety.

**8682. Boundaries:** The boundaries of the CVOD shall be as shown on the Town of Tewksbury Overlay Map, on file at the office of the Town Clerk.

**8683. Relationship to existing Zoning:** The relationship to existing zoning shall be the same as described in the Town Center Overlay District, in its entirety.

**8684. Use Regulations and Definitions:** The following uses are allowed in the CVOD subject to the requirements outlined in these CVOD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Artist Lofts: All or a portion of a building that has been converted into an artist's workspace and living area.
  - c. Assisted living facilities
  
2. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Public or Private Utility Facilities
  - e. Post Office
  - f. Recreation
  
3. Business Uses
  - a. Retail Store
  - b. Professional Offices
  - c. Financial Services/Bank
  - d. Restaurant
  - e. Hotel, Inn
  - f. Bed and Breakfast
  - g. Lodge or Club (Membership)
  - h. Personal Services
  - i. Artist or Craftsman Studio: Commercial space utilized to create, design, and fabricate sculptures, statues, furniture, structures and other art forms.
  - j. Day Care Facility
  - k. Museum: A depository for collecting and displaying objects having scientific, historical or artistic value for the purposes of education, study and enjoyment.
  - l. Art Gallery: A room or series of rooms where works of art are exhibited.
  - m. Commercial Indoor and Outdoor Recreation
  
4. Mixed use development: Buildings used for retail, commercial, service or office use and for residential use.

#### Affordable Housing Requirement.

An application for a CVOD Special Permit as a Mixed use development may require that certain dwelling units, as determined by the Planning Board at the Concept Plan meeting, be established as Affordable Housing Units (Section 7013.a.) in perpetuity.

Waivers for construction of said affordable units on site including Fee-in-lieu of units (Section 7014. b.) and construction of off -site units shall be at the discretion of the Planning Board.

Timing and schedule of construction of off -site affordable units shall be determined by the Planning Board. The requirements of Section 7010 that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of this Special Permit review and approval process.

Security deemed necessary to ensure completion for construction of off-site affordable units is to be determined and established as a condition by the Planning Board at the time of this Special Permit approval process.

**8685. Prohibited Uses.** Any use not listed above is to be considered expressly prohibited. Adult use establishments are not allowed for any use in the CVOD district.

**8686. Site Plan Special Permit.** All uses and structures in the CVOD are subject to a Special Permit and Site Plan Special Permit from the Planning Board in accordance with Sections 9300 and 9400 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria as described in the Village Residential Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

**8687. Concept Plan.** Prior to the application for approval of any special permit for a CVOD, a preliminary plan called for purposes of this Section 8600 a "Concept Plan", shall be filed for review with the Planning Board. The submitted Plan shall be consistent with the provisions of TCOD Section 8607 a. through e.

To attain the goals of the CVOD, collaborative development proposals involving more than one property owner are encouraged where appropriate. In such cases, it is recommended that a Combined Concept Plan be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying responsibilities of each property owner. The Combined Concept Plan shall describe: the uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts. The Planning Board encourages creative and collaborative efforts promoting the Purpose and the Design Guidelines of CVOD, such as, but not limited to: shared and off-site parking, pedestrian walkways, lighting and other such amenities.

#### **8688. Dimensional Requirements.**

Buildings within the CVOD shall conform to the following requirements:

Minimum Lot Area	10,000 square feet
Minimum Frontage	50 feet
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setbacks	Combined- 10 feet
Minimum Side Yard Setback when abutting a residential district	50 feet
Minimum Rear Setback	15 feet
Minimum Rear Setback when abutting a residential district	50 feet
Maximum Building Height	2.5 stories or 35 feet

**8689. Special Provisions.** The following special provisions apply to all development within the CVOD:

5. The minimum separation between two or more buildings on the same lot shall be 20 feet.
6. The Planning Board may modify all dimensional requirements outlined in Section 8688, and Section 8689.1. if, in its opinion, such modifications will result in improved design that is in keeping with Section 8681 above.
7. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access to site access, for two or more adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to the Planning Board and approved by Town Counsel prior to the final decision of the Planning Board.
8. The Zoning Board of Appeals shall not grant a variance of any use not allowed under Section 8685, nor grant a variance from any Section 8688 Dimensional Requirements or Section 8669 Special Provisions.

**8690. Parking Requirements.** The parking requirement for any use in the CVOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the CVOD based on the following considerations:

3. The availability of shared parking on another property. The Board may require a shared parking agreement to be submitted as part of the application for development.
4. The availability of public transportation.

**8691. Criteria for Granting CVOD Special Permit.** In addition to the Criteria and considerations for actions by the Planning Board in Sections 9300 and 9400 of the Zoning Bylaw, the Planning Board shall determine that the site proposal and density of uses on the proposal shall promote the Purposes of this CVOD bylaw and shall take into consideration the same criteria as set forth in the Town Center Overlay District Section 8611.

**8692. Special Permit Conditions** The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to same conditions as set forth in the Town Center Overlay District Section 8612.

## **SECTION 9000. ADMINISTRATION AND PROCEDURES**

### **9100. GENERAL.**

**9110. Permits.** This By-Law shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth and may request advisory reviews by other municipal boards and officials. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed with regard to size or shape or principal use unless in compliance with this Zoning By-Law, and all necessary permits have been received under federal, state, or local law.

**9120. Enforcement.** The Building Commissioner or his/her designee shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits, special permits, variances, and site plan approval issued thereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to Town Counsel.

**9130. Penalties.** The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**9140. Non-criminal Disposition.** In addition to the remedies set forth otherwise, the provisions of this By-Law may also be enforced by non-criminal disposition, as provided in M.G.L. c. 40, s. 21D. The penalty for such violation shall be \$50.00 for the second offense, \$100.00 for the third offense, and \$200.00 for the fourth and each subsequent offense.

### **9200. BOARD OF APPEALS.**

**9210. Establishment.** There shall be a Board of Appeals of three members appointed by the Board of Selectmen. The Selectmen may also appoint two associate members of the Board of Appeals.

**9220. Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the Massachusetts General Laws and by this By-Law. The Board's powers are as follows:

**9221.** To hear and decide applications for special permits as designated in these By-Laws.

**9222.** To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in M.G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances in any district.

**9223.** To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. c. 40A, ss. 7, 8 and 15.

**9224.** To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L. c. 40B, ss. 20-23.

**9230. Regulations.** The Board of Appeals may adopt rules and regulations from Massachusetts General Law, Chapter 40A, section 12, which are not inconsistent with the provisions of the zoning ordinance or by-law, for the conduct of its business and shall file a copy of said rules with the town clerk.

**9240. Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

### **9300. SPECIAL PERMITS.**

**9310. Special Permit Granting Authority.** The special permit granting authority shall be specifically designated by this By-Law as one of the following: the Planning Board, Board of Zoning Appeals, Board of Selectmen, or other board as designated.

**9320. Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the town and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

**9321.** Social, economic or community needs which are served by the proposal;

**9322.** Traffic flow and safety, including parking and loading;

**9323.** Adequacy of utilities and other public services;

**9324.** Neighborhood character and social structures;

**9325.** Impacts on the natural environment; and

**9326.** Potential fiscal impact, including impact on town services, tax base, and employment.

**9330. Procedures.** Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

**9340. Development Impact Statement (DIS).** At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required at the expense of the applicant. The special permit granting authority may deny a special permit where the DIS discloses that the proposed use does not comply with the provisions of this by-law. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor, and may include all or some of the following information:

#### **9341. *Physical Environment.***

- a.** Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.

- b.** Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

**9342.** *Surface Water and Subsurface Conditions.*

- a.** Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.
- b.** Describe any proposed alterations of shore lines or wetlands.
- c.** Describe any limitations imposed on the project by the site's soil and water conditions.
- d.** Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

**9343.** *Circulation Systems.*

- a.** Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

**9344.** *Support Systems.*

- a.** Water Distribution: Discuss the water system proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.
- b.** Sewage Disposal: Discuss the sewer system to be used, and evaluate impact of sewage disposal on the wastewater treatment facility.
- c.** Refuse Disposal: Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.
- d.** Fire Protection: Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment to confront potential fires on the proposed site.
- e.** Recreation: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.
- f.** Schools: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.

**9345.** *Phasing.* Where development of the site will be phased over more than one (1) year, indicate the following:

- a.** Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.

b. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

**9350. Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this By-Law.

**9360. Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 5400, herein.

**9370. Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

**9380. Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this section.

**9390. Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

#### **9400. SITE PLAN SPECIAL PERMIT**

The Planning Board may grant a Site Plan Special Permit in accordance with the standards of this By-Law.

**9410. Applicability.** No business, industrial or institutional building shall hereafter be erected or externally enlarged, and no business, industrial or institutional use shall hereafter be expanded in ground area except in conformity with a special permit from the Planning Board approving a site plan for the lot. For the purposes of this section the term “externally enlarged” shall mean an increase in excess of 800 square feet in the floor area of the building and the term “expanded in ground area” shall mean an increase in the ground area devoted to such use.

**9415.** The Planning Board in considering a project under a Site Plan Special Permit may allow for waivers of Section 5100, Parking and Loading Requirements, Section 5400 Landscaping, Screening, and Buffer Requirements. Waivers will also be considered for Appendix C: Table of Parking Requirements. The waiver request must be specific in nature and the Planning Board must make specific findings to waive any of these requirements. Consideration will be given as to the necessity to meet the realistic requirements of the proposed development and satisfy the objectives of the Zoning Bylaw. The Planning Board will base its findings on the stated requirements of those sections of the bylaw listed above as well as standards that are established by other professional organizations, such as, but not limited to, parking standards published by the Institute of Transportation Engineers, standards of the American Society of Highway and Transportation Officials, Commonwealth of Massachusetts agencies (DEP Stormwater Policy, for example) Urban Land Institute publications, and American Planners Association publications.

**9420. Rules and Regulations and Fees.** The Planning Board shall adopt and from time to time amend, Rules and Regulations not inconsistent with the provisions of this By-Law or Chapter 40A of the Massachusetts General Laws, and shall file a copy of said Rules and Regulations with

the Town Clerk. Such rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Planning Board shall request written reports and the procedure for submission and approval of a Site Plan Special Permit.

**9430. Application.** Any person who desires to obtain a Site Plan Special Permit shall submit a written application therefore to the Planning Board. Each such application shall be accompanied by the following:

**9431.** A written statement detailing the proposed USE, the extent of the BUILDING COVERAGE and OPEN SPACE, drainage calculations and calculations of the volume of earth to be removed, if any. Site Plan(s) prepared by a Registered Professional Engineer or Registered Land Surveyor, as appropriate to the data, showing all LOT lines and setbacks, zoning district boundaries including Flood Plain; all wetlands and wetland buffer zones, all areas designated as OPEN SPACE; all existing and proposed topography at two (2) foot intervals, BUILDING STRUCTURES, signs, parking and loading spaces; the limits of all paving and open storage areas and all facilities for sewerage, waste disposal and drainage, along with profiles and elevations of the sewage and drainage system.

The Site Plan shall include that portion of any adjacent land owned or used by the applicant on which the USE is similar to or connected with the USE for which the Site Plan Special Permit is sought. All Site Plan Special Permit applications submitted to the Planning Board for review shall be drafted on sheets not to exceed 2 feet by 3 feet and also scale to 1 inch equals 40 feet.

**9432.** A Landscape Plan(s) shall be prepared by a Registered Landscape Architect in all cases where the plan(s) specifies a proposed facility of 10,000 square feet or more of gross floor area, or a facility requiring 40 or more parking spaces. In any case a Landscape Plan(s) shall show the limits of work, the existing tree line and all proposed landscape features and improvements including walks, planting areas with size and type of stock for each shrub or tree; walls, fences, outdoor lighting and existing and proposed contours of the land at two (2) foot intervals.

**9433.** A BUILDING Elevation Plan and Rendering shall be prepared by a Registered Architect or Registered Professional Engineer in all cases when filing for a Site Plan Special Permit. The BUILDING Elevation Plan and Rendering shall show all the front elevation and height of any proposed structure as well as the floor plan(s) showing the layout of each floor with a tabular summary of the next floor area used to calculate the required parking and the proposed USES to be conducted on each floor.

**9434.** A Master Signage Plan will be submitted for the entire site showing all placement, color renderings and compliance with Section 5200 of the Zoning Bylaw for the proposed signage. The Master Signage Plan must be approved as part of the Site Plan Special Permit and no building permit will be issued for a sign unless it complies with the Master Signage Plan. In lieu of color renderings referenced above, an applicant may submit a computer generated visual simulation of the signs.

**9435.** Such other information as the Board may reasonably require including special studies or reports, such as traffic or hydrological impact studies.

**9440. Reports from Town Boards or Agencies.** The Planning Board shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions

are referred shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

**9450. Public Hearings and Decision.** The Planning Board shall hold a public hearing no later than 65 days after the filing of a complete application. The Planning Board shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Planning Board shall issue a decision no later than 90 days following the close of the hearing. Failure by the Planning Board to take final action upon an application for a special permit said 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

**9460. Site Design Standards for Site Plan Special Permit.** The purpose of the following site design standards is to ensure that further consideration will be given to the natural resources and characteristics of a site, to its topographic, hydrologic and geological conditions, to public convenience and safety and to the suitability of a proposed USE on a site. Before the granting of any site Plan Special Permit, the Planning Board shall assure that each site plan submitted for its review shall comply in full with the following site design standards:

**9461. Stormwater Run-off -** No stormwater run-off in excess of rates existing prior to new construction shall be allowed and no stormwater run-off in excess of rates existing prior to new construction shall be discharged onto a public way or into a public drainage system unless there is, in the opinion of the Planning Board, sufficient capacity to handle the additional run-off.

**9462. Outdoor Lighting –** Refer to Section 5330.

**9463. Common Driveway in the Business or Industrial Districts -** A common driveway may serve two (2) or more LOTS used for business or industrial USE and located in the Business or Industrial Districts provided that the common driveway is no wider than 24 feet at any point where it crosses required OPEN SPACE or any parking setback area required under Section 5400. The Planning Board shall ensure that the common driveway shall not be located or designed to derogate from the intent of the By-Law to provide suitable OPEN SPACE on each site.

**9470. Open Space Landscaping Standards.** Any landscaping on OPEN SPACE shall be designed to enhance the visual impact of the USE upon the LOT and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements. OPEN SPACE areas shall be kept free of encroachment by all BUILDINGS, STRUCTURES, storage areas or parking. OPEN SPACE landscaping shall be maintained as open planted areas and used to (1) ensure buffers between properties, (2) provide landscaped areas between BUILDINGS, (3) minimize the visual effect of the bulk and height of BUILDINGS, STRUCTURES, parking areas, lights or signs and (4) minimize the impact of the USE property on land and water resources.

(a) In the Commercial and R40 District where a business or industrial USE abuts a residential district, a landscape buffer up to a maximum of 20 feet in depth designed to mitigate the impact of the business or industrial USE on abutting residential districts may be required by the Planning Board between the business or industrial USE and the residential district.

(b) In the Heavy Industry District where a business or industrial USE abuts a residential district, a landscape buffer of a minimum of 30 feet up to a maximum of 60 feet in depth designed to mitigate the impact of the business or industrial USE on abutting residential districts shall be required by the Planning Board between the business or industrial USE and the residential district.

(c) All parking lots and loading facilities shall be suitably landscaped to minimize their visual impact on the LOT and upon adjacent property by the use of existing vegetation where appropriate and by the use of new trees, shrubs, walls, fences or other landscape elements. Any parking lot with more than 40 parking spaces shall include a landscaped area(s) shall not be less in area than five (5) percent of the total area of the parking lot and shall be in addition to any minimum OPEN SPACE required under Section 5400. Landscaped area(s) shall be provided with a minimum width of at least 10 feet, curbing and shade trees of at least 12 feet in height or such other landscaping as may be required by the Planning Board.

**9480. Reserved Parking Spaces.** Under a Site Plan Special Permit, the Planning Board may authorize a decrease in the number of parking spaces and shall have the authority to require an increase in the number of parking spaces required under Section 5130, in accordance with the following:

**9481.** The Planning Board may authorize a decrease in the number of parking spaces required under Section 5130 provided that:

(a) The decrease in the number of parking spaces is no more than 30% of the total number of spaces required under Section 5130. The waived parking spaces shall be set aside and shall not be intended for immediate construction. Such spaces shall be labeled as “Reserve Parking” on the site plan.

(b) Any such decrease in the number of required parking spaces shall be based upon documentation of a special nature of a USE or BUILDING.

(c) The parking spaces labeled “Reserve Parking” on the site plan shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within an area counted as buffer, parking setback or OPEN SPACE.

(d) The decrease in the number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this By-Law.

**9482.** If, at any time after the Certificate of Occupancy is issued for the BUILDING or USE, the Building Inspector determines that additional parking spaces are needed, the Inspector shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces shown on the approved site plan as “Reserve Parking” be constructed.

**9483.** The Planning Board may require provisions for an increase in the number of parking spaces required under Section 5130 provided that:

(a) The increase in the number of parking spaces is no more than 20% of the total number of spaces required under Section 5130 for the USE in question.

(b) Any such increase in the number of required parking spaces shall be based upon the special nature of a USE or BUILDING.

(c) The increased number of parking spaces shall be labeled “Increased Reserve Parking” on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in case located within area counted as buffer, parking setback or OPEN SPACE. The applicant shall not be required to construct any of the parking spaces labeled as “Increased Reserve Parking” for at least one year following the issuance of a Certificate of Occupancy. Where the “Increased Reserve Parking” area is required and the applicant has otherwise provided the number of parking spaces required under Section 5130, the area of land reserved for the increased number of parking spaces may be deducted from the minimum OPEN SPACE required under Section 5400.

**9484.** If after one (1) year after the issuance of a Certificate of Occupancy, the Building Inspector finds that all or any of the “Increased Reserve Spaces” are needed, the Inspector shall notify the Planning Board, in writing, of such finding and the Planning Board may require that all or any portion of the spaces identified as “Increased Reserve Spaces” on the site plan be constructed within a reasonable time period as specified by the Planning Board.

**9490. Action by the Planning Board.** The Planning Board, in considering a site plan, shall ensure a USE of the site consistent with the USES permitted in the district in which the site is located and shall give due consideration to the reports received under Section 9440. Prior to the granting of any special permit, the Planning Board shall find that, to the degree reasonable, the site plan:

- a) Protects adjoining premises by minimizing adverse effects on the natural environment;
- b) Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;
- c) Provides an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises;
- d) Provides adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site;
- e) Complies with all applicable requirements of this By-Law.

**9491.** Special Permit Conditions - The Planning Board may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

- a) Dimensional requirements greater than the minimum required by this By-Law;
- b) Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;
- c) Modification of the exterior features or appearances of the structure(s);
- d) Limitation of size, number of occupants, method and time of operation and extent of facilities;
- e) Regulation of number, design and location of access drives, drive-up windows and other traffic features;
- f) Requirement of off-street parking and other special features;
- g) Requirement for performance bonds or other security; and
- h) Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given USE of land.

**9492.** Time Limitation on Site Plan Special Permit - A Site Plan Special Permit shall lapse if a substantial use thereof has not commenced except for good cause or in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the Planning Board, not to exceed two years from the date of grant thereof.

**9500. USE SPECIAL PERMIT**

**9510.** Any non-residential development proposed for construction that consists of 10,000 square feet or more shall be required to first obtain a Special Permit from the Planning Board.

**9520.** Any non-residential structural addition proposed for construction that consists of 5,000 square feet or more shall be required to first obtain a Special Permit from the Planning Board.

**9530.** Any non-residential development proposed for construction that generates 500 or more daily vehicular trips shall be required to first obtain a Special Permit from the Planning Board.

\*Special Permit applications submitted to the Planning Board must conform with the Special Permit Rules and Regulations.

## **SECTION 10000. DEFINITIONS.**

In this By-Law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the By-Law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this By-Law.

**ACCESSORY BUILDING OR STRUCTURE:** A building or structure subordinate to a principal building or structure and customarily used to serve the purposes of that principal building. A building is accessory only where a principal building exists on the same lot.

**ACCESSORY RESIDENTIAL USE:** Any use customarily incidental to the principal residential use, such as a private garage; carport; playhouse; private greenhouse; tool shed; tennis court; storage of one recreational trailer, home utility trailer, boat, and snowmobile; or swimming pool.

**ACCESSORY USE:** A use customarily incidental to and located on the same lot with the principal use. A use is accessory only where a principal use exists on the same lot.

**ACCESS DRIVEWAY:** The travel lane that allows motor vehicles ingress from the street and egress from the site and includes the area between the sideline of the street to the lot where the access driveway is no longer within the minimum parking area setback required herein.

**ADULT USE ESTABLISHMENT:** An establishment having a substantial or significant portion of its business activity, stock in trade, or other materials for sale, rental or display, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct as defined in M.G.L. c. 272, s. 31, including but not limited to the following: any adult bookstore, adult cabaret, adult motion picture theater, adult paraphernalia store or adult video store as defined below:

**ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31.

**ADULT CABARET:** A nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which present: (a) persons who appear in a state of nudity as defined in M.G.L. c. 272, s. 31; or (b) live performances which are characterized by an emphasis depicting anatomical areas specified as less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola, and human genitals in a state of sexual arousal, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31; or (c) films, motion pictures, video cassettes, slides, photographic reproductions or any other visual media which are

characterized by the depiction or description of anatomical areas specified as above, or relating to sexual conduct or sexual excitement as defined in G. L., c. 272, s. 3.

**ADULT MOTION PICTURE THEATER:** An enclosed building used for presenting material (including, but not limited to, motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31.

**ADULT PARAPHERNALIA STORE:** An establishment having as a portion of its stock devices, objects, tools, or toys which are distinguished by their association with sexual activity, including sexual intercourse, sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31.

**ADULT VIDEO STORE:** An establishment having as a substantial or significant portion of its stock in trade - for sale or rent - motion picture films, video cassettes, and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31.

**SUBSTANTIAL OR SIGNIFICANT PORTION:** The terms "substantial or significant portion" as used herein shall mean any of the following: (a) twenty percent (20%) or more of the business inventory or stock of merchandise for sale, rental distribution, or exhibition during any period of time; or (b) twenty percent (20%) or more of the annual number of gross sales, rentals, or other business transactions; or (c) twenty percent (20%) or more of the annual gross business revenue; or (d) twenty percent (20%) or more of the hours during which the establishment is open.

**AGRICULTURE:** Use of land for agriculture, horticulture, floriculture, or other protected operations pursuant to M.G.L. c. 40A, s. 3.

**AGRICULTURE, NONEXEMPT:** Agricultural activities, limited to cultivating and harvesting general crops including the storage of necessary farm equipment and the raising of livestock, on parcels of less than five (5) acres.

**ALTERATIONS:** As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

**ANIMAL CLINIC OR HOSPITAL:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

**ARTS CRAFTS, ANTIQUES/COTTAGE INDUSTRIES:** A customary home occupation which combines the knowledge and principles of art with the manual skill of preparing items for sale or barter (excluding automotive vehicles).

**ASSISTED LIVING FACILITY:** An "assisted living residence" as defined in 651 CMR 12.02.

**BED AND BREAKFAST ESTABLISHMENT:** Accommodations with not more than four bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guests on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

**BOARD OF APPEALS:** The Board of Appeals established or operating in the Town of Tewksbury pursuant to M.G.L. c. 40A, or any amendment thereof, or in addition thereto.

**BOARDING OR LODGING HOUSE:** A dwelling in which more than five (5) unrelated persons are housed or lodged by the day, week or month, either with or without meals.

**BUILDING:** An independent structure having a roof supported by columns, or walls, resting on its own foundations, and designed for the shelter, housing, or enclosure of persons, animals or property of any kind.

**BUILDING COMMISSIONER:** The Administrative chief of the building department in a municipality who is charged with the administration and enforcement of 780 CMR. All building commissioners shall meet or exceed the minimum qualifications for the position as defined in M.G.L. c. 143, s. 3 and shall be certified in accordance with 780 CMR R7.

**BUILDING COVERAGE:** That percentage of the lot or plot area covered by the roof area of a building or buildings.

**BUILDING HEIGHT:** The height of a building shall be the vertical distance from the grade plane to the highest point of the roof. Not included are spires, cupolas, antennae, or similar parts of structures which do not enclose potentially habitable floor space.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUSINESS OR PROFESSIONAL OFFICE:** A building or part thereof for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise, including, but not limited to, offices of banks and financial institutions, medical offices, medical clinics, and others.

**CAR WASH:** Any building or premises or portions thereof charging a fee for washing automobiles, or offering such service accessory to a commercial operation.

**CHILD CARE:** A day care center or a child care program, as those terms are defined in M.G.L. c. 28A, s. 9.

**CLEARING:** The removal and/or cutting of trees, shrubs, bushes, or bush. Clearing shall also including grubbing.

**CLUB OR LODGE:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**CLUSTER DEVELOPMENT:** A subdivision to be developed as an entity by a land owner or owners in a manner where exempting his plan from the lot area and frontage requirements of this By-Law will result in preserving open space and result in a more efficient use of land.

**COMMERCIAL MOBILE RADIO SERVICE/MOBILE TELECOMMUNICATIONS PROVIDERS:** A personal wireless service, unlicensed wireless services and common carrier wireless exchange access service, the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

**COMMERCIAL RECREATION, INDOOR:** A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink,

including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit.

**COMMERCIAL RECREATION, OUTDOOR:** Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this By-Law.

**COMMERCIAL VEHICLE, LIGHT:** Any vehicle under 10,000 lbs. gross vehicle weight which is used in construction or other commercial enterprise. This does not include other equipment used for landscaping and/or construction or cube vans, stepvans and buses.

**COMMERCIAL VEHICLE, HEAVY:** Any vehicle over 10,000 lbs. gross vehicle weight which is used in construction or other commercial enterprise. This includes, but is not limited to, other equipment used for landscaping and/or construction or cube vans, stepvans and buses.

**COMMUNITY DEVELOPMENT USE:** A structure or combination of structures containing an adult day care facility, or an independent living facility, or an assisted living facility, or a long term care facility.

**CONTRACTOR'S YARD:** Land used for the storage of commercial construction equipment, materials, and supplies and for the parking of registered commercial vehicles.

**CORNER LOT:** A lot bounded by more than one (1) street which has an interior angle of 135 degrees or less formed by the tangents or straight segments of street lines between the side or rear lines of such a lot or by an extension of such street lines. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of 105 degrees or less.

**DAILY VEHICULAR TRIP:** A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site.

**DAY CARE, ADULT:** A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

**DAY CARE, FAMILY:** Any private residence which on a regular basis receives for temporary custody and care during part or all of the day, as defined in M.G.L. c. 28A, s.9.

**DEBRIS:** Accumulated fragments, ruins, or rubbish. In addition to this usual meaning shall also include but not be limited to the following: used motor vehicle and heavy equipment parts and demolition materials from buildings and other structures.

**DRIVE THROUGH FACILITY:** A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and service is provided to the customer through a window, mechanical device or by an agent of the facility without the customer exiting the vehicle. This shall not include the selling of fuel at a gasoline filling station or the accessory functions of a carwash facility such as vacuum cleaning stations.

**DWELLING UNIT:** One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same and including room or rooms for living, sleeping, and eating.

**DWELLING:** A building, or portion thereof, designed exclusively for residential occupancy, including single-family, two-family, or multiple family dwelling (apartments), but not including hotels, motels, boarding homes, trailers, or structures primarily for transient or overnight

occupancy. Single- and two-family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively.

**DWELLING, MULTIFAMILY:** A building containing three or more dwelling units.

**DWELLING, MULTIFAMILY/55:** A building containing three or more dwelling units; provided, however, that one hundred percent (100%) of the housing units shall be occupied by means of fee simple ownership, and/or by lease agreement, by persons who have attained the age of fifty-five (55) or older, unless the spouse of such person age 55 or older is under 55, and/or such person who has attained the age of 55 or older has sole or joint custody of a person under the age of 55.

**EARTH REMOVAL:** Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

**EARTH MOVING:** The moving within, removal from and/or addition to any lot or parcel of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand, or gravel.

**EDUCATIONAL PURPOSES, USE OF LAND OR STRUCTURES FOR:** Exempt activity as set forth in M.G.L. c. 40A, s. 3.

**EDUCATIONAL PURPOSES, NONEXEMPT:** Educational facilities not exempted from regulation by M.G.L. c. 40A, s. 3.

**ERECT:** To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

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

**FAMILY:** Any number of individuals living together on the premises of a single housekeeping unit.

**FAMILY SUITE:** An accessory dwelling unit located within a single family dwelling subordinate in size to the principle unit and separated from it in a manner that maintains the appearance of a single family dwelling. Brothers, sisters, maternal parents and grandparents, paternal parents and grandparents, in-laws and or children of the residing owners of the principle dwelling unit may only occupy the family suite.

**FARM STAND, EXEMPT:** Sale of farm products on a parcel larger than five acres, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located.

**FARM STAND, NONEXEMPT:** Facility for the sale of produce, wine and dairy products on property not exempted by M.G.L. c. 40A, s. 3.

**FIRM:** Flood Insurance Rate Map(s).

**FLOODPLAIN:** Those areas of land adjacent to the rivers, streams, and other water courses in the Town which experience frequent regular or periodic flooding.

**FRONTAGE:** The lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees. Vehicular access to a building site on the lot shall be exclusively through the legal frontage of the lot.

**FRONT LINE:** A line drawn parallel to and along the front wall of a building extended to the property line.

**FUNERAL HOME:** Facility for the conducting of funerals and related activities such as embalming.

**GAME COURT:** Any specially prepared play area whose surface, topography, size, shape and configuration is associated with recreational games, such as basketball, volleyball, badminton, tennis, horseshoes and archery. Such term shall not include golf courses or walking and jogging trails.

**GARAGE FOR AUTOMOTIVE STORAGE:** A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

**GRADE PLANE:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

**GRUBBING:** The removal of stumps and/or roots from the soil.

**HOME OCCUPATION:** A business, other than retail sales, which is clearly customarily incidental to, and conducted with in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof, such as a room or rooms as a professional office or studio or for a customary home occupation and employing not more than one employee.

**HOSPITAL:** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury and other conditions, and related facilities, such as laboratories, outpatient facilities, training facilities, offices, and staff residences.

**HOTEL:** A building intended and designed primarily for transient or overnight occupancy, divided into separate units within the same building and with or without public dining facilities.

**INTERIOR DRIVEWAY:** A travel lane located within the perimeter of a parking lot which is not used to directly enter or leave parking spaces. An interior driveway shall not include any part of the access driveway.

**ITINERANT ROADSIDE VENDING:** The periodic sale of merchandise or goods on a lot including, but not limited to, sales from a vehicle parked on a lot.

**JUNKYARD OR AUTOMOBILE SALVAGE YARD:** The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap

or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

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

**LIGHT MANUFACTURING:** Fabrication, assembly, processing, finishing work or packaging.

**LIMOUSINE OR TAXICAB BUSINESS:** A facility or terminal making available for hire a limousine, taxicab, van or livery business.

**LOT:** A parcel of land used or set aside and available for use as site of one (1) or more buildings and buildings accessory thereto or for any other definite purpose, in one ownership and not divided by a street, nor including any land within the limits of a public or private way upon which lot abuts.

**LOT COVERAGE:** The projected area of space in all buildings on the lot, including all roof overhangs.

**MAJOR COMMERCIAL PROJECT.** Any nonresidential development proposed for construction that has any of the following attributes:

1. 10,000 gross square feet of structures(s);
2. Any addition to an existing structure causing such structure to exceed 10,000 gross square feet;
3. 250 or more vehicle trips per day as calculated using the Institute of Traffic Engineer's Trip Generation Manual or other method acceptable to the Planning Board.

**MAJOR RECREATIONAL EQUIPMENT:** Campers, trailers or other recreational vehicles.

**MANEUVERING AISLE:** A travel lane located within the perimeter of a parking lot by which motor vehicles directly enter and leave parking spaces.

**MANUFACTURING:** A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but not including any type of uses expressly prohibited by this bylaw, such as but not limited to uses prohibited under Section 3105.

**MASSAGE SERVICE ESTABLISHMENTS:** The term "Massage" shall mean any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electric apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefore. The practice of massage shall not include the following individuals while engaged in the personal performance of duties of their respective professions:

Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts; Nurses who are registered under the Laws of the Commonwealth of Massachusetts; Barbers and

beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

**MASSAGE THERAPY (LICENSED):** The practice and license of Massage Therapy as described in the Tewksbury Board of Health Regulations for Practitioners of Massage Therapy. No person shall engage or hold himself/herself out as being engaged in the practice of Massage Therapy without a license issued by the Tewksbury Board of Health.

**MEDICAL CENTER OR CLINIC:** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**MEMBERSHIP CLUB, CIVIC, SOCIAL, PROFESSIONAL OR FRATERNAL ORGANIZATION:** Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**MOBILE HOME:** Any vehicle without motor power designed, constructed, reconstructed or added to by means of accessories in a manner to permit the use and occupancy thereof as a one family dwelling unit; whether resting on wheels, foundation structures, or other support; but constructed so as to permit its occasional movement over a street or highway.

**MOBILE PARKED FOOD SERVICE:** A mobile facility for the sale of food or beverages.

**MOTEL:** A building intended and designed primarily for transient or overnight occupancy, divided into separate units within the same building, with or without public dining facilities, and characterized by direct access to every unit from an automobile, parking spaces or facility (includes motor hotels and motor inns).

**MOTOR VEHICLE GENERAL AND BODY REPAIR:** An establishment, garage or work area enclosed within a building for the servicing and repair of autos, including fenders, bumpers and similar components of motor vehicle bodies, but not including the storage vehicles for the cannibalization of parts or fuel sales.

**MOTOR VEHICLE LIGHT SERVICE:** Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

**MOTOR VEHICLE, MOTORCYCLE, TRAILER, SNOWMOBILE, OR BOAT SALES AND RENTAL:** The indoor or outdoor sales or rental of the listed commodities.

**MUNICIPAL FACILITY:** Any use of land or structures owned by the Town of Tewksbury. Such facilities shall be exempt from all dimensional requirements set forth in this By-Law.

**NONCONFORMING USE OR STRUCTURE:** A building, structure, or use of land as set forth in M.G.L. c. 40A, s. 6.

**NURSING HOME:** Any place or institution for aged, infirm, chronic or convalescent, whether conducted for charity or for profit, which is established to render domiciliary care, custody, treatment and/or lodging of three (3) or more unrelated persons who require or receive assistance in ordinary daily activities of life, or who are confined to bed or chair. (This term includes boarding and rooming houses for aged people, convalescent homes, rest homes, homes for the aged or infirm, convalescent homes for children, and the like; but does not include hospitals,

clinics, and similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness).

**OBJECTIONABLE FEATURE:** Any situation or condition on a lot which will devalue or otherwise impair the neighborhood, structure, or a condition not commonly found on similar properties or take any action thereto.

**ONE HUNDRED YEAR FLOOD:** The flood that has a one percent chance of being equaled or exceeded in any given year, as shown on the base flood elevation designated on the FIRM.

**OVERLAY DISTRICT:** A zoning district which is superimposed on other zoning districts and whose regulations are supplementary to those of the zoning districts so overlaid. Any uses permitted on the portions of districts so overlaid shall be permitted subject to the provisions contained in the overlay district.

**PARKING AREA:** A public parking area or a private parking area that is open to the parking of motor vehicles by customers and employees of an establishment.

**PARKING STALL LENGTH OF LINE:** The longitudinal dimension of the stall measured parallel to the angle of parking.

**PERSON:** Shall include an individual corporation, society, association, partnership, trust or other entity, public or private.

**PERSONAL SERVICE ESTABLISHMENT:** A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

**PREMISES:** A lot together with all structures, building and uses therein.

**PROFESSIONAL OFFICE:** The office of one engaged in such generally recognized professions as physician, dentist, veterinarian, attorney-at-law, engineer, architect, landscape architect, interior designer, and accountant.

**PUBLIC WAY:** Shall include a private way that is open to public use.

**RELIGIOUS PURPOSES, USE OF LAND OR STRUCTURES FOR:** Exempt activity as set forth in M.G.L. c. 40A, s. 3.

**REMOVAL OF LOAM, SAND OR GRAVEL:** Extraction of sand, gravel, loam, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

**RESTAURANT:** A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food restaurants."

**RESTAURANT, FAST-FOOD:** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

**RETAIL SALES:** A facility selling goods not specifically listed in the Table of Use Regulations.

**SEMIDETACHED:** Two (2) one-family houses built together at the same time and separated by a fireproof division with no openings.

**SERVICE AREA:** A room or rooms in a building used to house electrical or mechanical equipment necessary to provide central utility service to the building, such as a boiler room.

**SIGN:** Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights are considered "signs." The following, however, shall not be considered signs within the context of this ordinance:

- (a) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (b) Legal notices, or informational devices erected or required by public agencies.
- (c) Temporary devices erected for a charitable or religious cause. *(Original text deleted as per Attorney General response of August 21, 2002).*
- (d) Temporary displays inside windows, covering not more than thirty (30) percent of window area, illuminated by building illumination only.
- (e) Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.
- (f) Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.
- (g) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.
- (h) Address identification through numerals or letters not exceeding three (3) inches in height.

**SIGN, ACCESSORY:** Any billboard, sign or other advertising device that advertises, calls attention to, or indicates the person occupying the premises on which the sign is erected or the business transacted therein, or advertises the property itself or any part thereof as for sale or to let, and which contains no other advertising matter.

**SIGN, ADULT USE ADVERTISEMENT:** An advertising sign or devise which advertises an adult use establishment, adult bookstore, adult video store, adult cabaret, adult paraphernalia store, or adult motion picture theater and/or advertises the trade, rental or sale of material, distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272, s. 31.

**SIGN, AREA OF:** The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle or triangle which encompasses all of the letters and symbols.

**SIGN, NONACCESSORY:** Any billboard, sign or other advertising device that does not come within the foregoing definition of an accessory sign.

**SIGN, FREE-STANDING OR STANDING:** The term "standing" shall include any and every sign erected on or affixed to the land and any and every exterior sign that is not attached to a building.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA):** The board with authority to grant special permits, which shall be the Board of Appeals unless some other board is so designated in these By-Laws.

**STEEL FABRICATION:** The fabrication of steel components typically used in the construction of buildings, bridges or other structures. This includes stairs, railings, miscellaneous metal and other structural components.

**STREET:** An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**STRUCTURE:** Anything erected at a fixed location on the ground to give support, provide shelter or satisfy other purposes (includes the term "building").

**TRAILER:** A vehicle without motor power designed to be drawn by a motor vehicle, used for hauling or living purposes and standing on wheels or rigid supports. (Does not include "mobile home", which is defined elsewhere).

**TRANSPORTATION OR FREIGHT TERMINAL:** Terminal facilities, open or enclosed, for handling the movement of goods or persons from one place to another by a carrier.

**TRUCK STOP:** Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sales of accessories or equipment for trucks or similar commercial vehicles. A truck stop shall also be defined to include those overnight accommodations and restaurant facilities primarily for the use of truck crews.

**TRUCKING COMPANY:** A commercial or industrial enterprise using heavy commercial vehicles to deliver goods, freight or construction materials such as sand, gravel, loam and the like.

**VARIANCE:** An authorization by the Board of Appeals to use property or locate a structure pursuant to M.G.L. c. 40A, s. 10.

**WAREHOUSE:** A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

**WETLAND:** Any perennially wet area, including all lands which are subject to the provisions of M.G.L. c. 131, s. 40.

**WIDTH OF PARKING STALL:** The linear dimension measured across the stall and parallel to the maneuvering aisle.

**YARD:** An unoccupied space open to the sky on the same lot with a building or structure.

**APPENDIX A**  
**TABLE OF USE REGULATIONS**  
**D I S T R I C T S**

<b>A. RESIDENTIAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
1. Single-family dwelling	Y	Y	Y	PB	Y	N	N	Y	Y	N	PB	PB
2. Two-Family dwelling	N	N	N	N	N	N	N	PB	N	N	N	N
3. Multi-family dwelling	N	N	N	N	N	N	N	PB	N	N	N	N
4. Multi-family dwelling/55	N	N	N	PB	N	N	N	PB	PB	N	N	N
5. Community Development Project	N	N	N	N	N	N	N	N	N	Y	N	N
6. Cluster Development	PB	N	N	N	N	N	N	N	N	N	N	N
7. Open Space Residential Design	PB	PB	N	N	N	N	N	N	N	N	N	N
8. Family Suite By Right	Y	Y	Y	N	Y	N	N	N	N	N	N	N
9. Family Suite By Special Permit	PB	PB	PB	N	PB	N	N	N	N	N	N	N

<b>B. EXEMPT AND INSTITUTIONAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Child care facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Child care facility in new building	N	PB	PB	PB	PB	PB	N	N	N	N	PB	PB
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five (5) acres in area	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. Facilities for the sale of produce, and wine and dairy products on exempt agricultural sites	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Cemeteries, private	SP	N	N	N	N	N	SP	N	N	N	SP	N
8. Municipal parks and playgrounds	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
9. Other municipal facilities	PB	PB	PB	PB	PB	PB	Y	PB	PB	Y	PB	PB
10. Essential services	N	N	N	PB	N	N	PB	N	N	N	PB	PB
11. Water towers and reservoirs	PB	PB	PB	PB	PB	PB	PB	PB	N	N	PB	PB
12. Hospital	PB	N	N	PB	N	N	PB	N	N	N	PB	PB

<b>C. COMMERCIAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
1. Nonexempt farm stand for wholesale or retail sale of products	N	Y	N	PB	N	N	N	N	N	N	PB	N
2. Nonexempt educational use	PB	PB	PB	PB	PB	PB	Y	PB	PB	Y	PB	PB
3. Nonexempt agricultural use	N	N	N	N	N	N	N	N	N	N	N	N
4. Animal clinic or hospital; kennel	N	N	N	PB	N	N	N	N	N	N	PB	PB
5. Personal service establishment	N	N	SP	Y	SP	N	N	N	N	SP	Y	ACC
6. Funeral home	N	N	N	PB	N	N	N	N	N	N	PB	PB
7. Hotel/motel	N	N	N	PB	N	N	N	N	N	N	PB	PB
8. Bed and Breakfast	N	N	N	Y	Y	N	N	PB	N	N	N	N
9. Retail food or drug store	N	N	PB	Y	PB	N	N	N	N	PB	PB	ACC
10. Retail sale of alcoholic beverages	N	N	N	Y	N	N	N	N	N	N	Y	ACC
11. Retail sales not elsewhere set forth	N	N	N	Y	PB	N	N	N	N	N	Y	ACC
12. Motor vehicle, motorcycle, trailer, snowmobile, or boat sales and rental	N	N	N	N	N	N	N	N	N	N	ACC/PB	N
13. Motor vehicle light service; Motor vehicle general and body repair	N	N	N	N	N	N	N	N	N	N	ACC/PB	N
14. Car wash	N	N	N	SP	N	N	N	N	N	N	N	N
15. Garage for automotive storage	N	N	N	SP	N	N	N	N	N	N	SP	N
16. Limousine, taxicab or livery business	N	N	N	SP	N	N	N	N	N	N	SP	N
17. Automotive stereo systems installations	N	N	N	SP	N	N	N	N	N	N	SP	N
18. Restaurant	N	N	N	Y	PB	N	N	N	N	PB	PB	PB
19. Restaurant, fast- food	N	N	N	PB	PB	N	N	N	N	PB	PB	N

<b>C. COMMERCIAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
or drive-through												
20. Business or professional office	N	N	N	Y	Y	N	Y	N	N	PB	Y	Y
21. Freestanding ATM or kiosk for public use	N	N	N	N	N	N	N	N	N	N	N	N
22. Adult day care	N	N	N	N	N	N	N	N	N	Y	N	N
23. Indoor commercial recreation	N	N	N	PB	N	N	N	N	N	N	PB	N
24. Outdoor commercial recreation	N	N	N	PB	N	N	PB	N	N	N	PB	N
25. Membership club, civic, social, professional or fraternal organization	N	N	N	SP	N	N	N	N	N	N	SP	N
26. Adult use establishment	N	N	N	N	N	N	N	N	N	N	PB	PB
27. Wireless Communications Facility	S E E     S E C T I O N     6 4 0 0											
28 Airport, airfield or airstrip	N	N	N	N	N	N	N	N	N	N	N	N
29. Mobile parked food service	N	N	N	SP	N	N	N	N	N	N	N	N
30. Itinerant roadside vending	N	N	N	BOS	N	N	N	N	N	N	N	N
31. Massage parlor	N	N	N	N	N	N	N	N	N	N	N	N
32. Major Commercial Project	N	N	N	PB	N	N	N	N	N	N	PB	PB
33. Massage Therapy (Licensed)	N	N	N	Y	N	N	N	N	N	N	N	N
34. Garaging or parking of one light commercial vehicle.(Accessory Use Only)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
35. Garaging or parking of two light commercial vehicles.(Accessory Use Only)	SP	SP	Y	Y	SP	Y	Y	SP	SP	SP	Y	Y
36. Garaging or parking	N	SP	Y	SP	SP	SP	Y	SP	SP	SP	Y	Y

<b>C. COMMERCIAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
of three or more light commercial vehicles.(Accessory Use Only)												
37. Garaging or parking of one heavy commercial vehicle. (Accessory Use Only)	N	SP	SP	Y	SP	SP	Y	SP	SP	SP	Y	SP
38. Garaging or parking of two or more heavy commercial vehicles.(Accessory Use Only)	N	N	N	SP	N	N	Y	N	N	N	Y	N
39. Drive-through facility	N	N	PB	PB	PB	N	N	N	N	PB	PB	N

<b>D. INDUSTRIAL USES</b>	<b>R40</b>	<b>FA</b>	<b>LB</b>	<b>COM</b>	<b>TR</b>	<b>P</b>	<b>MN</b>	<b>MFD</b>	<b>MFD/55</b>	<b>CDD</b>	<b>HI</b>	<b>OR</b>
1. Removal of loam, sand or gravel	N	N	N	N	N	N	PB	N	N	N	PB	N
2. Research laboratories, manufacture of equipment, electronics industry, assembling of electrical appliances	N	N	N	N	N	N	N	N	N	N	Y	Y
3. Welding shop	N	N	N	N	N	N	N	N	N	N	Y	N
4. Machine shop	N	N	N	N	N	N	N	N	N	N	Y	N
5. Stone or monument works	N	N	N	PB	N	N	N	N	N	N	Y	N
6. Ceramic products manufactured by electrical kilns	N	N	N	Y	PB	N	N	N	N	N	N	N
7. Manufacturing	N	N	N	N	N	N	N	N	N	N	PB	PB
8. Sale of products at retail manufactured on the premises	N	N	N	PB	N	N	N	N	N	N	PB	PB
9. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	N	N	N	N	N	N	N	N	N	PB	N
10. Farm supply warehouse	N	PB	N	PB	N	N	N	N	N	N	PB	N
11. Heating fuel storage and sales	N	N	N	N	N	N	N	N	N	N	PB	N
12. Contractor's yard or landscaping business	N	N	N	N	N	N	N	N	N	N	PB	N
13. Junkyard or automobile salvage yard	N	N	N	N	N	N	N	N	N	N	N	N
14. Transportation or freight terminal	N	N	N	N	N	N	N	N	N	N	N	N
15. Truck stop	N	N	N	N	N	N	N	N	N	N	N	N
16. Steel Fabrication	N	N	N	N	N	N	N	N	N	N	PB	N

**APPENDIX B**

**TABLE OF DIMENSIONAL REQUIREMENTS**

<b>DISTRICT</b>	<b>Min. Lot Area (acre)</b>	<b>Min. Frontage (ft.)</b>	<b>Min. front yard (ft.)</b>	<b>Min. side and rear yard (ft.)</b>	<b>Max. Building Height (stories/ ft.)</b>	<b>Max. Building Coverage (% of lot)</b>
R40	1.0	150	25	15	2.5 / 35	15
FA	1.5	150	50	15	2.5 / 35	20
LB	1.0	150	25	15	2.5 / 35	15
COM	1.0	150	40 dwellings 50 all others	15 dwellings 30 all others	2.5 / 35	30
TR	1.0	150	25	15	2.5 / 35	15
P	1.0	150	50	15	2.5 / 35	-
MN	1.0	150	25	15	-	-
MFD	4.0	40	-	-	3/45	-
MFD/55	12.0	150	-	-	3/45	-
CDD	12.0	150	150	-	2.5 / 35	-
HI	1.0	150	50	50	2.5/35	35
HCOD	80.0	150	50	50	3.0/80	55
OR(SEE 6300)	1.0	150	50	50	2.5/35	35

**APPENDIX C**  
**TABLE OF PARKING REQUIREMENTS**

<b>PRINCIPAL USE</b>	<b>REQUIRED SPACES</b>
<b>A. RESIDENTIAL USES</b>	
1. Single-family dwelling	Three (3) spaces for each dwelling unit, one (1) of which may be covered
2. Two-family dwelling	Three (3) spaces for each dwelling unit, one (1) of which may be covered
3. Multi-family dwelling	Two (2) spaces for each dwelling unit
4. Multi-family dwelling/55	Two (2) spaces for each dwelling unit
5. Assisted living facility	As set forth in Section 7400
6. Continuing care retirement	As set forth in Section 7400
7. Independent living facility	As set forth in Section 7400
8. Long-term care facility	As set forth in Section 7400
9. Cluster Development	Two (2) spaces for each dwelling unit

<b>PRINCIPAL USE</b>	<b>REQUIRED SPACES</b>
<b>B. EXEMPT AND INSTITUTIONAL USES</b>	
1. Use of land or structures for religious purposes	One (1) space for every three (3) seats
2. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	One (1) space for each staff position, plus one (1) space for each five (5) persons of rated capacity of the largest auditorium, plus one (1) space for each student vehicle which can be expected at any time on the premises
3. Child care facility in existing building	One (1) space for every four (4) children plus one (1) space for every employee on the largest shift
4. Child care facility in new building	One (1) space for every four (4) children plus one (1) space for every employee on the largest shift
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Not applicable
6. Facilities for the sale of produce, and wine and dairy products on exempt agricultural sites	One (1) space for each two hundred (200') feet of gross floor area if customers are served in a structure
7. Cemeteries, private	As determined by the Planning Board
8. Municipal parks and playgrounds	As determined by the Planning Board
9. Other municipal facilities	As determined by the Planning Board
10. Essential services	As determined by the Planning Board
11. Water towers and reservoirs	As determined by the Planning Board
12. Hospital	As determined by the Planning Board

<b>PRINCIPAL USE</b>	<b>REQUIRED SPACES</b>
<b>C. COMMERCIAL USES</b>	
1. Nonexempt farm stand for wholesale or retail sale of products	Up to ten (10), as may be determined by the Planning Board
2. Nonexempt educational use	One (1) space for each staff position, plus one (1) space for each five (5) persons of rated capacity of the largest auditorium, plus one (1) space for each student vehicle which can be expected at any time on the premises
3. Animal clinic or hospital; kennel	One (1) space for each two hundred (200') feet of gross floor area
4. Personal service establishment	One (1) space for each two hundred (200') feet of gross floor area
5. Funeral home	One (1) space for every three (3) seats plus one (1) space for every employee on the largest shift
6. Hotel/motel	One (1) space for each sleeping unit, plus one (1) space for each employee on the largest shift
7. Bed and Breakfast	One (1) space for each sleeping unit, plus two (2) spaces for the dwelling unit
8. Retail food or drug store	One (1) space for each two hundred (200') feet of gross floor area
9. Retail sale of alcoholic beverages	One (1) space for each two hundred (200') feet of gross floor area
10. Retail sales not elsewhere set forth	One (1) space for each two hundred (200') feet of gross floor area
11. Motor vehicle, motorcycle, trailer, snowmobile, or boat sales and rental	One (1) space for each two hundred (200') feet of gross floor area
12. Motor vehicle general and body	Three (3) spaces for each service bay, plus one (1) repair space for each employee on the largest shift
13. Motor vehicle light service	Three (3) spaces for each service bay, plus one (1) space for each employee on the largest shift
14. Car wash	Not applicable
15. Garage for automotive storage	Not applicable
16. Limousine or Taxicab business	Not applicable
17. Automotive stereo system installations	One (1) space for each two hundred (200') feet

<b>PRINCIPAL USE</b>	<b>REQUIRED SPACES</b>
	of gross floor area
18. Restaurant	One (1) space for every two and one half (2½) seats plus one (1) space for every employee on the largest shift
19. Restaurant, fast-food or drive-in	One (1) space for each two hundred (200') feet of gross floor area
20. Business or professional office	A minimum of One (1) space for each three hundred (300') feet of gross floor area
21. Freestanding ATM or kiosk for public use	Not applicable
22. Adult day care	One (1) space for every four (4) adults plus one (1) space for every employee on the largest shift
23. Indoor commercial recreation	One (1) space for each two hundred (200') feet of gross floor area
24. Outdoor commercial recreation	As determined by the Planning Board
25. Membership club, civic, social, professional or fraternal organization	One (1) space for every three (3) seats plus one (1) space for every employee on the largest shift
26. Adult use establishment	One (1) space for every three (3) seats plus one (1) space for every employee on the largest shift
27. Wireless Communications Facility	One (1) space
28. Airport, airfield or airstrip	Not applicable
29. Mobile parked food service	Not applicable
30. Itinerant roadside vending	Not applicable
31. Nursing or convalescent home	One (1) space for each two (2) beds, plus one (1) space for each employee on the largest shift

<b>PRINCIPAL USE</b>	<b>REQUIRED SPACES</b>
<b>D. INDUSTRIAL USES</b>	
1. Removal of loam, sand or gravel	Not applicable
2. Research laboratories, manufacture of equipment, electronics industry, assembling of electrical appliances	One (1) space for each two thousand (2,000) square feet of gross floor area for the first twenty thousand (20,000) square feet plus, one (1) space for each additional ten thousand (10,000) square feet of gross floor area and one (1) space per employee on the largest shift
3. Welding shop	See manufacturing
4. Machine shop	See manufacturing
5. Stone or monument works	See manufacturing
6. Ceramic products manufactured by electrical kilns	See manufacturing
7. Manufacturing	One (1) space for each two thousand (2,000) square feet of gross floor area for the first twenty thousand (20,000) square feet plus, one (1) space for each additional ten thousand (10,000) square feet of gross floor area and one (1) space per employee on the largest shift
8. Sale of products at retail manufactured on the premises	One (1) space for each two hundred (200') feet of gross floor area devoted to retail
9. Wholesale, warehouse, self-storage, mini-warehouse, or distribution facility	See manufacturing
10. Farm supply warehouse	See manufacturing
11. Heating fuel storage and sales	As determined by the Planning Board
12. Contractor's yard	As determined by the Planning Board
13. Junkyard or automobile salvage yard	Not applicable
14. Transportation or freight terminal	As determined by the Planning Board
15. Truck stop	Not applicable