



Zoning By-Laws

Town of Boylston, Massachusetts

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SECTION 1 – GENERAL

1.01 Authority

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

1.02 Purpose

The purpose of this By-law is to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentrations of population, to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, on-lot sewerage disposal, drainage, schools, parks, open space and other requirements of the residents of Boylston; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town of Boylston, including consideration of the recommendations of a Master Plan adopted by the Boylston Planning Board and the land use recommendations, as they may relate to the Town of Boylston, of the Central Massachusetts Regional Planning Commission, and to preserve and increase the amenities of the Town by promulgation of regulations to fulfill the above objectives.

1.03 Basic Requirements

All buildings or structures hereinafter erected, constructed, altered, enlarged or moved, or use of premises in the Town of Boylston shall be in conformity with the provisions of this By-law. Any building, structure or land shall not be used for any purpose or in any manner other than is permitted within the District in which such building, structure or land is located. Any use not specifically enumerated in a District herein shall be deemed prohibited. In accordance with General Laws, Chapter 40A, and notwithstanding any provisions to the contrary, this By-law shall not prohibit or limit the use of land for any church or other religious purpose, or for any educational purpose which religious, sectarian, denominational or public.

1.04 Definitions

1. ABANDONMENT:

Any building or structure not used or inhabited for a period of two (2) consecutive years.

2. ACCESSORY BUILDING OR USE

A use or detached building, which is subordinate to the main use or building, and located on the same lot with the main building or use of which is customarily incidental to that of the main building or to the use of the land. Where a substantial part of a wall of an accessory building is a part of the wall of a main building, or where an accessory building is attached to the main building, such accessory building shall be counted as a part of the building.

3. AGRICULTURE, HORTICULTURE, OR FLORICULTURE UNDER 5 ACRES

The raising of crops or animals, floriculture and horticulture.

4. APARTMENT HOTEL

A building with eleven (11) or more rental rooms or suites intended and designed for extended occupancy, which rooms or suites often include independent cooking facilities, sitting room(s) and/or living area(s) in addition to the bedroom(s). An apartment hotel differs from a hotel in that transients are likely to rent rooms or suites for longer periods.

5. APARTMENT BUILDING

Any building or any integrated group of buildings under the same ownership arranged, intended or designed to be leased or rented and occupied by three (3) or more families living independently of each other.

6. AQUIFER

Geologic formation composed of rock, sand, or gravel capable of yielding, storing, or transmitting significant amounts of potentially recoverable water.

7. ASSISTED LIVING FACILITY

A combination of housing, support services, and health care designed to respond to the needs of those who require help in activities of daily living. Such facilities may include common dining and recreation areas.

8. BUILDING

A combination of any materials, whether portable or fixed, having a roof, to form a structure for shelter of persons, animals, or property. For the purpose of this definition "roof" shall include an awning or any similar covering whether or not permanent in nature. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof".

9. BUILDING AREA

The ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions.

10. BUILDING HEIGHT

As set forth in the State Building Code.

11. BUILDING INSPECTOR

Building Inspector shall mean the Building Official or other designated authority, or his duly authorized representative serving under the Building Code, and charged with the enforcement of this By-law.

12. BUILDING LOT

A building lot is that area of land described in an Application for a Building Permit, or an application to the Board of Appeals for a Permit or Variance or otherwise defined as the area on which a structure is to be constructed, or a certain use is to be carried on. A building lot shall not include any part of a street which is relied upon to qualify the lot as to frontage.

13. CELLAR

A portion of the building with more than one-half (1/2) its height measured from the finished floor to finished ceiling below the average grade of the adjoining ground; and not considered a story.

14. CLUB

An association of persons which is the owner, lessee, or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose whose activities are confined to the member and guests, and are not generally extended to the general public and includes the establishment so operated.

15. COMMUNICATION DEVICE

Any antennae, dish or panel or similar equipment mounted out of doors on a tower, building or structure used a licensed commercial telecommunications carrier(s) to provide telecommunication(s) and television services. The term Communication Device does not include a tower or high gain point (microwave) antenna or an amateur radio tower.

16. COMMUNICATION STRUCTURE

Any equipment mounting structure that is used primarily to support any reception equipment, transmission equipment or Communication Device that measures twelve feet (12') or more in its longest vertical dimension. The definition of Structure shall be a Monopole; any cylindrical pole intended to support equipment used for reception, transmission equipment or Communication Device.

17. DWELLING

- a. One-Family: A building arranged for occupancy by one (1) family unit
- b. Two-Family: A building arranged for occupancy by two (2) family units.
- c. Multi-Family: A building arranged for occupancy by more than two (2) family units.

18. FAMILY

Any number of persons related by blood or marriage living in the same dwelling, or not more than five (5) persons unrelated by blood or marriage living together as a single housekeeping unit, but not including a group occupying a boarding house, club, fraternity or hotel.

19. FARM

Any parcel of land which is used primarily for the raising of agricultural products, domestic livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits, and the storage of equipment used.

20. FLOOR AREA

Net Floor Area: The interior floor area of a building exclusive of basements, stairwells, halls, bathrooms, attics, corridors, walls, partitions, and attached accessory buildings,

Gross Floor Area: The sum of the areas of all floors of a building including areas used for human occupancy in basements, attics, and penthouses as measured by the exterior face of the exterior walls.

21. GARAGE - PRIVATE

Covered space for the housing of motor vehicles, but not for commercial storage, or rental of more than two (2) stalls.

22. GAS STATION

A facility limited to retail sales to the public of gasoline, motor oil, lubricants, and minor automobile accessories. Minor repairs and automobile maintenance may be provided as well, but not auto body repairs or painting of vehicles.

23. GREENBELT

A protective screen planted and maintained in evergreen trees or shrubs.

24. HOME OCCUPATION

An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

25. HOTEL

A building with rental rooms accessed via an interior common corridor where lodging is provided for paying guests, with or without public dining facilities, and having eleven (11) or more rental rooms.

26. 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.

27. LIGHT MANUFACTURING

Small scale assembly and manufacturing industries which can include the processing, fabrication, assembly, treatment, and packaging, predominantly from previously prepared materials, of finished products or parts, and incidental storage, sales, and distribution of such products. Manufacturing in this paragraph shall not include heavy industrial operations such as steel manufacturing, heavy forging processes and the like.

28. LOADING SPACE - OFF STREET

An off-street space or berth, on the same lot with a building for the temporary parking of vehicles while loading or unloading merchandise or material, which has access to a street, alley or other appropriate means of ingress and egress.

29. LOT - CORNER

A lot abutting on two (2) or more streets at their intersection.

30. LOT - DEPTH OF

The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

31. LOT - FRONTAGE

A line dividing a lot from the street; on any lot bounded by more than one side by a street, the street boundary that is to be the lot front shall be so designed in an application for a Building Permit to build on said lot.

32. LOT LINE

The line dividing one lot from another or from a street or public space.

33. LOT WIDTH

The distance measured wholly within said lot as the shortest distance between side lot lines and extending from the street line to the rear of the main building or structure erected on said lot.

34. MAIN BUILDINGS

The principal use on a lot.

35. MEMBERSHIP CLUB

A private organization, building or grounds to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

36. MINING

The removal or relocation of geologic material such as topsoil, sand, gravel, metallic ores or bedrock.

37. MOTEL

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

38. MOTOR VEHICLE REPAIR SHOP

A facility that repairs, overhauls, removes, adjusts, replaces, assembles, or disassembles parts of any motor vehicle.

39. NON-CONFORMING USE

A non-conforming use of land or building is an existing use of land or building which does not conform to the regulations for the District in which such use of land or building exists and which existed at the time of adoption the regulations to which it does non conform.

40. PERSONAL SERVICE ESTABLISHMENT

Place of business of a barber, body art establishment, caterer, clothes cleaner and presser, confectioner, decorator, dressmaker, florist, furrier, hair dresser, hand launderer, manicurist, massage therapist, milliner, optician, pastrycook, photographer, printer, publisher, shoe repairer, shoe shiner, tailor or similar compatible uses.

41. PROFESSIONAL OCCUPATION

Any recognized profession such as a doctor, lawyer or dentist.

42. 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.

43. RESTAURANT

A place where the primary function is the serving of food and beverage.

44. RESTAURANT, TAKE-OUT

A place where food is generally prepared on the premises for consumption off the premises and that offers limited seating.

45. SHOPPING CENTER

A development with more than three (3) retail and/or personal service establishments containing a combined total of at least 25,000 square feet of gross floor area in one (1) or more building(s), designed, constructed or managed as a single entity.

46. SIGN

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known, or used to designate an individuals firm, an association, corporation, a profession, a business or a commodity or product which are visible from a public street or right-of-way and used to attract attention.

47. STREET

A public way or a private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying a lot for frontage on a street under the Subdivision Control Law.

48. STREET LOT LINE

A lot line dividing a lot from a street.

49. STRUCTURE

A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, tent, retaining wall, swimming pool, reviewing stand, platform, bin, fence, sign, flagpole, mast for a radio antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof".

50. TOWN

The Town of Boylston.

51. TOXIC OR HAZARDOUS MATERIAL

Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential; hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Boylston. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious waste.

52. USE

The purpose for which land or building is occupied, arranged, maintained, designed, or intended.

53. **VIEWSHED**

The visual impact of the site and the surrounding areas from the site that will have a direct view of the site and/or tower.

54. **WELLHEAD PROTECTION DISTRICT**

The zoning district defined to overlay the zoning districts in the Town of Boylston for the purpose of protecting drinking water wells and their recharge areas. The Wellhead Protection District is shown on a map on file with the Town Clerk.

55. **WIRELESS COMMUNICATION FACILITY**

Any and all construction, installation, expansion, extension or use of any Communication Device(s), Communication Structure(s), materials, equipment, storage structures, accessory buildings, dishes and antennas used by a licensed commercial telecommunications carrier(s), the Town of Boylston's municipal public safety services and/or the Town of Boylston's public schools to provide telecommunication services including personal wireless communication.

56. **YARD - FRONT, SIDE, REAR**

An unoccupied space open to the sky on the same lot with building or structure.

57. **ZONE I**

For public supply wells with yields exceeding 100,000 gpd, the Zone I recharge area includes all of the land area within a 400 ft. radius of the wellhead.

58. **ZONE II**

The area of an aquifer which contributes water to a well under the most severe pumping and recharge condition that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined in 310 Code of Massachusetts Regulations (CMR) 22.00 as it may be amended.

59. **ZONE III**

The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II, as defined in 310 CMR 22.00 as it may be amended.

60. **FLEXIBLE BUSINESS DEVELOPMENT (FBD)**

A planned development offering a compatible mix of commercial and light industrial uses where the special permit granting authority may waive strict adherence to design standards to achieve better overall site development and improved coordination between adjacent parcels.

SECTION 2 – NONCONFORMITY

2.01 *Extension Or Alteration Of Nonconforming Uses*

Except as hereinafter provided, this zoning by-law shall not apply to structures or building 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 on such bylaw as required by section five of M.G.L. Chapter 40A, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

In addition, no such building or structure, shall be added to, enlarged, or reconstructed to an extent greater than fifty percent (50%) of its area at the time of the adoption of this By-Law or such amendment¹

2.02 *Limitation On Restoration*

A building which does not conform with these By-laws which has been damaged by not more than seventy-five percent (75%) after the adoption of these By-laws by fire or other causes may be repaired provided that it shall not be extended beyond its former walls in the repair or rebuilding thereof.

2.03 *Lots Owned At Time Of Adoption Of This By-Law*

Any increase in area, frontage, width, yard or depth requirements of these By-laws shall not apply to a lot for a single or two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with the adjoining land, conformed to the then existing requirements and had less than the proposed requirement, but at least five thousand square feet (5,000) of area, and fifty (50) feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon if at the time of the building, building upon such lot is not prohibited by the Zoning By-Law in effect in the Town.

¹ 2005-May-02, Annual Town Meeting Article #31 - Approved and accepted by State Attorney General's Office - with amended word changes to completely replace section 2.01 "Extension Or Alteration Of Nonconforming Uses" – See Appendix A for additional information.

2.04 Abandonment

Any non-conforming use which has been abandoned for a period of two (2) years shall not be re-established except by Special Permit by the Board of Appeals. *[Amended ATM 1-MAY-2006, Art. 35]* Complete demolition of an existing structure for the sole purpose of erecting a new structure shall not constitute abandonment unless two (2) years or more has elapsed between the start of demolition and the start of the new construction.

2.05 Temporary Use Of A Mobile Home

The owner or occupier of a residence which has been destroyed by fire or other natural holocaust may place a mobile home on the site of such residence, and may reside in such home for a period not to exceed twelve (12) months while the residence is being rebuilt, upon obtaining a Permit from the Building Inspector. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

2.06 Split Lots

Where a zoning district boundary line divides any lot existing at the time said boundary line is adopted, the regulations for the less restricted portion of such lot shall extend no more than fifty (50) feet into the more restricted portion, unless further extended pursuant to a special permit issued by the Planning Board.

SECTION 3 – ESTABLISHMENT OF DISTRICTS

3.01 *Classes of Districts*

The Zoning Districts listed below have been established by the Town of Boylston to provide for various land uses in a way that protects and enhances the public welfare; preserves and maintains the character of the Town, its natural resources and historical assets; enables the Town to provide essential public services economically; and encourage the most appropriate use of the land based on its development suitability.

FULL NAME	SHORT NAME
RURAL RESIDENTIAL	RR
RESIDENTIAL	R
GENERAL RESIDENTIAL	GR
VILLAGE BUSINESS	VB
HIGHWAY BUSINESS	HB
COMMERCIAL	C
HERITAGE	H
INDUSTRIAL PARK	IP
FLOOD PLAIN DISTRICT	FP
WELLHEAD PROTECTION	WH
RESIDENTIAL OFFICE OVERLAY	RO
FLEXIBLE BUSINESS DEVELOPMENT DISTRICT	FBD
MIXED USE INDUSTRIAL DISTRICT	MUI
NEIGHBORHOOD BUSINESS DISTRICT	NB
ROUTE 140 BUSINESS DISTRICT	RB

1. RURAL RESIDENTIAL DISTRICT

The purpose of the Rural Residential District is to preserve and protect that portion of the Wachusett Reservoir watershed which lies within it; to preserve the rural character of the Town; to promote agricultural, horticultural and floricultural activities; and to provide for low density, single-family residential uses.

2. RESIDENTIAL DISTRICT

The purpose of the Residential District is to provide for residential uses at a somewhat higher density than that which is found in the Rural Residential District. The higher density is permitted because of the availability of municipal water supply.

3. GENERAL RESIDENTIAL DISTRICT

The purpose of the General Residential District is to provide for a mix of residential uses at a higher density than that which is permitted in the Rural Residential or Residential Districts.

4. VILLAGE BUSINESS DISTRICT

The purpose of the Village Business District is to provide for small-scale retail and personal service uses for the convenience of those residing in the neighboring area.

5. HIGHWAY BUSINESS DISTRICT

The purpose of the Highway Business District is to provide for uses of a commercial nature which require an adequate highway exposure and access. Such uses are likely to generate a significant amount of vehicular traffic in conjunction with their operation, and therefore would be inappropriately located along the majority of the Town's streets.

6. COMMERCIAL DISTRICT

The purpose of the Commercial District is to provide for the retail and personal service requirements of the residents of the Town by establishing this District in areas where access is acceptable, and where adequate off-street parking can be provided.

7. HERITAGE DISTRICT

The purpose of the Heritage District is to insulate the Historical District from encroachment by uses which would detract from or lessen the historical or visual quality of that District. Accordingly, it is the Intent that the District provide an appropriate transition between the other Districts and the Historic District in Boylston Center.

8. INDUSTRIAL AND OFFICE PARK

The purpose of the Industrial Park is to provide for facilities and space for executive offices, research and development, and light manufacturing and assembly of product components. It is a secondary purpose of this District to provide for facilities and space for training of persons engaged in management, sales, or manufacturing industries.

9. [RESERVED]

10. [RESERVED]

11. FLOOD PLAIN DISTRICT

The purpose of the Flood Plain District is to protect the public, health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and flood storage capacity of the Flood Plain, and to preserve and maintain the groundwater table and water recharge areas within the Flood Plain.

12. WELLHEAD PROTECTION DISTRICT

The purpose of the Wellhead Protection District is to promote the health, safety and general welfare of the community by insuring an adequate quantity of good quality drinking water is available for the residents of the Town of Boylston. This is accomplished through the use of limited land use controls within the identified direct recharge areas to the Boylston and Morningdale Water District Wells.

13. RESIDENTIAL-OFFICE OVERLAY DISTRICT

The purpose of the Residential-Office Overlay District (RO) is to allow small-scale professional offices in residential districts where, due to location on high volume roadways, existing dwellings are adversely affected and poorly suited for residential use.

14. FLEXIBLE BUSINESS DEVELOPMENT DISTRICT

The purpose of the Flexible Business Development District is to accommodate a mix of commercial and light industrial uses, in some cases by special permit.

15. MIXED USE INDUSTRIAL DISTRICT

The purpose of the Mixed Use Industrial District is to accommodate a limited mix of industrial uses and office uses.

16. NEIGHBORHOOD BUSINESS DISTRICT

The purpose of the Neighborhood Business District is to accommodate smaller-scale businesses and residential premises in mixed-use buildings.

17. ROUTE 140 BUSINESS DISTRICT

The purpose of the Route 140 Business District is to permit commercial uses at a somewhat larger scale than neighborhood-oriented businesses as well as light industrial uses, in some cases by special permit.

18. TOWN OF BOYLSTON OFFICIAL ZONING MAP

The 2007 Town of Boylston Official Zoning Map is attached hereto and made part hereof and incorporated herein by reference, and it set forth and delineates the boundaries of the Classes of Zoning Districts comprising all of the land. *[Amended STM; 03-MAR-2008; Article #7] [Amended ATM 03_MAY_2010; Article 1]*

SECTION 4 – USE REGULATIONS

4.01 Basic Regulations

No building, structure or land shall be used for any purpose or in any manner other than as permitted and set forth in Section 4.02, SCHEDULE OF USE REGULATIONS, of this By-law and in accordance with the following notations:

Y	Use permitted
SP#	Use allowed by SPECIAL PERMIT issued by the Planning Board
SP*	Use allowed by SPECIAL PERMIT issued by the Board of Appeals

For the purposes of this By-Law, the Boylston Planning Board and the Boylston Board of Appeals are hereby declared as the Special Permit Granting Authorities for those uses assigned to them In Section 4.02, Schedule of Use Regulations.

All commercial uses (Section 4.02.03); all industrial uses (Section 4.02.04); and all transportation, communication, utility uses (Section 4.02.05) permitted in any district in the Schedule of Use regulations under Section 4.02 shall require Site Plan Approval as specified in Section 10.03 whether permitted as matter-of-right or by Special Permit.

4.01.01 BUFFER

Whenever a Commercial, Industrial or Limited Industrial is contiguous to a residential zone, there shall be a no-build buffer zone in the Commercial, Industrial or Limited Industrial zone of at least fifty feet (50’); and if a residential dwelling exists within one hundred feet (100’) of said boundary, the buffer zone shall include trees, and/or fencing and/or earth-berm of not less than eight feet (8’) in height, whichever provides the maximum screening of light and noise from intruding into the residential zone. No screening shall be required if any structure, within the Commercial, Industrial or Limited Industrial zone is no less than one hundred feet (100’) from the contiguous boundary or two hundred feet (200’) residential dwelling. In all cases the lighting in any Commercial, Industrial or Limited Industrial shall be projected away from the residential dwelling. *[Amended STM; 03-MAR-2008; Article #7]*

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4.02 Schedule Of Use Regulations

Use	RR	R	GR	VB	HB	NB	RB	C	H	IP	FBD	MUI	Notes
4.02.01 AGRICULTURE													
Agriculture, horticulture, or floriculture under 5 acres	Y	Y	Y						Y				
Agriculture, horticulture or floriculture over 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Commercial greenhouse, nursery	Y	Y	Y	Y	Y		Y	Y	Y			SP#	
Farm stand for the sale of agricultural products, the majority of which is grown or raised on-site	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	For agriculture on 5+ acres; otherwise SP*.
Accessory agricultural uses such as silos, machinery sheds, greenhouses, and animal shelters	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	For agriculture on 5+ acres; otherwise SP*.
4.02.02 RESIDENTIAL													
Single-family detached dwelling	Y	Y	Y	Y				Y	Y				
Two-family dwelling	Y	Y	Y	Y				Y	Y				
Dwelling unit(s) above the ground floor of a building occupied primarily by commercial uses						SP#	SP#						(1) Ground floor shall be limited to retail, restaurant and/or office uses.
Accessory residential use which is customarily incidental to such use	Y	Y	Y	Y		Y		Y	Y			Y	
Use of a portion of a single-family residential building for a home occupation, as defined in Section 1.04(22)	Y	Y	SP*										(1) There is no open display of materials visible from the street, (2) there is adequate off-street parking and (3) the use is not detrimental by way of noise or other nuisance to the neighborhood.

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Use	RR	R	GR	VB	HB	NB	RB	C	H	IP	FBD	MUI	Notes
4.02.03 COMMERCIAL													
Retail establishment located on a separate lot and used for the sale of merchandise to the general public				Y	Y	Y	Y	Y	SP*			SP#	In the NB District, a retail use with less than 15,000 gross square feet of floor area shall be allowed as of right. A retail use with more than 15,000 gross square feet of floor area but less than 75,000 gross square feet of floor area may be allowed by special permit from the Planning Board.
Personal service establishment				Y	Y	Y	Y	Y	SP*				
Business service, such as a photocopy center, temporary personnel service, computer sales and service, or similar establishment						Y	Y	Y				SP#	Y
Use by the resident owner of not more than two rooms of a single-family dwelling existing prior to the adoption of this By-law for retail sale of specialty goods such as crafts, art and related supplies, books, stationary, and similar paper products, gifts, or clothing				SP*	SP*	Y	Y	Y	SP*				Except in the NB and SBB Districts, the exterior appearance of the building shall not change from that of a single family dwelling and adequate off-street parking shall be provided
Office of a resident doctor, lawyer, dentist, architect, landscape architect, engineer, or other recognized lawful profession in a single or two-family residential building which, except in a Village Business District, was existing prior to the adoption [of this By-law]	SP*	SP*	SP*	SP#	Y	Y	Y	Y	SP*				Except in the NB and SBB Districts, the building shall retain its residential appearance and adequate off-street parking shall be provided.

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Use	RR	R	GR	VB	HB	NB	RB	C	H	IP	FBD	MUI	Notes
Professional or business office, bank, or other financial institution				Y	Y	Y	Y	Y		Y	Y	SP#	
Medical office				Y	Y	Y	Y	Y		Y	Y	Y	
Medical laboratory, medical clinic, day surgery center or similar outpatient care facility							Y				Y		
Wholesale or warehouse use					SP#		SP#	Y		Y	SP#		
Funeral home			SP#	Y	Y			Y	SP#				
Shopping center				SP#	SP#	SP#	SP#	SP#			SP#		
Commercial recreation; indoor, such as a tennis or racquetball club, health club or fitness center							SP#			Y	Y	Y	
Gasoline station, motor vehicle repair shop and heating oil sales and service				SP#	Y		SP#	Y			SP#		In the FBD District, if within 2,500 feet of an interchange of a designated interstate highway.
Package store					SP#		SP#	SP#	SP#				
Restaurant, with food service limited to the interior of a building				SP#	SP#	Y	Y	SP#	SP#		SP#		Food may also be served in an outdoor seating area, such as a patio, as an accessory use.
Take-out food service, such as a deli, sandwich shop, pizza shop, or an ice cream shop, or similar establishment					SP#	Y	Y	Y			SP#	SP#	Establishment shall not exceed 1,200 square feet or have a seating capacity of more than 30 persons, and shall not offer drive-through service.
Building trade supply					Y		SP#	Y			Y		
Automobile dealership for the sale, leasing, and servicing of new and used automobiles, provided such use was in existence at the time of adoption of this By-law provision.				Y									

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Use	RR	R	GR	VB	HB	NB	RB	C	H	IP	FBD	MUI	Notes
Automobile dealership for the sale, leasing and servicing of new and used automobiles					SP#		SP#						
4.02.04 INDUSTRIAL													
Research and development, including renewable or alternative energy research and development							Y			Y	Y	Y	Design, development and testing of electrical, magnetic, mechanical or optical components in advance of manufacturing renewable or alternative energy products.
Corporate headquarters or similar industrial-office use										Y	Y		
Light manufacturing, or light assembly							SP#			Y	Y	Y	
Renewable or alternative energy manufacturing facility for processing, fabrication, assembly, and packaging							SP#			Y	Y	Y	
Corporate conference center, which may include short-term eating and sleeping accommodations										SP#	SP#		
Hotel or motel										SP#	SP#		Except that an apartment hotel is prohibited.
Yards and building of a contractor or building tradesman					SP*			SP*			Y		All open storage of materials and vehicles shall be screened from public view and aesthetically pleasing as it relates to surrounding architecture.

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Use	RR	R	GR	VB	HB	NB	RB	C	H	IP	FBD	MUI	Notes
The sale and rental of recreational vehicles limited to motor homes, campers, camping trailers, and related accessories							SP#				Y		
4.02.05 TRANSPORTATION, COMMUNICATION, UTILITY													
Public utility building or structure	SP*	SP*	SP*	SP*	Y	SP*	SP*	SP#	SP*	SP*	SP*		
Building or structure of a private utility company	SP*	SP*	SP*	SP*	Y	SP*	SP*	SP#	SP*	SP*	SP*		
Wireless Communication Facility	SP#								SP#	SP#	SP#		
4.02.06 PUBLIC, SEMI-PUBLIC, INSTITUTIONAL													
Any religious or public educational use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Private, non-profit educational use	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	
Child Care Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Hospital or sanitarium	SP*	SP*	SP*								SP*		
Any municipal use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Any municipal recreation use	Y	Y	Y										
Conference or clubhouse or country club building	SP*									Y	Y		
Golf course, public or private tennis club or other public or private outdoor recreation activity	SP*	SP*	SP*							Y			
4.02.07 OTHER (UNCLASSIFIED)													
A garage for not more than four (4) automobiles as an accessory use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Warehouse as accessory to an industrial use					Y		Y	Y		Y	Y	Y	

4.03 *Modification to Schedule of Use Regulations*

4.03.1 HERITAGE DISTRICT

Any use other than a single-family detached dwelling indicated in Section 4.02, Schedule of Use Regulations as being permitted in the Heritage District which abuts the Boylston Water District shall require a Special Permit from Planning Board.

4.03.02 FLEXIBLE BUSINESS DEVELOPMENT DISTRICT

In an Flexible Business Development District no building shall be erected or altered, and no building or premises shall be used for any purpose injurious, noxious, or offensive, or tending to reduce property values in the same or adjoining District by reason of emission of odor, fumes, dust, smoke, vibration, sewerage and/or industrial waste, noise, danger of explosion, fire or other cause, nor for any purpose except: research laboratory, manufacturing, industrial or commercial use including processing, fabrication and assembly, employing unobjectionable motive powers, utilizing hand labor or quiet machinery and process. Manufacturing in this paragraph shall include all light industry and light industrial processes, but shall not include heavy industrial operations such as steel manufacturing, heavy forging processes and the like.

4.03.03 ALL DISTRICTS

Except as otherwise set forth in the Use Table, in any District no residential building shall contain more than two (2) dwelling units.

SECTION 5 – [RESERVED]

SECTION 6 – FLOOD PLAIN DISTRICT REGULATIONS

6.01 Flood Plain District

The Flood Plain District is herein established as an overlay district upon existing zoning districts. The underlying permitted uses are allowed provided that they meet the following additional requirements, as well as those of the Massachusetts State Building Code dealing with all special flood hazard areas designated as Zone A, AI-30 on the Boylston Flood Insurance Rate Maps, (FIRM) and the Flood Boundary and Floodway Maps, dated July 2, 1981, on file with the Town Clerk, Planning Board, and the Building Inspector. These maps, as well as the accompanying Boylston Flood Insurance Study are incorporated herein by reference.

6.02 Development Regulations

The following requirements apply in the Flood Plain District:

- A. Within Zone A, where the base flood elevation is not provided on, the FIRM, the Applicant shall obtain any existing base flood elevation data, and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate of the State Building Code.
- B. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other developments are prohibited unless certification by a Registered Professional Engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.
 2. Any encroachment meeting the above standard shall comply with, the Flood Plain requirements of the State Building Code, as it may be amended.
 3. All development including structural and non-structural activities, whether permitted as a use by right or by Special Permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws, as it may be amended.

SECTION 7 – WELLHEAD PROTECTION DISTRICT REGULATIONS

7.01 *Wellhead Protection District*

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

7.02 *Establishment And Delineation Of Wellhead Protection District*

For the purposes of this District, there are hereby established within the Town certain wellhead protection areas delineated on a map at a scale of one (1) inch to eight hundred (800) feet. The Wellhead Protection District includes the Zone I and Zone II areas, plus any portions of Zone III that lie within one thousand five hundred (1500) feet of a municipal wellhead in order to provide a reasonable response time in case of a release. This map, entitled "Wellhead Protection District Map, Town of Boylston," dated March, 1999 is hereby made a part of the Town Zoning By-laws and is on file in the Office of the Town Clerk.

7.03 *Exemptions From The District*

Exemptions from the Wellhead Protection District will be granted in cases where a property owner can demonstrate that a parcel does not lie within the Zone II Recharge Area or one thousand five hundred (1500) feet of a Public Water Supply Well within the Town. The property owner may request to be exempted from the Wellhead Protection District 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 as described in Section 7.06.

The burden of proof shall be upon the owner(s) of the land in question greater than one thousand five hundred (1500) feet from a wellhead to demonstrate that the land, because of its hydrogeologic setting, does not lie within a Zone II Recharge Area of a Public Water Supply Well within the Town. At the request of the owner(s), the Town may engage a professional engineer (civil or sanitary), hydrogeologist, geologist, or soil scientist to evaluate the applicability of the District, and may charge the owner(s) for all or part of the cost of the investigation. Boundaries of individual parcels of land must be established by a Professional Land Surveyor registered in the Commonwealth of Massachusetts.

7.04 *Permitted Uses In Zone I*

Within the Zone I four hundred (400) foot protective radius around each public water supply well only the construction, maintenance, repair, enlargement of drinking water supply related

facilities such as, but not limited to, pump stations, wells, pipelines, aqueducts, and tunnels are permitted.

7.05 Permitted Uses In The Wellhead Protection District

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

- A. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- B. Foot, bicycle and/or horse paths, and bridges;
- C. Normal operations and maintenance of existing water bodies and dams, splash boards, and other water control, supply, and conservation devices;
- D. Maintenance and repair of any lawful pre-existing nonconforming structures or buildings or uses.
- E. Enlargement of any existing structure and maintenance and repair thereof is subject to Prohibited Uses (Section 7.06) and Special Permitted Uses (Section 7.07);
- F. Residential development, subject to Prohibited Uses (Section 7.06) and Special Permitted Uses (Sect 7.07);
- G. Farming, gardening, nursery, conservation forestry, harvesting, and grazing, subject to Prohibited Uses (Section 7.06); and Special Permitted Uses (Section 7.07);
- H. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, not limited to, pump stations, wells, pipelines, aqueducts, and tunnels.
- I. Land uses permitted in the underlying district but not specifically listed in the Prohibited Uses (Section 7.06) or in the uses requiring a Special Permit (Section 7.07).

7.06 Prohibited Uses

The following uses are prohibited within the Wellhead Protection District:

- A. Landfills and open dumps as defined in 310 CMR 19.006;
- B. Storage of liquid petroleum products, except the following:
 1. Normal household use, outdoor maintenance, and heating of a structure;
 2. Liquid hazardous materials and/or liquid petroleum products where storage is in containers designed for retail distribution of the products;
 3. Waste oil retention facilities required by statute, rule, or regulation;
 4. Emergency generators required by statute, rule, or regulation;
 5. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters.
- C. Landfilling of sludge or septage as defined in 310 CMR 32.05;

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- D. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- E. Storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of snow and ice unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- F. Storage of animal manure in quantities greater than two cubic yards unless covered or contained to prevent the generation and escape of runoff;
- G. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except during excavations for building foundations, swimming pools, septic systems, roads, utility works, or excavation of contaminated soils approved by DEP;
- H. Facilities that generate, treat, store, or dispose of hazardous waste subject to MGL c. 21C and 310 CMR 30.00, except the following:
 - 1. Very small quantity generators as defined under 310 CMR 30.00;
 - 2. Household hazardous waste collection centers and events under 310 CMR 30.390;
 - 3. Waste oil retention facilities required by MGL c. 21, s. 52A;
 - 4. Wastewater treatment facilities approved under 314 CMR 5.00;
- I. Automobile graveyards or junkyards, as defined in MGL c. 140B, s. 1;
- J. Treatment works or disposal works for non-sanitary wastewater that are subject to 314 CMR 5.00 except the following:
 - 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 Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater;
- K. Storage of liquid hazardous materials, as defined in MGL c. 21E, unless in a free standing container within a building or above ground with secondary containment adequate to contain a spill the size of a container's total storage capacity;
- L. Stockpiling and disposal of snow and ice containing sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal that is brought in from outside the Wellhead Protection District;
- M. Storage of commercial fertilizers and soil conditioners, as defined in MGL c. 128, s. 64, unless such storage is within a structure designed to prevent the generation or escape of contaminated runoff or leachate.

7.07 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. Alteration of existing uses that does not conform to the Wellhead Protection District;
- B. Land uses that render impervious more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater. This provision does not pertain to the following land uses on single family residential lots: roofs, deck, patios, tennis courts, or other impervious surfaces that naturally drain to pervious areas on the same Special Permits will be granted when a system for groundwater recharge is provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by stormwater infiltration basins or similar systems covered with natural vegetation, and drywells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

7.08 Procedures For Issuance Of A Special Permit

- A. The Special Permit Granting Authority (SPGA) under this By-law shall be the Boylston Planning Board. Special Permits shall be granted if the SPGA determines, after consultation with the Board of Health, the Boylston and Morningdale Water Districts, and the Conservation Commission, that the intent of this By-law, 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 includes, 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.
- B. Special Permit approval procedures shall be in accordance with MGL Chapter 40A and as prescribed in Section 11.04.06. The SPGA may grant the required Special Permit only upon finding that the proposed use meets the following standards, those specified in 7.05, 7.06, 7.07, and any regulations or guidelines adopted by the SPGA under Section 7.08 C of this regulation. The proposed use must:
 - 1. Not substantially affect the existing quality of groundwater on or downgradient of the site during construction or thereafter, and
 - 2. Be designed to minimize disturbance of the soils, topography, drainage, vegetation, and other natural characteristics of the site to be developed, and
 - 3. Demonstrate that groundwater recharge is maximized through the use of design standards that reduce the amount of impervious material used on site and methods to increase recharge by directing runoff into the ground, and
 - 4. Be designed to treat all stormwater runoff in compliance with Section 7.07B of the By-law and the Department of Environmental Protection Stormwater Management Policy, as it may be amended.

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- C. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the Town.
- D. The applicant shall file four (4) copies of a site plan and attachments. 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:
1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
 2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Fire Chief and Board of Health. The plan shall include:
 - a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including secondary spill containment adequate to contain a spill the size of the containers total storage capacity and clean-up procedures;
 - b. Provisions for indoor, secured storage of hazardous material and wastes with impervious flow surfaces;
 - c. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA Identification number from the Massachusetts Department of Environmental Protection.
 3. Proposed downgradient location(s) for groundwater monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- E. The Town shall give written notice of any violations of this By-law 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 restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations, preventive measures required for avoiding future violations, or a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Highway Department, Planning Board, and Boylston and Morningdale Water Districts. The cost of containment, cleanup, or other action of compliance shall be borne by the owner and/or operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Wellhead Protection District, the Town of Boylston, the Building Inspector, and the Board of Health, or any of their agents may order the owner and/or operator of the premises to remedy the violation. If said owner and/or operator does not come with said order, the Town of Boylston, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the special permit or

otherwise may act to remedy the violation. The remediation cost shall be the responsibility of the owner and/or operator of the premises.

SECTION 8 – WIRELESS COMMUNICATION

8.01 *Applicability*

No Wireless Communication Facility shall be erected, installed, modified, replaced or maintained except upon the grant of a Special Permit in compliance with the provisions of this Wireless Communication By-law. The provisions of the Wireless Communication By-law will apply to all Wireless Communication Facilities whether as a principal use or an accessory use and to any and all modifications, extensions, and additions to, or replacements of existing Wireless Communication Facilities.

All modifications, extensions and additions to, or replacements of a Wireless Communication Facility shall be subject to a modification of the Wireless Communication By-law Special Permit following the same requirements as required for an original application.

A Wireless Communication By-law Special Permit may be granted only for:

- A. Any Wireless Communication Facility to be constructed, installed, replaced, maintained and/or used in the Industrial Park (IP), and Flexible Business Development District, Heritage (H) and Rural Residential (RR) zoning districts as specifically provided for hereafter, in compliance with the provisions of this Wireless Communication By-law and upon the grant of a Special Permit.
- B. Any Wireless Communication Facility to be constructed, installed, replaced, maintained and/or used on property owned by the Town of Boylston in the above zoning districts as specifically provided for hereafter in compliance with the provisions of this By-law.

8.02 *Purpose of Wireless Communication*

The purpose of the Wireless Communication By-law is to establish predictable and balanced regulations for the siting of wireless communication equipment in order to accommodate the growth of wireless communication systems within the Town of Boylston while protecting the public against adverse impacts upon the Town's aesthetic resources and the public welfare and to:

1. Minimize the adverse aesthetic and visual impact of wireless communication facilities.
2. Minimize the number of wireless communication facility sites.
3. Encourage co-location of wireless communication facilities.
4. Ensure that wireless communication facilities are sited, designed and screened in a manner that is sensitive to the surrounding neighborhood and the Town of Boylston.
5. Avoid damage to and limit the impact upon abutting properties.

8.03 Jurisdiction

The Planning Board is authorized to grant and modify Special Permit(s) pursuant to Massachusetts General Laws Chapter 40A, for the Wireless Communication Facility within the Town of Boylston. The Planning Board is further authorized to grant or modify Special Permit(s) for the construction, installation, replacement, maintenance and or use of a Wireless Communication Device(s) on already existing buildings or structures.

The Wireless Communication By-law Special Permit will establish (A) the intensity of use, including the number type and location of Wireless Communication Device(s), (B) periodic monitoring and reporting and (C) other provisions as determined by the Planning Board.

At the discretion of the Planning Board under a Special Permit, a Wireless Communication Facility may not be, required to be sited on its own lot as required by One Building per Lot.

To facilitate the administering of this Wireless Communication By-law, the Planning Board may establish and amend: (A) rules and regulations, (B) application fees, requirements and procedures, (C) engineering, consulting, review, and periodic monitoring fees, and (D) reasonable annual Special Permit license fees.

8.04 Required Findings For A Special Permit

The Planning Board may grant or modify a Wireless Communication By-law Special Permit only if they find:

- A. That there is no existing or approved Wireless Communication Facility(s), Communication Structure(s), reasonably available that could accommodate the applicants Wireless Communication Facility via co-location on an existing or approved Wireless Communication Facility(s), Communication Structure(s).
- B. That the applicant demonstrated to the satisfaction of the Planning Board that the sitting and proposed location of the Wireless Communication Facility is critical and cannot be reasonably accommodated by locating on existing Wireless Communication Facilities.
- C. That the applicant and all tenants hold at the time of application all necessary Federal, State and FCC telecommunications licenses required to operate the Wireless Communication Facility.
- D. That the applicant has certified to the Planning Board that they are in compliance with all applicable Federal, State and local laws and regulations including any amendment(s) thereto.
- E. That the size and height of the Wireless Communication Facility is the minimum necessary to accommodate all users thereon and that any Communication Structure(s), including all appurtenant equipment, Wireless Communication Device(s) and or Communication Device(s) shall:
 1. Not exceed seventy-five (75) feet above the average grade of the existing terrain at the Communication Structure's base, unless the applicant demonstrates to the satisfaction of the Planning Board that a taller structure is required.
 2. In no event exceed a height of one hundred and forty (140) feet above the average grade of the existing terrain at the Communication Structure's base; and

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3. In no event be of such a height or location as to require aviation warning lighting.
- F. That the Wireless Communication Facility has been designed in all respects to accommodate multiple licensed telecommunication carriers and that the applicant has agreed to and will permit other licensed telecommunications carriers to co-locate on facility at commercially reasonable terms.
- G. That the Wireless Communication facility will not have a material adverse impact upon any Boylston viewshed as determined solely by the Planning Board.
- H. That the applicant for a new Communication Structure shall provide the Planning Board with the following items;
1. A description, including illustrations and photographs, of the monopole and the technical, economic and other reasons for the proposed location, height and design.
 2. A description of the maximum capacity of the monopole including the number and type of antennae platforms, antennae per phase and transmitters, receivers that it can accommodate.
 3. A locus plan which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential and other building within 500 feet of the Communication Structure.
- I. That the applicant for co-location on an existing Communication Structure shall provide the Planning Board with the following items;
1. A description, including illustrations and photographs, of the additional antennae platform and the Antennae.
 2. A digitally enhanced photograph from three different view angles showing the new antennae platform as it would look like on the existing Communication Structure. These photographs will be from the most highly viewable locations that the applicant can find.
- J. That any Wireless Communication Facility
1. Any property line, other than a property line immediately bordering Rt. I-290, the greater of 600 feet or a distance equal to two (2) times the height of the Wireless Communication Facility, including any appurtenant equipment, device(s) or Wireless Communication Device(s) attached thereto. From a property line bordering Rt. I-290 the setback shall be at least one (1) time the height of the Wireless Communication Facility, including any appurtenant equipment, device(s) or Wireless Communication Device(s) attached thereto; and
 2. The centerline of an approved or accepted right of way, other than RT. I-290, by not less than 600 feet; and
 3. Any residence which has been built or for which a building permit has been granted at the time of the application, or from the site of any residence shown on a plan of land approved by the Town of Boylston at the date of application, by not less than 1,000 feet.

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- K. That any Communication Structure has been designed, using the best available technology to blend in the surrounding environment through the use of color, camouflaging techniques, landscaping, or other architectural treatments. A maintenance plan is required for the Special Permit that covers the long-term maintenance of the color, camouflaging techniques, landscaping, or other architectural treatments.
- L. That the Wireless Communication Facility includes a provision(s) for the reasonable co-location to the Town of Boylston of communication systems to support the Town's emergency and safety services and municipal public schools.
- M. That the Wireless Communication Facility complies with the following minimum design requirements.
- N. That the Wireless Communication Facility has been so sited so as to make use of natural vegetative screening and that an adequate replacement of vegetation providing a noise buffer and aesthetics to neighboring properties is provided for, and
 1. That to the greatest extent practical the clearing of existing vegetation and the impact on the site's natural resources and typography is minimized, and
 2. That any clearing of existing on-site vegetation will preserve such vegetation to the maximum extent practicable and that any disturbed areas will be restored to the maximum extent practicable, and
 3. That access to any Wireless Communication Facility has been engineered and will be built to ensure that the Town of Boylston's emergency services can respond safely to the site, and
 4. That emergency access to the site is available at all times to the Town of Boylston's emergency services, and
 5. That any emergency backup generators will be installed such that they periodically only cycle during non-holiday weekdays, between 8:00AM and 5:00PM, and
 6. That any Wireless Communication Facility and/or Communication Structure, is fenced so as to control access to the facility and that any fencing is designed so as to be as unobtrusive as possible, and
 7. That only signage acceptable to the Board of Selectmen will be visibly posted. At a minimum an announcement sign, a no trespassing sign and a sign giving a phone number where the owner or operator can be reached on a twenty-four hour basis, shall be required.
 8. That any accessory buildings and structures **(A)** do not exceed one story in height, **(B)** contain no more than 300 square feet in floor area for each user, **(C)** is located within the fenced in area, and **(D)** is compatible in appearance.

8.05 Non-Use

The operator must provide immediate acceptable written notice to the Planning Board in the event of change of ownership in the Wireless Communication Facility, Communication Structure, Communication Device, accessory building, or of the underlying property. The

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operator or the property owner must provide immediate notice to the Planning Board if the use of the Wireless Communication Facility, Communication Structure, Communication Device or accessory structure is discontinued. Any unused Wireless Communication Facility, Communication Structure, Communication Device and/or accessory structure, shall be removed from the Town of Boylston within one (1) year of cessation of use and the property shall be restored to substantially the same condition as it was in prior to the alteration.

To secure compliance with this provision, the Planning Board may require that the applicant post adequate and acceptable surety as determined solely by the Planning Board.

All unused Wireless Communication Facility(s), Communication Structure(s), Communication Device(s), accessory structure(s) and or any parts thereof, which have not been used for two years and which have not been removed from the Town of Boylston, may be dismantled, removed and the site restored to substantially the same condition as it was in prior to the alteration by the Town of Boylston. All costs incurred by the Town of Boylston directly related to and incidental to any such dismantling, removal and restoration shall be payable by the owner of the property. As conditions to any Special Permit granted under this Wireless Communication By-law the property owner shall be required **(A)** to enter into an agreement with the Town of Boylston whereby the property owner is liable for all costs set forth in the preceding sentence and agrees to conditional lien on the property as set forth below; **(B)** to execute a document creating a lien on the property which by its terms shall become effective in the event that the Wireless Communication Facility has not been used for one year and has not been removed and the site restored within thirty days of written notice by certified mail to the owner; and **(C)** to execute a Notice of Contract regarding the real estate. Both the lien document and the Notice of Contract shall be in a form suitable for recording at the Registry of Deeds. The Notice of Contract shall be recorded at the time of recording the Special Permit; the lien document shall be recorded upon the attachment of an affidavit signed by the Chair of the Planning Board that the Wireless Communication Facility was unused for one year and had not been removed by the owner and setting forth as the amount of the lien a sum equal to all costs incurred by the Town of Boylston to dismantle and remove, the facility and restore the property.

8.06 Compliance

The failure of the applicant, owner, owner of the property, and or any licensed telecommunications carrier tenant to comply with the By-laws of the Town of Boylston or with any section of the Wireless Communication By-law Special Permit shall be sufficient grounds for the immediate revocation or non-renewal of the Special Permit.

8.07 Exemptions

The following are exempted from this Wireless Communication By-law:

- A. Amateur radio Communication Structure, or Communications Device(s). An amateur radio tower or communications device(s) defined as a Communication Structure(s), or Communication Device(s) used solely in accordance with the terms of an amateur radio license(s) issued by the Federal Communications Communication Structure, and any Communication Device(s):
 - 1. Must not be used or licensed for any commercial purposes; and
 - 2. Must be immediately dismantled if the amateur radio use is discontinued or the amateur radio license is revoked or not renewed by the FCC.
- B. Wireless Communication Facility(s), Communication Structure(s), or Communication Device(s) erected and maintained by the Town of Boylston and/or the Town of Boylston's public schools solely for the Town of Boylston's municipal emergency and safety communication purposes.

Lawfully preexisting Wireless Communication Facility(s), Communication Structure(s), or Communication Device(s) and any accessory structure(s) may not be modified, replaced, extended or added to except in accordance with Boylston By-Law (Section 2) Nonconforming and, if applicable, this Wireless Communication By-law. For any preexisting nonconforming Wireless Communication Facility(s), Communication Structure(s), or, Communication Device(s) the provisions in Boylston By-Law (Section 2.01) Extension or Alteration of Nonconforming Uses, that considers any increase of not over 50% from the original floor area of the building at the time of the adoption of the Zoning By-law, or not over 25% of the ground area in use at that time as not substantially more detrimental to the neighborhood will not apply. Any increase will need to conform to the requirements of Wireless Communication By-law.

8.08 Waiver

The SPGA (Special Permit Granting Authority) may grant a waiver to the requirements for a special permit of Section 8.04 (Required Findings for A Special Permit), without the need for a variance, if the applicant or applicants- demonstrate, with written engineering evidence, that the special permit requirements cannot be met on the parcel of land upon which the facility is proposed to be located, that the proposed facility is reasonably located at the proposed site to meet the coverage requirements of the applicant or applicants wireless communications system(s), and the waiver would encourage co-location, and that strict adherence to the special permit would be a hardship to the applicant or applicants.

SECTION 9 – DIMENSIONAL REQUIREMENTS

9.01 Basic Requirements

No building or structure in any District shall be built, located, or enlarged on a lot which does not conform to the dimensional requirements as set forth in Section 9.02 and 9.03 of this By-law.

9.02 Schedule of Dimensional Requirements

District → Building/Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (feet)	Minimum Setback			Lot Width (feet)	Lot Depth (feet)
			Front (feet)	Side (feet)	Rear (feet)		
Rural Residential	Single-family detached dwelling Two-family dwelling						
	40,000	200	25	20	20	200	200
	Commercial Greenhouse or Nursery						
	40,000	200	30	20	20	200	200
	Any Religious or Public Education use, Private non-profit Educational use						
	2 acres	300	50	50	50	300	300
	Hospital or Sanitarium Conference or Clubhouse or Country Club building						
	5 acres	400	75	50	50	400	400
	Public Utility or Private Utility Company building or structure <i>To be determined by the Planning Board when issuing the Special Permit</i>						
	Residential	Single-family detached dwelling Two-family dwelling					
30,000		150	25	20	20	150	200
Commercial Greenhouse or Nursery							
40,000		200	30	20	20	200	200
Any Religious or Public Education use, Private non-profit Educational use							
2 acres		250	50	50	50	250	250
Hospital or Sanitarium							
5 acres		400	75	50	50	400	400
Public Utility or Private Utility Company building or structure <i>To be determined by the Planning Board when issuing the Special Permit</i>							

9.02 SCHEDULE OF DIMENSIONAL REQUIREMENTS

District —► Building/Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (feet)	Minimum Setback			Lot Width (feet)	Lot Depth (feet)
			Front (feet)	Side (feet)	Rear (feet)		
General Residential	Single-family detached dwelling						
	15,000	100	25	20	20	100	150
	Two-family dwelling						
	15,000	150	25	20	20	125	150
	Funeral Home						
	40,000	200	30	20	20	200	200
	Any Religious or Public Education use Private non-profit Educational use						
	2 acres	250	50	50	50	250	250
	Hospital or Sanitarium						
	5 acres	400	75	50	50	400	400
Public Utility or Private Utility Company building or structure							
<i>To be determined by the Planning Board when issuing the Special Permit</i>							
Heritage	Single-family dwelling						
	25,000	125	25	20	20	125	200
	Two-family dwelling						
	30,000	150	25	20	20	125	200
	Commercial Greenhouse Consumer Service Establishment Funeral Home Retail Establishment						
	40,000	200	25	20	20	200	200
	Any Religious or Public Education use Private non-profit Educational use						
	2 acres	250	50	50	50	250	250
	Public Utility or Private Utility Company building or structure						
	<i>To be determined by the Planning Board when issuing the Special Permit</i>						

9.02 SCHEDULE OF DIMENSIONAL REQUIREMENTS

District —► Building/Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (feet)	Minimum Setback			Lot Width (feet)	Lot Depth (feet)
			Front (feet)	Side (feet)	Rear (feet)		
Village Business	Retail Establishment Automobile dealership Package Store						
	10,000	100	10	10	15	100	100
	Single-family dwelling						
	15,000	100	20	20	25	100	100
	Two-family dwelling						
	20,000	125	20	20	25	125	100
	Consumer Service Establishment						
	20,000	100	10	10	15	100	100
	Restaurant dispensing food to be consumed within the building						
	20,000	200	20	20	15	200	100
	Greenhouse or Nursery Professional Office, Bank or other Financial Institution						
	30,000	150	20	20	25	150	200
	Gasoline station Motor Vehicle repair						
	30,000	150	20	20	75	150	150
	Funeral Home						
	40,000	200	20	20	30	200	200
Any Religious or Public Education use, Private non-profit Educational use							
2 acres	250	50	50	50	250	250	
Public Utility or Private Utility Company building or structure							
<i>To be determined by the Planning Board when issuing the Special Permit</i>							

9.02 SCHEDULE OF DIMENSIONAL REQUIREMENTS

District → Building/Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (feet)	Minimum Setback			Lot Width (feet)	Lot Depth (feet)
			Front (feet)	Side (feet)	Rear (feet)		
Highway Business	Commercial Greenhouse						
	30,000	150	25	20	20	150	150
	Package store						
	30,000	200	50	20	20	200	200
	Gasoline station Motor Vehicle repair						
	40,000	200	50	50	50	200	200
	Restaurant dispensing food to be consumed within the building						
	40,000	200	50	20	20	200	200
	Yards and Building of a contractor or Building Tradesman						
	40,000	200	50	50	50	250	250
	Restaurant not exceeding 1,200 sq ft, with seating capacity of not more than 30 persons dispensing food to be consumed within the building and sold and packaged for take-out, but offering no drive-thru service						
	40,000	200	50	20	20	200	200
	Automobile Dealership Any Religious or Public Education use, Private non-profit Educational use Building Trade Supply Wholesale or Warehouse use						
2 acres	250	50	50	50	250	250	
Shopping Center consisting of more than one retail or service establishment							
2 acres	300	50	50	50	300	300	
Public Utility or Private Utility Company building or structure							
<i>To be determined by the Planning Board when issuing the Special Permit</i>							

9.02 SCHEDULE OF DIMENSIONAL REQUIREMENTS

FBD District

Standard	Requirement	Notes
Minimum lot area	40,000 sq. ft.	All uses
Minimum lot frontage	150 feet	May be reduced by SP from the Planning Board for shared/lateral access to abutting business lots
Minimum front setback	40 feet	
Minimum side setback	40 feet	
Minimum rear setback	50 feet	
Minimum lot width	150 feet	Measured at the building line; may be reduced by SP for reduced-frontage lots per above
Minimum lot depth	200 feet	
Maximum lot coverage	40 percent	
Minimum open space	20 percent	
Maximum building height	3 stories and 45 feet 4 stories and 56 feet by SP	See Section 9.03.05

NB District

Standard	Requirement	Notes
Minimum lot area	30,000 sq. ft.	All except as listed below
	60,000 sq. ft.	Shopping center
Minimum lot frontage	125 feet	May be reduced by SP from the Planning Board for shared/lateral access to abutting business lots
Minimum front setback	25 feet	
Minimum side setback	20 feet	
Minimum rear setback	20 feet	Except 50 feet abutting a residential lot or district boundary
Minimum lot width	125 feet	Measured at the building line; may be reduced by SP for reduced-frontage lots per above
Minimum lot depth	150 feet	
Maximum lot coverage	30 percent	
Minimum open space	25 percent	
Maximum building height	3 stories and 40 feet	See Section 9.03.05

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RB District

Standard	Requirement	Notes
Minimum lot area	40,000 sq. ft.	All except as listed below
	80,000 sq. ft.	Shopping center
Minimum lot frontage	125 feet	May be reduced by SP from the Planning Board for shared/lateral access to abutting business lots
Minimum front setback	25 feet	
Minimum side setback	25 feet	
Minimum rear setback	25 feet	Except 50 feet abutting a residential lot
Minimum lot width	125 feet	Measured at the building line; may be reduced by SP for reduced-frontage lots per above
Minimum lot depth	150 feet	
Maximum lot coverage	40 percent	
Minimum open space	25 percent	
Maximum building height	3 stories and 45 feet 4 stories and 56 feet by SP	See Section 9.03.05

MUI District

Standard	Requirement	Notes
Minimum lot area	40,000 sq. ft.	All except as listed below
Minimum lot frontage	150 feet	
Minimum front setback	50 feet	
Minimum side setback	50 feet	
Minimum rear setback	50 feet	
Minimum lot width	150 feet	Measured at the building line
Minimum lot depth	200 feet	
Maximum lot coverage	40 percent	
Minimum open space	25 percent	
Maximum building height	3 stories and 45 feet	See Section 9.03.05

9.02 SCHEDULE OF DIMENSIONAL REQUIREMENTS

District —► Building/Use	Minimum Lot Size (sq. ft.)	Minimum Lot Frontage (feet)	Minimum Setback			Lot Width (feet)	Lot Depth (feet)
			Front (feet)	Side (feet)	Rear (feet)		
Commercial	Greenhouse or Nursery Single-family detached dwelling Retail establishment Consumer Service establishment Professional Office, Bank or other Financial Institution						
	30,000	150	25	20	20	150	150
	Package store						
	30,000	200	50	20	20	200	200
	Gasoline station Motor Vehicle repair						
	40,000	200	50	50	50	200	200
	Restaurant dispensing food to be consumed within the building						
	40,000	200	50	20	20	200	200
	Yards and Building of a contractor or Building Tradesman						
	40,000	200	50	50	50	200	200
	Any Religious or Public Education use Private non-profit Educational use						
	2 acres	250	50	50	50	250	250
	Building Trade Supply						
	2 acres	250	50	50	50	250	250
	Wholesale or Warehouse use Shopping Center consisting of more than one retail or service establishment						
2 acres	300	50	50	50	300	300	
Public Utility or Private Utility Company building or structure							
<i>To be determined by the Planning Board when issuing the Special Permit</i>							

9.03 *Modification To Dimensional Requirements*

9.03.01 *ACCESSORY BUILDINGS*

In any Residential District accessory buildings or structures including swimming pools that are customarily incidental to a residence may be erected at least ten (10) feet from the rear and side lot lines, providing said buildings or structures are not attached to a main building, and are no greater than fifteen (15) feet in height and, in the case of buildings, contain nor more than one hundred fifty (150) square feet of floor area. Notwithstanding the above, in the case of front, side and rear lot lines where there are buildings other than the main building on either side within one hundred (100) feet which are nearer to the front, side or rear lot line than the required distance, then and in that event a building other than the main building may be constructed on a line with existing buildings other than the main building. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit provided the Granting Authority finds the proposed accessory use does not substantially derogate from the public good.

9.03.02 *MULTIPLE PRINCIPAL BUILDINGS ON THE SAME LOT*

In the MUI, NB, RB and FBD Districts, the Planning Board may allow multiple principal buildings on the same lot by the issuance of a special permit.

9.03.03 *LOT COVERAGE*

In any District not otherwise regulated by Section 9.02, no building shall cover more than thirty (30) percent of the total area of each lot. Not less than twenty-five (25) percent of the total area of each lot shall be left as open space in its natural state, or landscaped with trees, shrubs, grass or other ground cover material. In the NB, FBD and MUI Districts, at least one half (½) of the required open space shall be located in front of the principal building(s) or in a side yard visible from the public way.

9.03.04 *GREENBELT*

In the Industrial District, provision shall be made for the planting of a greenbelt, if required, and in a manner approved by the Planning Board. A Greenbelt shall be planted and maintained in evergreen trees or shrubs, not more than fourteen (14) feet apart, or less than six (6) feet high at time of planting.

9.03.05 *BUILDING HEIGHT*

In any District, except within an Industrial Park District, no building or structure shall be erected or altered to a height of more than thirty-five (35) feet with the exception that a private or public utility structure may be erected to a height of sixty (60) feet provided said structure is not designed for human occupancy, and that in any District a church or other place of worship may have roof of not more than forty-five (45) feet, and a steeple of not more than eighty-five (85) feet providing that no portion of such structures above thirty-five (35) feet shall be occupied.

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Within an Industrial Park District, no building or structure shall be erected to a height of more than forty-five (45) feet with the exception that a private or public utility structure, as well as mechanical facilities, elevator shafts, antennae, electronic transmission devices, or other appurtenances customarily carried above roofs and buildings, may be erected to a height of sixty (60) feet provided said structure or appurtenance is not designed for human occupancy; and provided further that, notwithstanding anything to the contrary in Section 1.04 (7) of this By-law, within the Industrial Park District height shall be measured from the average finished grade of the ground adjacent to the building or structure.

SECTION 10 – SPECIAL REGULATIONS

10.01 Signs

10.01.01 RESIDENTIAL DISTRICTS

In any Residential District the following signs are permitted and no other:

1. One sign, not over two (2) square feet in area for each family residing on the premises indicating the name of the owner or occupant, or pertaining to a permitted accessory use.
2. Two signs pertaining to a permitted use on the premises other than a dwelling or use accessory thereto or pertaining to a use specifically authorized on the premises by the Board of Appeals, and both signs shall aggregate not over ten (10) square feet in area unless authorized by the Board of Appeals, and in no case shall aggregate more than twenty-four (24) square feet in area.
3. Temporary unlighted signs aggregating not over ten (10) square feet in area pertaining to a sale, release of the premises, or pertaining to the sale of home-grown produce.
4. Unlighted, directional signs not over one (1) square foot in area indicating the route to, or location of lawful use situated on another premise.

10.01.02 COMMERCIAL DISTRICTS

In the Village Business, Commercial and Neighborhood Business District, and Heritage Districts the following signs are permitted upon receipt of a Permit by the Board of Selectmen or their designated representative:

All signs in a Resident District pertaining to permitted use on the premises other than a dwelling or use accessory thereto, or pertaining to a use specifically authorized on the premises by the Board of Appeals.

In addition, all outdoor signs must be of good professional workmanship and construction; a sign is one (1) sign whether lettering appears on both faces of the sign, or only one face of the sign; and a “V” shaped sign is to be interpreted as one (1) sign.

10.01.03 INDUSTRIAL DISTRICTS

In the Flexible Business Development District, Industrial Park, Highway Business and Limited Industrial Districts the following signs are permitted, and no others:

[Amended STM; 03-MAR-2008; Article #7]

1. Signs attached flat against the walls of the building without limitation as to the number and size thereto.
2. Two (2) other signs on the premises of a given business aggregating not over forty (40) square feet in area. A total number of two (2) signs advertising a given business and placed on other premises are permitted, and each such sign must not be over twelve (12) square feet in area, and on such premises there must be no more than one (1) such sign.

10.01.04 OTHER SIGN REGULATIONS

1. In all Districts flashing signs or flashing lights are NOT permitted.
2. Ladder-type signs are permitted in Industrial, Flexible Business Development, Commercial, Neighborhood Business and Residential Districts, i.e., signs upon which smaller signs are attached below or above, and there shall be no limit to the number of such attached signs, and each sign including all attached signs shall be interpreted as to be one (1) sign. In determining the square foot area of ladder-type signs, the area of each attached sign is to be added to the area of the larger sign.
3. Flashing Christmas tree lights in use in the Christmas season are not to be herein interpreted as flashing lights within the meaning of these regulations, and such lights are permitted in the Christmas season.

10.02 Off-Street Parking And Loading

10.02.01 REGULATIONS

The regulations apply to all new structures and existing structures enlarged by more than fifty (50) percent of their ground floor area, or having a change of use.

1. OFF-STREET PARKING

- a. Off-street parking spaces shall be required in at least the ratio specified below for the following uses of land and buildings:
 1. **PROFESSIONAL OR BUSINESS OFFICE:** Minimum of one (1) space per 300 square feet of gross floor area, reduced to one (1) space per 400 square feet for offices above the ground floor.
 2. **HOTELS, MOTELS & LODGER ACCOMMODATIONS:** One (1) parking space for each room accommodation therein.
 3. **EATING & DRINKING ESTABLISHMENTS:** One (1) parking space for each four (4) seats therein or on the site, and one (1) parking space for every two (2) linear feet of counter serving standing customers.
 4. **RETAIL ESTABLISHMENT:** Minimum of one (1) space per 300 gross square feet of floor area and a maximum of one (1) space per 250 gross square feet of floor area.
 5. **WAREHOUSE OR DISTRIBUTION FACILITY:** Minimum of one (1) space per 1,000 square feet of gross floor area and a maximum of one (1) space per 500 square feet.
 6. **GENERAL INDUSTRIAL USE:** Minimum of two (2) spaces and a maximum of three (3) spaces per 1,000 square feet of gross floor area (for associated office space, the parking should be calculated as for professional or business office).
 7. **MEDICAL OFFICE:** Minimum of one (1) space per 250 square feet of gross floor area in a medical office building with one (1) tenant; minimum of one (1)

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space per 200 square feet of gross floor area in a medical office building with two (2) or more tenants.

8. **RESEARCH AND DEVELOPMENT:** Minimum of three (3) parking spaces and a maximum of four (4) parking spaces per 1,000 square feet of gross floor area.
9. **CHILD CARE CENTER:** One (1) space per six (6) children of design capacity.
10. **UPPER-STORY DWELLING IN A COMMERCIAL BUILDING:** One (1) space per one-bedroom unit and two (2) spaces per unit for units with two (2) or more bedrooms.
11. **OTHER USES REQUIRING OFF-STREET PARKING SPACE:** Spaces in accordance with anticipated needs as determined by the Planning Board.
 - b. Required off-street parking spaces shall be located on the same lot as the building or use they are intended to serve, or land adjacent to the same lot. In the case of Flexible Business Development District, employee parking shall be located at least forty (40) feet from the street. All required parking spaces shall be 9' x 18.5'.
 - c. Required off-street parking spaces shall not hereinafter be reduced provided, however, that the Board of Appeals may determine that such reduction is warranted upon any significant change in the principal use.
 - d. Required off-street parking spaces shall each contain a minimum of two hundred (200) square feet of area, or for right angle off-street parking spaces, an area of not less than eight and one half (8½) feet in width and eighteen (18) feet in length for each vehicle suitable for parking, exclusive of necessary drives and other access ways, however, a driveway may be considered the required parking space for a dwelling.
 - e. Required off-street parking spaces shall all have adequate vehicular access to a street.
 - f. No part of an off-street parking area required for any building or use shall be included as a part of an off-street parking area required for another building or use unless a determination is made by the Board of Appeals to the effect that the period of usage of such structures or uses will not be simultaneous.
 - g. For purposes of administering these regulations, a Site Plan shall be submitted to the Planning Board for approval. Said Site Plan shall be required for all uses whether permitted by right, or by Special Permit, and shall indicate all existing and proposed structures, parking spaces, driveways, and driveway openings, off-street loading, service areas and other open areas, for surface water drainage and for landscape features. If the use requires the issuance of a Special Permit, it shall be prepared in accordance with the provisions of Section 10.03 of this By-law. The Planning Board may approve or disapprove, amend or modify the Plan. In considering the Plan, the Planning Board may take into account, to a degree consistent with reasonable use of the premises in the District in which located, the following:
 1. Convenience and safety of vehicular and pedestrian movement on the site and on the adjoining streets and properties.

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2. Adequacy as to the arrangement and, where not herein specified, the number of spaces indicated on the Plan in relation to the proposed uses of the premises.
3. Adequacy of the methods on the site of drainage and landscaping. Disapproval of the Site Plan by the Planning Board shall constitute grounds for disapproval of the premises by the Building Inspector.

2. OFF-STREET LOADING

- a. Off-street loading spaces shall be required in the ratio specified below for all business and industrial uses of land and buildings:
 1. **BUSINESS:** Off-street loading spaces of at least six hundred (600) square feet in area shall be provided for each structure in business use area, and for each-structure in business use of over 7,500 square feet of gross floor area, additional off-street loading space of at least five hundred (500) square feet in area shall be provided.
 2. **INDUSTRY:** Off-street loading space of at least six hundred (600) square feet of area shall be provided for each structure in industrial use of up to 5,000 square feet of gross floor area, and five hundred (500) additional square feet of off-street loading space shall be provided for each additional 15,000 square feet of gross floor area or fraction thereof.
- b. Required off-street loading spaces shall be located on the same parcel of land as the use are intended to serve, and no required off-street loading space shall be a part of an area used to satisfy the off-street parking requirements of these regulations. In the case of Industrial Districts all loading spaces shall be at least forty (40) feet from the street.

3. SPECIAL PERMIT

The Planning Board may, by special permit, provide for a reduction of these parking and loading requirements or for shared parking or loading, upon a finding that such reduction or shared facilities promote public safety and welfare.

10.03 *Site Plan Approval*

10.03.01 APPLICABILITY

All commercial uses (Section 4.02.03), all industrial uses (Section 4.02.04) and all transportation communication and utility uses (Section 4.02.05) allowed in any district by right or by special permit shall require site plan approval by the Planning Board as set forth herein.

10.03.02 PROCEDURES

Site plan approval shall not require a public hearing; provided, however, that the Board may, at its discretion, require notice to parties in appropriate cases. The Applicant shall submit an application on the form provided by the Board and all of the information set forth in the Rules and Regulations of the Board Governing Site Plan Review.

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1. The Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and shall file such decision in the office of the Town Clerk.
2. The decision of the Board shall be upon a majority of the Board as constituted and shall be in writing.
3. The time to file the decision of the Board with the Town Clerk may be extended upon the written request of the applicant. Such extension, if granted, shall be filed with the Town Clerk.
4. No deviation from an approved site plan shall be permitted without modification thereof by the Board.

10.03.03 REFERRAL TO OTHER OFFICIALS AND AGENCIES

The Planning Board shall refer notice of all applications immediately upon receipt to the Town Administrator, Building Inspector, DPW, Board of Health, Conservation Commission, Police Department, Fire Department, Municipal Light Department and to any other involved Town official or agency.

10.03.04 PREPARATION

Site plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect or Landscape Architect, as may be appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal.

10.03.05 CONTENTS OF PLAN

The contents of the site plan shall consist of six (6) separate sheets prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Board. The sheets are as follows:

1. Locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.
2. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, areas for snow storage after plowing and all proposed recreational facilities and open space areas.
3. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage, and all wetlands including floodplain areas.
4. Utility plan, which shall include all facilities for refuse and sewage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site.

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5. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
6. Landscaping plan, showing the limits of work, existing tree lines and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures.

10.03.06 OTHER REQUIRED INFORMATION

The application shall include the following reports and documents:

1. A written statement indicating the estimated time required to complete the proposed project and any and all phases thereof.
2. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land and any other evidence necessary to indicate compliance with these By-Laws.
3. Drainage calculations by a registered professional engineer. Stormwater management design must conform to the DEP's Stormwater Management Regulations.
 - a. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Access Board.

10.03.07 EFFECT ON OTHER PERMITS

Where a proposed use, structure or other alteration requires site plan approval, the following procedures shall apply:

1. *As of Right Uses.* No building permit or certificate of occupancy shall be issued by the Inspector of Buildings unless the application includes the decision of the Board approving the required site plan, or unless sixty (60) days lapse from the date of the submittal of the site plan without action by the Board.
2. *Use Requiring Special Permit or Variance.* In the event that the use, structure or other alteration requires a special permit or variance, any grant thereof shall include the following condition:
 - a. The proposed use or development authorized herein requires the approval of a site plan by the Board pursuant to Section 10.03 of the Zoning By-Laws.
3. *Consolidation.* Where the Planning Board also serves as the Special Permit Granting Authority for the proposed use or development, the Board shall consolidate its site plan review and special permit procedures.

10.03.08 WAIVER

The Board may, upon written request of the applicant, waive any of the technical requirements where the project involves relatively simple development plans.

10.03.09 APPROVAL

Site plan approval shall be granted upon determination by the Board that the plan meets the following objectives. The Board may impose reasonable conditions at the expense of the applicant, including performance guarantees for infrastructure only, to promote these objectives. New building construction or other site alteration shall be designed, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points and other aspects of the development, to:

1. Minimize the volume of cut and fill, the number of removed trees 6” caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion and threat of air and water pollution;
2. Maximize pedestrian and vehicular safety, both on the site and accessing and exiting the site, maximize shared parking and shared access ways in the design of commercial development and minimize the number of curb cuts;
3. Provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board’s Subdivision Rules and Regulations;
4. Minimize obstruction of scenic views from publicly-accessible locations;
5. Minimize visual intrusion by controlling the visibility of parking, storage or other outdoor service areas viewed from public ways or premises residentially used or zoned;
6. Minimize glare from headlights, minimize light glare into the night sky and minimize overspill into adjacent properties, and the installation of lighting to minimize glare into the night sky and spill into adjacent properties;
7. Provide for safe and adequate means of water, sewer, electricity and other utilities, with proper disposal of garbage and rubbish;
8. Minimize unreasonable departure from the character, materials and scale of buildings in the vicinity, as viewed from public ways and places;
9. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling or containment of hazardous substances; and
10. Ensure compliance with the provisions of these Zoning By-Laws, including parking, loading, signage and landscaping.

10.03.10 LAPSE

Site plan approval shall lapse after one (1) year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Board upon the written request of the applicant.

10.03.11 REGULATIONS

The Board may adopt reasonable regulations for the administration of site plan review.

10.03.12 FEE

The Board may adopt reasonable administrative fees and technical review fees for site plan review.

10.03.13 APPEAL

Any decision of the Board pursuant to this Section shall be appealed in accordance with G.L. c. 40A, § 17 to a court of competent jurisdiction.

10.04 Route 140 Development Guidelines

10.04.01 PURPOSES

The purposes of this section are to:

- A. Encourage commercial, industrial, and mixed-use developments on Route 140 that provide local employment and enhance the tax base;
- B. Enhance the appearance, function, and safety of Route 140;
- C. Create successful, attractive business areas that serve as gathering places for Boylston residents and meet local needs for goods and services; and
- D. Facilitate a compatible mix of commercial and industrial uses while also protecting surrounding neighborhoods from land use conflicts.

10.04.02 APPLICABILITY

This section shall apply to all commercial, industrial, and mixed-use development in the Flexible Business Development District, the Route 140 Business District, the Mixed-Use Industrial District, and the Neighborhood Business District.

10.04.03 LANDSCAPING

A. Location of open space. At least fifty percent (50%) of the minimum required open space in Section 9.02 shall be located within the front yard or side yards, or a combination thereof, provided that open space in the side yard shall be located forward of the rear building line of the principal building on the lot. All such open space shall consist of land in a natural state or landscaped areas in accordance with this section. Up to twenty-five percent (25%) of the minimum required open space may include man-made features such as stormwater management facilities, non-commercial recreational structures and uses, septic systems, and similar features.

B. Front yard treatment. The front yard facing Route 140 shall provide a continuous landscaped edge to the property in question, except for points of entry and exit. Minimum front yard landscaping shall include not less than one (1) canopy tree per twenty-five (25) linear feet of frontage, located not more than ten (10) feet from the right of way, and shrubs or bushes at a minimum ratio of 12 per tree. Wherever possible, canopy and ornamental trees, shrubs, planters, and groundcover at the edge of Route 140 shall be arranged in groupings that reduce the optical

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width of the road and shall not be regimented or evenly spaced. However, no landscaping treatments shall be permitted to obstruct clear sight distance.

C. Landscaped buffer. A landscaped buffer area at least ten (10) feet in width shall abut all side and rear property lines, except that a landscaped buffer along the side property line shall not be required on abutting lots under a shared parking agreement approved by the Planning Board. On lots abutting an existing residential use or a residential district, the landscaped buffer shall be at least twenty (20) feet in width. For vegetated swales located within the buffer area, the Planning Board may approve alternative buffer dimensions and buffer design standards than those specified herein.

D. Unsightly areas. Any accessory receptacle or structure with a holding capacity of at least one hundred (100) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be screened, in accordance with this Section, from all adjacent premises and streets from which it would otherwise be visible. Any HVAC equipment or other electrical equipment placed on the ground level shall be screened, in accordance with this Section, from all adjacent premises and streets from which it would otherwise be visible.

E. Environmental standards. Landscaping shall be composed primarily of non-invasive, drought-resistant plantings that include trees, flowers, shrubs, succulents and ornamental grasses. High-water use turf shall not exceed twenty-five percent (25%) of all open space on the site. Outdoor watering may be achieved by drip irrigation or low-energy spray irrigation, or a comparable water-conserving irrigation system, but sprinkler systems are prohibited unless the applicant can demonstrate to the Planning Board's satisfaction that the proposed system meets acceptable water conservation standards. All outdoor irrigation systems shall be served by a private water supply.

F. Minimum specifications. Plantings shall comply with the following minimum requirements and shall, wherever possible, consist of existing vegetation:

1. Shade trees shall be a minimum of three (3) inches in caliper six inches above grade and reach an ultimate height of at least thirty (30) feet.
2. Ornamental trees shall be a minimum of eight (8) feet at the time of planting, measured from the top of the root ball to the top of the tree.
3. Shrubs shall be at least eighteen (18) inches in height at the time of building occupancy and reach an ultimate height of at least three (3) feet.

G. The property owner shall ensure the health and survival of all plantings required under this section. If any plant material dies, the property owner shall replace it within 180 days.

10.04.04 LIGHTING AND UTILITIES

A. Lighting. All artificial lighting used to illuminate a parking or storage area, maneuvering space, or access road shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

B. Cutoffs Required. Each outdoor luminaire shall be a full cutoff luminaire, and the use of decorative luminaires with full cutoff optics is desired. (A full cutoff luminaire is an outdoor

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light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture is projected below the horizontal plane.)

C. Objectionable Light. All exterior lights and illuminated signs shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and/or light trespass.

D. Underground Wiring. All electric, telephone, television and other communication lines, both main and service connections, shall be provided by underground wiring.

10.04.05 ACCESS AND OFF-STREET PARKING

A. Roads and Drainage. The principal roadway(s) serving the site and drainage systems shall be designed to comply with the Massachusetts Department of Environmental Protection's (DEP) Stormwater Management Regulations.

B. Access Management. Access to lots on Route 140 shall be designed to minimize construction of new curb cuts. Shared access may be provided through one or more of the following methods, subject to approval by the Planning Board and, as applicable, by the Massachusetts Department of Transportation: (a) a cul-de-sac or loop road or common driveway shared by adjacent lots or premises, (b) joint and cross access between the lot and adjacent uses, (c) an existing side or rear street, (d) a cul-de-sac or loop road shared by adjacent lots or premises.

C. Location of Off-Street Parking. No more than twenty percent (20%) of the total parking spaces may be located in the front of the principal building on a lot to accommodate short-term parking needs of the proposed uses. In granting a special permit, the Planning Board may impose design, surface treatment, landscaping, lighting, and other requirements to mitigate the visual impact of parking areas on views from the road, and may regulate the location of the remaining parking to achieve the purposes of this section. On lots with two or more buildings, parking may be located in front of a building that is located in the rear of another building as viewed from the street.

D. Parking Lot Design. Any new parking area with five (5) or more parking spaces or an existing parking area that is expanded or improved to increase the number of spaces by five (5) or more shall conform to the requirements below.

1. No parking shall be permitted within the landscaped buffer required under Section 10.04.02.
2. Parking lots shall be provided with interior landscaping covering not less than five percent (5%) of the total area of the parking lot.
3. The interior landscaping shall include two shade trees or three ornamental trees for every ten (10) spaces. For a mix of shade and ornamental trees, there shall be an average of 2.5 trees for every ten (10) parking spaces.
4. Trees shall be at least three (3) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter. To the extent possible, tree plantings shall be located in continuous islands six feet (6') or more in width.

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5. Where the planting of trees is impractical, the Planning Board may authorize alternative landscaping instead of trees.
6. To preserve landscaped open space from damage by parking cars and snow removal operations, bumper overhang areas shall be provided with permeable ground cover that will not be damaged by bumpers or vehicle drippings, and all landscaped open space shall be provided with suitable curbing.
7. The Planning Board may modify the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells. The number, dimensions, and design specifications for bioretention cells shall be determined by the Planning Board.

E. Shared Parking. The Planning Board may grant a special permit for a shared parking serving two or more adjacent lots, subject to the following requirements.

1. A reciprocal agreement in the form of a recorded perpetual easement shall be required in order to guarantee long-term joint use of the shared parking, and the agreement shall be acceptable to the Planning Board.
2. Uses sharing the parking facility shall be located not more than five hundred (500) feet from the closest parking space.
3. The Planning Board shall base its decision on the following criteria:
 - a. The hours of operation of the uses involved;
 - b. The number of spaces required for each individual use under this section;
 - c. The degree to which vehicles using a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week; and
 - d. The degree to which the applicant's proposal promotes and accommodates other means of transportation to access the site, such as pedestrian or bicycle facilities.
4. No change in any conditions associated with a shared parking arrangement, such as but not limited to any change in the use of such property(ies) to a greater category of parking demand, shall be permitted unless the Planning Board approves an amendment to the special permit.

F. Loading and Service Areas. Loading areas and other service facilities (trash dumpsters, storage areas, utility boxes, etc.) shall be placed to the rear of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of such areas from adjacent properties or from public ways. Screening and buffering shall be achieved through walls, fences and landscaping; shall be a minimum of five (5) feet tall; and shall be visually opaque. Chain link, plastic, or concrete materials are prohibited.

G. Pedestrian Safety.

1. Sidewalks and pedestrian paths shall connect the parking lots to the principal uses they will serve. Walkways and crosswalks shall be clearly recognizable through the use of raised, textured, or color treatments in order to aid pedestrians in crossing traffic within the lot, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas.

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2. Car stops shall be provided to prevent parked cars from damaging trees and shrubs or disrupting pedestrian walkways.

H. *Bicycle Accommodation.* Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any building that results in the need for additional vehicular parking facilities, according to the following schedule.

1. Minimum of one (1) bicycle parking space for every fifteen (15) required vehicle parking spaces, for up to forty-five (45) vehicle spaces; and one (1) bicycle parking space for every twenty-five (25) required vehicle parking spaces thereafter.
2. In all cases where bicycle parking is required, a minimum of two (2) and a maximum of twenty-five (25) bicycle parking spaces shall be provided.
3. The Planning Board may approve a reduction of one (1) vehicle parking space for every five (5) bicycle parking spaces provided.

10.04.06 SIGNS

A. The sign requirements contained elsewhere in this Zoning By-Law shall determine the number, size, and location of signs for buildings and uses within a development.

B. For projects requiring Site Plan Review under Section 10.03, the applicant shall submit a comprehensive signage plan for all uses, individual buildings or complex of buildings and uses as part of its review. The signage plan shall include conceptual drawings and supporting information describing the proposed signage for all major buildings and uses, including entrance signs, directional signs, etc.

10.04.07 DESIGN GUIDELINES FOR COMMERCIAL BUILDINGS

The following guidelines shall be incorporated in the design of any new building or substantial reconstruction of an existing building for retail, restaurant, or service uses, including any combination thereof and mixed uses that include dwelling units above the ground floor, in any district subject to this Section 10.05.

A. *General.* Buildings and landscape treatments, not parking, should serve as the focal points for development along Route 140. They should contribute to a sense of continuity and coherence from Route 140 and distant vantage points.

B. *Orientation.* The front façade of the principal building on a lot with frontage on Route 140 shall be oriented toward Route 140. For developments of two or more buildings or for development on interior lots, buildings shall face the access road that serves them. Buildings may also be oriented around a courtyard or respond in design to a prominent feature, such as a corner location, subject to approval by the Planning Board.

C. *Size, Mass and Exterior Features.* Buildings shall be varied in building massing, height, and roof form, and long expanses of wall at a single height shall be avoided.

1. Whenever possible, floor height shall be varied to follow the natural grade if there is significant variation.

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2. Provide interest and variety at the pedestrian scale so that the highest level of detail occurs near pedestrian areas, streets, building entries, and around the ground floor.
3. Windows should be recessed and include visually prominent sills, shutters, or similar forms of framing. Windowless buildings with standardized façade treatments are prohibited. No building shall have more than sixty (60) linear feet of unbroken wall area.
4. Whenever possible, buildings shall include vertical articulation such as columns, piers, and windows.

D. Building Materials. Building materials including shingles, wood clapboards, brick and stone should be used for the exterior skin of building. These materials shall be considered for all buildings or portions of buildings facing public or private streets.

E. Architecture. Architecture based upon generic franchise design is prohibited. Rather, where franchise buildings of national chains are proposed architects should rely upon traditional New England building forms and incorporate such elements into building design.

F. Large-scale Development. Large-scale development shall be broken up into groupings of small-scale buildings that are scaled down into groupings of smaller attached or detached structures.

G. Architectural Focal Points. In any development with 10,000 square feet or more of retail use, the principal building on a lot shall have clearly defined, highly visible customer entrances featuring at least two (2) of the following: canopies or porticos; overhangs; recesses/projections; raised corniced parapets over the door; peaked roof forms; arches; outdoor patios; display windows; planters or wing walls that incorporate landscaped areas and/or places for sitting.

SECTION 11 – ADMINISTRATION AND ENFORCEMENT

11.01 *Enforcement*

It shall be the duty of the Building Inspector to administer and enforce the provisions of this By-law.

11.02 *Building Permit*

No Building Permit shall be issued until the construction or alteration of a building or structure, as proposed, shall comply in all respects with the provisions of this By-law, or with a decision rendered by the Board of Appeals. Except as may be otherwise required in Section 10.03, any application for such a Permit shall be accompanied by a Plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings to be constructed together with the lines within which the buildings or structures are to be erected, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the exception and enforcement of this By-law.

11.03 *Certificate of Occupancy*

No land shall be occupied or used, and no building or structure hereinafter erected or structurally altered shall be occupied or used unless a Certificate of Occupancy has been issued by the Building Inspector. Such Certificate shall state that the structure, and use of structure and land comply in every respect with the provisions of this By-law, the State Building Code, the Rules & Regulations of the Board of Health, and the Earth Removal Board as the case may be, in effect at the time of issuance, or with a decision by the Board of Appeals. A Certificate of Occupancy shall be conditional on the maintenance of full compliance with the provisions of this By-law in effect at the time of issuance, or with restrictions imposed in a Decision of the Board of Appeals, and shall become void if such compliance fails.

11.04 *Board Of Appeals*

11.04.01 MEMBERSHIP; RULES

The Board of Appeals shall consist of five members and two associate members, appointed and removed and replaced by the Board of Selectmen, and with the powers and rule-making and other duties consistent with and pursuant to M.G.L. c40A Section 12.

[Amended ATM 07-MAY-2007, Article #38]

11.04.02 POWERS

For the purposes of this By-law the Board of Appeals shall have the following powers:

1. To hear and decide appeals which may be taken by any person aggrieved by reason of his inability to obtain a Permit from any administrative official under the provisions of this By-law, or by an Officer or Board of the Town, or by an order or decision of the Building

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Inspector or other administrative official in violation of any provisions of this By-law or any By-law adopted thereunder.

2. To hear and decide Applications for Special Permits which the Board is empowered to act, under the provisions of this By-law.
3. The power, after Public Hearing for which Notice has been given by publication and posting, as provided in Chapter 40A of the General Laws of Massachusetts, Section 11, and by mailing to all parties in interest to grant upon Appeal or upon Petition with respect to particular land or structures a Variance from the terms of the applicable Zoning By-law where it specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures, and especially affecting such land or structure, but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the By-law would involve substantial hardship, financial or otherwise to the Petitioner or Appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of such By-law. No Variance may authorize a use or activity not otherwise permitted in the District in which the land or structure is located; provided however that such Variances properly granted prior to January 1st nineteen hundred and seventy six (1/1/1976), but limited in time, may be extended on the same terms and conditions that were in effect for such Variance upon said effective date.

The Board of Appeals may impose conditions, safeguards, and limitations both of time and uses including continued existence of any particular structures, but excluding any conditions, safeguards or limitations based upon the continued ownership of the land or structure to which the Variance pertains by the Applicant, Petitioner, or any owner. If the rights authorized by a Variance are not exercised within one (1) year of the date of Grant of such Variance they shall lapse, and may be re-established only after Notice and a new Public Hearing pursuant to this Section.

11.04.04 APPEALS

Any person aggrieved by the refusal, of the Board of Selectmen or their designated agent to issue a Permit on the grounds of non-compliance with these By-laws may appeal to the Board of Appeals as provided in Chapter 40A of the General Laws, and any amendments thereto. Within sixty-five (65) days from the date of the filing of a claim of appeal as provided herein, the Board of Appeals shall hold a Public Hearing thereon. The Appellant shall file in advance of the Hearing such Plans and information as the Board of Appeals shall deem necessary, and give Notice of the Hearing by causing a notice thereof to be posted in a conspicuous location upon the property in respect to which the Appeal is claimed.

11.04.05 VARIANCES

Petitions for Variances from the terms of the applicable Zoning provisions shall be dealt with by the Board of Appeals in accordance with the Zoning Act, Chapter 40A of the General Laws, as amended. The Board shall grant no Variance which would amount to an amendment of this By-law.

11.04.06 SPECIAL PERMITS

A. Special Permit Granting Authority. The Planning Board or the Zoning Board of Appeals shall serve as the Special Permit Granting Authority as designated in these By-Laws.

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

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

C. Procedures. An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority (SPGA). A written application for a special permit shall be submitted to the Town Clerk and the SPGA indicating the specific sections of these By-Laws under which the special permit is sought and stating the grounds on which it is requested.

D. Report of Other Boards. The SPGA shall within seven (7) days of receiving the application and the plan, submit notice to the Conservation Commission, Board of Health or any other Town agency that may want to review the proposal for comments. Any such board or agency may make recommendations as it deems appropriate and shall send copies thereof to the SPGA and to the applicant; provided however, that failure of any such board or agency to make recommendations within thirty-five (35) days of receipt by such board or agency shall be deemed lack of opposition thereto.

E. Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use, including performance guarantees, as the SPGA may deem necessary to serve the purposes of these By-Laws.

F. Plans. Unless otherwise provided the rule or regulation of the SPGA, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 10.03, herein.

G. Regulations. The SPGA may adopt rules and regulations for the administration of this Section.

H. Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

I. 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 G.L. c. 40A, § 17 from the grant thereof) with the Town Clerk.

11.04.07 CONSTRUCTION

Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of the By-law, unless the use or construction is commenced within a period of not more than six (6) months after the Issuance of the Permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as possible.

11.04.08 PENALTY

Any person, firm, or corporation violating any Section or provisions of this By-law shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day that willful violation continues shall constitute a separate offense.

11.04.09 AMENDMENT

This By-law may be amended from time to time in accordance with the provisions of the General Laws, Chapter 40A, Section 5.

11.04.10 REPETITIVE PETITIONS

No proposed change in this By-law which has been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended in the Final Report of the Planning Board. No Application for a Special Permit under Section 11.04.06, or Petition for a Variance under Section 11.04.05 which has been unfavorably acted upon by the Board of Appeals shall be considered on its merits by said Board within two (2) years after the vote of such unfavorable action except with the unanimous consent of the Planning Board.

11.04.11 VALIDITY

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

11.04.12 OTHER REGULATIONS

This By-law shall not interfere with, or annul any other Town By-law, Rule, Regulation or Permit provided unless specifically excepted, where this By-law is more stringent, it shall control.

11.05 PLANNING BOARD

The Five (5) member planning board established under the Town By-laws shall have one (1) associate member, as provided for and authorized by M.G.L. c. 40A, section 9; said associate member may be designated by the Planning Board Chairman to act in the stead of any of the five (5) members in case in their absence, inability to act, or conflict of interest, or in case of a

vacancy on the board. The position of associate member shall be filled by joint action of the Board of Selectmen and the Planning Board pursuant to the procedures set forth in M.G.L. c. 41 section 11.

11.06 PRIORITY DEVELOPMENT SITES

For any project located on a Priority Development Site (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 11, Parcel 2; Map 11, Parcel 2-1; and Map 17, Parcel 40, decision(s) on all permit(s) hereunder, as defined in said G.L. c. 43D, as amended, whether issued by the Board of Appeals or the Planning Board, shall be rendered no later than one hundred eighty (180) days following submission of completed application(s) therefore. Said one hundred eighty (180) days may be waived or extended as provided in G.L. c. 43D.

SECTION 12 – GROWTH MANAGEMENT

12.01 *Intent and Purpose*

This Section is adopted pursuant to the provisions of M.G.L. c. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution. The purposes of this By-law are to promote public health, safety, welfare, education, and community character by limiting growth to a manageable rate, and to provide sufficient time for the town to expand its infrastructure, accommodate growth, including fire protection, water, sewer, schools, transportation, roads, recreation, and/or police protection. This section therefore has the following purposes:

1. To ensure that growth occurs in an orderly and planned manner, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate;
2. To relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services at the level of quality which citizens expect and within the Town's ability to pay under the financial limitations of Proposition 2-1/2;
3. To provide the Town with time to study the effects of residential growth on the municipality's infrastructure character, and municipal services, and to prepare a comprehensive plan for the implementation of said study; and
4. To preserve and enhance the existing community character and value of property without unduly restricting an individual landowners' rights.

12.02 *Applicability*

Beginning on June 1, 2000, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulation of this Section 12, or unless exempt by Section 12.08, herein. This by-law shall apply to all definitive subdivisions plans, divisions of land pursuant to M.G.L. Chapter 41; Section 81P (hereafter called "A-N-R division"), variances and special permits which would result in the creation of a new dwelling unit or units.

12.03 *Definition*

1. "Growth rate limit" shall mean the maximum number of building permits for new dwelling units that may be authorized in a twelve-month period, which shall be twenty (20) permits. The growth rate is based upon the average number of building permits issued for new dwelling units in each of the eight preceding years beginning in 1992.
2. "Development" shall mean a single parcel or set of contiguous parcels of land to include subdivisions, A-N-R divisions and special permits either held in common ownership or held by separate entities at any time on or after the date of adoption of this by-law, for which one or more building permits will be sought.
3. "Residential building" shall mean dwelling unit or units.
4. "Dwelling Unit" shall mean either a single family dwelling, one unit of a duplex, one unit of a multi-family dwelling (Examples: 40 unit apartment equals 40 individual dwelling units; 2 family duplex equals 2 individual dwelling units).

12.04 *Implementation*

1. For the purpose of implementing the twenty (20) permit limitation, the Building Inspector on the first of each month shall total the number of building permits per dwelling unit issued during the previous twelve (12) months. The calculation is based on a rolling twelve (12) month total of building permits issued and limited to twenty (20) dwelling units. If the number of dwelling units for which new building permits have been issued exceeds twenty (20) in number, then the Building Inspector shall issue building permits for any additional dwelling unit or units in the then current month, except as permitted Section 12.08.
2. The Building Inspector shall act on each permit in order of submittal. At the end of the calendar year in which the By-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the second Wednesday in January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector, treat said application in accordance with subsection 12.04(1) above.
3. In a single development where the number of new dwelling units are one (1) to three (3) in total, building permits may be issued even if the new combined total of building permits issued in the previous twelve (12) months exceeds twenty (20). Once issued, these exempt building permits shall be calculated in the building permit total going forward as noted in Section 12.04 (1).

12.05 *Development Schedule*

1. All Definitive Subdivisions, A-N-R divisions, Special Permits, and variances shall include a proposed development schedule by the applicant. Development schedules as proposed or modified shall be approved by the Permit Granting Authority, shall be recorded at the Registry of Deeds and shall have no effect until recorded.
2. Building Permits for new dwelling units shall be authorized only in accordance with the following schedule:

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Number of new units in development	Dwelling Units/Year
1-3	100%
4-10	up to 50%
11-20	up to 33%
21-40	up to 24%
41+	up to 20%, not to exceed 10 building permit in any 12 month period

3. Where the applicable growth rate limit does not allow development consistent with the table set forth above, the Planning Board shall establish a development schedule which allows fewer than the maximum number of the dwelling units per year. However, the Planning Board shall not establish any development schedule which phase development for longer than a ten (10) year period.

12.06 Zoning Change Protection

The protection against zoning changes as granted by Mass. General Law Chapter 40A. Section 6 shall, in the case of a development whose completion has been constrained by this by-law, be extended to the minimum time for completion allowed under this by-law.

12.07 Periodic Review

The provisions of Section 12 shall expire on June 1, 2005: however, by vote of the Town Meeting before said date, the provisions of this section may be extended in order to continue municipal comprehensive planning and studies necessary to promote orderly growth.

12.08 Exemptions

The following developments are specifically exempt from the limits of the Growth Management by-law and shall not affect the number of twenty (20) building permits that shall be issued in any twelve (12)-month period.

1. An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this by-law, provided that no additional residential unit is created.
2. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through properly executed and recorded deed restriction running with the land. For the purpose of this section "senior" shall mean person over the age of fifty-five (55).
3. Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this by-law shall receive a one-time exemption for the purpose of constructing one single family dwelling on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of the parcel of land.

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Once issued, these exempt building permits shall be calculated in the building permit total going forward as noted in Section 12.04 (1).

4. Dwelling units to be built under any program or statute categorizing said units as low or moderate housing, or otherwise defined as affordable housing units provided that such housing units have deed restrictions to ensure that they remain affordable for no less than the period specified by the Program or statute.

SECTION 13 – EFFECTIVE DATE

The effective date of this By-law shall be the date upon which the By-law comes in full force, or effect in accordance with the provisions of the General Laws, Chapter 40, Section 32, and Chapter 40A, Section 5.

SECTION 14 – RESIDENTIAL – OFFICE OVERLAY DISTRICT

14.01 *Establishment of District*

The Residential-Office Overlay District (RO) is an overlay district superimposed on underlying zoning districts. Except where the provisions of the RO district apply, the regulations of the underlying district remaining in full force and effect.

14.02 *Overlay District Map*

The RO district is shown on a map entitled “Residential Office Overlay District” dated October, 2004 on file with the Town Clerk. The boundaries of the RO district are defined by parcels identified by Assessors’ Map and Lot Number as shown on the Boylston Assessors’ Maps in effect at the time of adoption of the district, and as may be amended from time to time by Town Meeting.

MAP & PARCEL NUMBER:

9-13	9-14	9-15	9-16	9-18	12-6	12-7	12-8
12-9	12-10	12-10-1	12-23	13-29	13-30	13-31	13-32
13-38	17-36	17-37	17-40	17-41	17-42		

14.03 *Uses Permitted By Right*

In addition to the uses permitted in the underlying district, residential dwellings in existence as of July 1, 2004 may be converted to professional offices, including, but are not limited to, office of a lawyer, accountant, engineer, doctor, dentist, software developer, real estate agent, insurance agent, sales representative, broker, surveyor, graphic designer, architect, and other professional offices having similar externally observable characteristics and minimal traffic generation. An addition to such structures of up to one thousand (1,000) square feet to accommodate a permitted use is also allowed by right. Such structures may also be used for both residential and office purposes.

14.04 *Uses Permitted by Special Permit of the Planning Board*

In the RO district, existing dwellings may be removed and the following uses involving new construction may be permitted by special permit of the Planning Board:

1. Professional offices
2. Artist studios

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3. Crafts shops, such as woodworking, dress making, pottery, etc. Selling of only products produced on the premises and related or associated products is permitted.
4. Instruction for music, dance and other performing arts.
5. Veterinary clinics

14.05 *Development Standards in the RO District*

1. Residential Appearance: Dwellings converted to office use shall retain, and new buildings shall have, the appearance of a single-family dwelling. There shall be no external changes or outdoor lighting that will detract from the residential character of the underlying district.
2. Parking: There shall be provided two off-street parking spaces for each dwelling unit and/or one space for each three hundred (300) square feet of non-residential floor space. Subject to Planning Board approval, off-street parking spaces shall be provided in a location that will have the least intrusion on the neighborhood and lowest impact on abutting properties. Parking areas shall be located at least ten feet (10') from any property line.
3. Commercial Vehicles: All commercial vehicles must be parked in a garage or an enclosed structure.
4. Signs: Each lot is permitted one standing sign or ground sign not exceeding twelve (12) square feet in area to advertise the business conducted on the premises.
5. Lighting: All exterior lights and illuminated signs shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and/or light trespass.
6. Landscaped Buffer: For new construction there shall be provided a landscaped buffer at least ten feet (10') in width along any property line in residential use. Such buffer shall consist of a hedge or evergreen trees that at maturity will screen the property from adjacent dwellings. Alternatively, a four (4) to five (5) foot high fence may be erected which provides a visual screen.
7. Exterior Storage: There shall be no exterior storage of materials or refuse.

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SECTION 15 – [RESERVED]

SECTION 16 - INCLUSIONARY ZONING

16.01 Definitions

Affordable housing: Housing which is restricted for sale, lease or rental:

1. to households within specific income ranges as defined by this By-law;
2. at specific prices not exceeding thirty (30) percent of the income of the renting household, or for which the mortgage payment (including insurance, utilities and real estate taxes) does not exceed thirty (30) percent of the income of the purchasing household, or other standards as may be established pursuant to any Town, state or federal housing program designed to assist low and moderate income households and adopted by the Town of Boylston.

Affordable housing unit. A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Worcester County median income as reported by the U.S. Department of Housing and Urban Development units listed under M.G.L. Chapter 40B Sections 20-24 and the Commonwealth Local Initiative Program.

Low-income: Having a total household or family income between fifty-one (51) percent and eighty (80) percent of the median income for the Worcester Standard Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U. S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.

Local housing fund: An account established by: (a) The Town for the specific purpose of creating affordable housing, including use by the Town Housing Authority for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants; or (b) a housing or community development corporation designated by the Town and created under the laws of the Commonwealth of Massachusetts.

Moderate-income: Having a total household or family income between eighty-one (81) percent and one hundred (100) percent of the median income for the Worcester Standard Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U. S. Department of Housing and Urban Development or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.

Qualified affordable housing unit purchaser or tenant. An individual or family with household incomes that do not exceed 80% of the median income, with adjustment for household size, as reported by the United States Department of Housing and Urban development (HUD) and the Commonwealth Local Initiative Program.

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Very-low-income: Having a total household or family income less than or equal to fifty (50) percent of the median income for the Worcester Standard Metropolitan Statistical Area, as set forth in regulations promulgated from time to time by the U. S. Department of Housing and Urban Development, or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development.

16.02 Purpose

The requirements of this Section is to enhance the public welfare through increasing housing affordable to persons of very-low, low and moderate incomes. In order to encourage utilization of the Town's land in a manner consistent with local housing policies and needs, the Town requires new, converted or renovated housing developments to include a proportion of housing units that shall be affordable to persons of very-low, low and moderate income. Accordingly, the provisions of this Section are designed to:

1. Encourage the supply of rental and ownership housing in the Town of Boylston that is available to and affordable to low and moderate income households;
2. Exceed the 10% affordable housing trend established by the Commonwealth in M.G.L. Chapter 40B, Section 20; and
3. Encourage a greater diversity and distribution of housing to meet the families and individuals of all income levels.

16.03 Applicability

1. **General.** The provisions of this Section shall apply in zoning districts to all residential developments of eight (8) or more housing units, whether rental or ownership. The requirements must be satisfied before a Building Permit may be issued. Assisted living units in a life care facility and accompanying services are also subject to the requirements of this section.
2. **Types of developments.** Residential developments subject to this Section shall include housing created both by new construction, or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.
3. **Segmentation.** Developments may not be segmented or phased to avoid compliance with these provisions.
4. **Division of Land.** The division of land into eight (8) or more lots shall require a special permit from the special permit granting authority (SPGA). A special permit shall be required for land divisions under M.G.L. Chapter 40A Section 9 as well as "conventional" or "grid" divisions as allowed by M.G.L. Chapter 41 Section 81-L and Section 81-U, including those divisions of land that do not require subdivision approval.
5. **Multiple Units.** The construction of eight (8) or more dwelling units, whether on one or more contiguous parcels, shall require a special permit from the SPGA.

16.04 Provision of affordable units

1. **Number of units to be provided:** All developments including a residential component which are subject to this Section shall be required to set aside a minimum of fifteen percent (10%) of the total number of dwelling units, and a minimum of fifteen percent (10%) of the total number of bedrooms, provided as affordable housing.
2. **Fractions:** If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if over one-half (1/2), shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit equal to or less than one-half, the fraction shall be rounded down to the next whole number.
3. **Sale or rental of units to very-low-, low-, and moderate income households:** Units set aside for sale or rental to very-low-, low-, and moderate-income households shall be restricted for occupancy by qualified households which meet the definition of “very-low,” “low” and “moderate” income set forth in this by-law.
4. **Distribution of affordability for rental units.** Affordable rental units shall be set aside as follows:
 - a. In developments which are required to include fewer than three (3) affordable units all affordable units shall serve low-income households.
 - b. In developments which are required to include exactly three (3) affordable units,
 - One (1) affordable unit shall serve a very-low-income household
 - One (1) affordable unit shall serve a low-income household
 - One (1) affordable unit shall serve a moderate-income household.
 - c. In developments which are required to include more than three (3) affordable units, the units shall be distributed as follows:
 - 25% shall serve very-low-income households
 - 50% shall serve low-income households
 - 25% shall serve moderate-income households.
5. **Affordability of ownership units.** Affordable ownership units shall serve low-income households.
6. **Relationship to the affordable housing inventory.** It is intended that the affordable housing units serving low and very-low income households that result from this by-law be considered as Local Initiative Units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development.
7. **Relationship to public funding programs.** Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

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8. **Relationships to other organizations.** Subject to the approval of the Town and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, to distribute, maintain or operate the units in accordance with the requirements of this section.
9. **Development bonus.** If the proposed development is located in a subdivision and the developer will increase the number of affordable units to 15% of the total number of units, the Planning Board may grant a waiver to reduce the lot frontage required in the applicable zoning district by 15%.

16.05 *Affordability requirements*

1. **Duration of affordability:** Affordable units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability of the units as defined by this by-law.
2. **Maximum rental price.** Rents for the affordable units, including utilities, shall not exceed 30% of the targeted annual gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Town.
3. **Maximum sales price.** Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed 30% of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Town.
4. **Resale prices.** Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by the federal Department of Housing and Urban Development and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the Town and the developer or owner, this percentage may be increased or decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.
5. **Marketing plan:** The affordable units must be rented or sold using marketing and selection guidelines approved by the Town.
6. **Preference for Town residents and persons employed within the Town.** Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered to current residents of the Town of Boylston who have resided in the Town for a minimum of five (5) years, to persons employed within the Town of Boylston for at least five (5) years, and persons who, although not currently residents of the Town, have previously resided in the Town of Boylston for a minimum of five (5) years.

16.06 *Development standards*

1. **Location of affordable units.** Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
2. **Comparability.** Affordable units shall be to the extent possible externally indistinguishable from market rate units in the same development. Affordable units should be comparable to market rate units in terms of location, quality, character, and room size.
3. **Unit size.** Except as otherwise authorized by the Town, affordable units shall contain one or more bedrooms. The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.
4. **Rights and privileges.** The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.

16.07 *Alternative Methods of Affordability*

1. Section 13.06.00 (1) mandates that affordable units shall be provided onsite. However, in certain exceptional circumstances the Town may, at the formal written request of the developer, consider an alternative method of compliance. In granting such authorization, the Town must find that the developer has demonstrated that building the required affordable units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the Town. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the developers, who must make full disclosure to the Town of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below in Section 13.07.00 (2).
2. The following alternative method of compliance may be considered by the Town in rare, exceptional circumstances:
 - a. **Off-site Location:** With authorization by the Town as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the Town of Boylston and must add to the Town's stock of affordable housing units. Off-site units shall be comparable in quality, size and type to the market-rate units being created, and of a number no fewer than the number of units that would have otherwise been provided on-site. Affordable off-site units allowed by this By-law may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to the same construction schedule as otherwise required if on-site as set forth in Section 13.08.00 (3).
 - b. **Cash Contribution:** With authorization by the Town as described above, developers may make a cash payment to the Town to be used only for the purposes of providing housing affordable to very-low and low-income households as defined by this by-law.

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Prior to the issuance of a final occupancy permit for any portion of the project the contribution shall be payable in full, or a written agreement approved by a majority of the Board of Selectmen must be recorded.

For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to a four-person low income household as defined by this by-law.

For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to a four-person low-income household as defined by this by-law, calculated over a term of 10 years.

Administration of funds. Funds donated to the Town in accordance with the provisions outlined in M.G.L., Chapter 44, Section 53A, shall be restricted solely for the creation of affordable housing, located in the Town of Boylston, and as defined by this by-law. The funds shall be kept in a separate account by the Town Treasurer. The Town Treasurer shall deposit the funds in a bank or invest the same in securities as are legal under the law of the Commonwealth of Massachusetts. Any interest earned shall be credited to and become part of the fund. Any moneys conveyed to the Town in accordance with this Section shall be expended only with approval of the majority of the Board of Selectmen.

16.08 *Enforcement*

1. **Legal restrictions.** Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Town. All condominium documents and fees shall be subject to review and approval by the Town and the Town Counsel.
2. **Timing of commitments.** All contractual agreements with the Town and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any approval required to commence construction.
3. **Timing of construction.** As a condition of the issuance of approval under this Section, the Town may set a time schedule for the construction of both affordable and market-rate units. No Certificate of Occupancy shall be issued for any market-rate units in a development subject to the requirements of this Section until 25% of the affordable units required to be constructed have been issued a Certificate of Occupancy. No Certificate of Occupancy shall be issued to more than 50% of the market-rate units until 100% of the affordable units required to be constructed have obtained a Certificate of Occupancy.

16.09 *Review by Special Permit Granting Authority (SPGA)*

The Planning Board shall be designated the SPGA under this By-law.

16.10 *Conflict with Other By-laws*

The provisions of this by-law shall be considered supplemental of existing zoning by-laws. To the extent that a conflict exists between this by-law, and others, the more restrictive by-law or provisions therein, shall apply.

16.11 *Severability*

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

Appendix A - Changes voted to amend Boylston Zoning By-Laws

1947 March 10, Annual Town Meeting

Article #20 – First Zoning adopted in Boylston, Lot sizes set at 7500 sq. ft. with 75 feet of frontage required. Use regulations not adopted.

1949 June 9, Annual Town Meeting continued from March 7

Article #29 – Town by-laws adopted, including a building code. "Civic Board" formed with similar duties, to present day Planning Board.

1952 June 9, Special Town Meeting

Article #4 – Zoning article passed with first land use regulations. "Residential" and "Commercial" Districts. Commercial district a 200 foot strip along all of Main Street except MDC land and a 200 foot strip around the shore line of Rocky Pond.

1952 Nov 24, Special Town Meeting

Article #5 – Planning Board established and Ch 41 Sec 81 Accepted (Subdivision Control law).

1954 Dec 27, Special Town Meeting

Article #9 – Lot sizes increased. Residential and Commercial Zones require 125 feet of frontage and 13,000 sq.ft. of area.

1955 March 7, Annual Town Meeting

Article #23 – First Earth Removal By-law passed.

1956 March 12, Annual Town Meeting

Article #20 – Lot sizes changed. Residential and Commercial Zones require 100 feet of frontage, and 10000 sq.ft. of area.

1956 June 18, Special Town Meeting

Article #2 – Commercial District created on Shrewsbury Street'

1957 June 3, Special Town Meeting

Article #2 – Commercial District created on Route 140

1958 June 9, Special Town Meeting

Article #2 – Commercial District created on School Street.

1959 Sep 21, Special Town Meeting

Article #6, #7 – Created Commercial District Route 140. Changed lot sizes to require 125 feet of frontage and 12,500 sq. ft. of area in Residential and Commercial Districts. Created first Industrial District and established use regulations for Industrial Districts. Established industrial district on 11 acres of land on Main street near Cross Street

1962 June 11, Special Town Meeting

Article #5 – Created Industrial District on Route 140.

1962 Dec 3, Special Town Meeting

Article #6 – Changed lot sizes to require 100 feet of frontage and 15,000 sq.ft. of area in Residential and Commercial Districts.

1964 Dec 28 Special Town Meeting

Article #6, #7 – Change Commercial District on Linden Street to Residential. Off Street Parking & Loading

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1965 Nov 15, Special Town Meeting

Article #8, #9, #10 – Change Industrial District on Main Street to Residential District.

Tahanto Regional High School
Roof rafters & roof trusses (building)
Foundation walls for dwellings (building)

1965 Dec 27, Special Town Meeting

Article #6, #7 – Established lot sizes in Industrial District and zoned additional land on Route 140 for Industrial, also created definitions of Manufacturing. Lot sizes established require 300 feet of frontage and 100,000 sq.ft of area.

1967 Sep 18, Special Town Meeting

Article #10 – Change lot sizes and set back. Commercial Districts require 150 feet of frontage and 30,000 sq. ft. of area. "Setback" distances of buildings in Commercial & Residential areas.

1970 June 1, Special Town Meeting

Article #5 – signs in Commercial & Industrial Districts

1971 Sep 13, Special Town Meeting

Article #2 – Established lot sizes based on number of dwellings in a residential building.

1972 July 10, Special Town Meeting

Article #1 – Defined "structure".

1973 July 30, Special Town Meeting

Article #6, #7, #8 – Established new Zoning districts with lot sizes based on the results of a soil survey completed by the US Soil Conservation Service, and under advice of the Central Mass Planning Commission. This is the first time zoning was based on scientific evidence and professional advice. A Moratorium was passed to halt development of multi-family housing. This was in response to the building of 150 Condo units at Timberbrook, and was to allow the Town time to assess the impact of large developments in the future. Around this same time CMRPC was conducting land use and planning studies for Boylston, funded by the Federal government.

Districts Created

RS15 15,000 sq ft lots residential single family
RG30 30,000 sq ft lots residential general
RG40 40,000 sq ft lots residential general
Commercial
Industrial

1974 Jan 28, Special Town Meeting

Article #7 – Small accessory buildings now allowed 10 feet from lot lines.

1977 Dec 19, Special Town Meeting

Article #8 – Created "Executive Training District" to enable Digital Equipment Corp. to, purchase the former Shepard Knapp School for the purpose of establishing a training center and other related uses

1978 June 16, Special Town Meeting

Article #7 – Rewrite of the entire Zoning By-Law. As a result of the Digital purchase and the Zoning Enabling Act, the Planning Board hired CMRPC to rewrite the Zoning By-Law. A Committee was formed of citizens and questionnaires were sent to all the Boylston residents. Much of the classic "strip zoning" for Commercial was changed and the present zoning districts *were* established. The Town Meeting was turbulent however the change passed by the required 2/3 vote. A lawsuit was brought against the Town trying to invalidate the vote, a decision in land Court upheld the Town.

1980 May 5, Annual Town Meeting

Article #26 – Establish Watershed Protection Area

Zoning By-Laws for the Town of Boylston, Massachusetts

1981 May 4, Annual Town Meeting

Article #18 – Flood plain Zoning passed. Required for residents of Boylston to obtain Federal flood insurance.

1985 Jan 14, Special Town Meeting

Article #3 – Depth change to Village Business District for Wagner Motors.

1985 May 13, Annual Town Meeting

Article #17 – *Not approved* – Change to Flood Plain District description.

1986 May 12, Annual Town Meeting

Article #14 – Zoning change to allow channel 27 to build broadcasting studio on Cross Street

1987 Jan 1, Special Town Meeting

Article #13 – Sect. V 5.01.02 change wording

1988 May 9, Annual Town Meeting

Article #26, #27, #28 –

Section 4.03.02	relating to Industrial Park
Section 3.02.04 (1)	delete "Y" designation & add Y1
Section 5.02.01 (1)	relating to "off street parking"

1989 May 9, Annual Town Meeting

Never voted on – Several Zoning changes at the request of Digital Corp. To allow the construction of a proposed education center on the property at route 70 & route 140.

1989 June 5, Continued Town Meeting from May 9

Article #23 – Change Highway Business District to allow a restaurant use requested by Ronald Wagner.

1990 March 19, Special Town Meeting

Article #2 – Extension of the Watershed Protection District at the request of St. Mary's Parish.

1992 May 12, Annual Town Meeting

Article #25 – Change to Village Business District regarding the use of buildings for professional offices at the request of Michael Mandrelia.

1992 May 11, Annual Town Meeting

Article #24 – Add to the Industrial District under 3.02.04.

1993 May 10, Annual Town Meeting

Article #17 – Add automobile dealership to Village Business requested by Ronald Wagner.

1996 Feb 26,

Article #1 – Change part of Route 140 from Residential District to Watershed Protection District.

Article #2 – Require submission of a Site Plan to Building Inspector before getting a Building Permit.

Not approved by the Attorney General as the Planning Board failed to hold a Public Hearing.

Article #3 – Add Section 3.02.03.17 under Table of Uses to allow a restaurant in the Industrial District with restrictions.

1996 May 13, Annual Town Meeting

Article #24 – Amend Section 1.04.06 by deleting “lowest” and inserting “average” in its place.

Article #26 – *Not approved*

1997 May 12, Annual Town Meeting

Article #33 – *Not Approved* – To further extend the Watershed Protection District.

Article #34 – *Not voted on* – Relating to Groundwater Protection District. Planning Board made no recommendation as this was defeated last year & cannot be voted on for 2 years after failure.

Zoning By-Laws for the Town of Boylston, Massachusetts

1999 May 10, Annual Town Meeting

Article #36 – Wellhead Protection District expansion.

Denied by Attorney General as Town Clerk did not post Public Hearing Notice 14 days prior to Public Hearing.

Article #37 – Wireless Communication By-Law, Adding it to the several areas of the By-laws that it applies to:
Section I-Purpose, Section III - Use Regulations.

Article #38 – Changing Watershed Protection District Map, and Amending Section 3.02 by adding a new Commercial use of #7A in Section 3.02.03

Article #40 – Add to the Section III- Use Regulations, and delete Section 3.03.2 Industrial Park District

Article #41 – Amend Section 3.02 Schedule of Use Regulations by adding .01 in Section 3.01

2000 May 8, Annual Town Meeting

Article #25 – Add Section 1 – General Wellhead Protection Overlay Zoning District

2001 May 14, Annual Town Meeting

Article #40 – Delete gasoline station in Highway Business

2001 Feb. 26, Special Town Meeting

Article #1 – Amend Zoning By-law Section 3.02.03 and Section 4.02, add Automobile Dealership to HB and Dimensional requirements

2004 Oct 18, Special Town Meeting

Article #5 – Add section 11.05 – associate member for Planning Board

Article #7 – Voted to approve a Recodification of the Zoning By-Laws, no changes made to language, purpose was to change format and produce a electronic version of By-Laws

Article #8 – Add section 14 – Residential-Office Overlay District for specific map and parcel locations

Article #9 – Add section 15 – Flexible Business Development By-Law to the Industrial and Commercial Districts

Article #10 – Modify the Town’s Zoning By-Law by changing the Zoning Map, specific map and parcel locations changed to either Industrial or Commercial District along Rte 140.

Article #12 – Add section 16 – Inclusionary Zoning – enhance the public welfare through increasing housing affordable to persons of very-low, low and moderate incomes.

2005 May 02, Annual Town Meeting

Article #30 – *Not approved* – Amend section 9.02 and 9.03 “excluding municipally owned buildings”

Article #31 – Approved and accepted by State Attorney General’s Office -with amended word changes to completely replace section 2.01 “Extension Or Alteration Of Nonconforming Uses” – Reason for this replacement – to add wording to conform to MGL (Massachusetts General Law) that was lacking.

2006 May 01, Annual Town Meeting

Article #35 – Approved and accepted by State Attorney General’s Office – Amend section 2.04, Clarification on “Abandonment”.

2006 OCT 16, Special Town Meeting

Article #4 – *Not approved* – Accessory Dwelling Units (ADU)

Zoning By-Laws for the Town of Boylston, Massachusetts

2007 MAY 07, Annual Town Meeting

Article #37 Altering, modifying Classes of Zoning District shown on Assessor's Map 12/parcel 18D and Map 12/Parcel 19.

ADD – new subsection 3.01, 14

14. TOWN of BOYLSTON OFFICIAL ZONING MAP

The 2007 Town of Boylston Official Zoning Map is attached hereto and made part hereof and incorporated herein by reference, and it set forth and delineates the boundaries of the Classes of Zoning Districts comprising all of the land.

Article #38 Board of Appeals Membership rules

DELETE – existing section 11.04.01

REPLACE with new section 11.04.01

11.04.01 MEMBERSHIP; Rules

The Board of Appeals shall consist of five members and two associate members, appointed and removed and replaced by the Board of Selectmen, and with the powers and rule-making and other duties consistent with and pursuant to M.G.L. c40A Section 12.

2008 MAR 03, Special Town Meeting

Article #7 Amend the Zoning By laws as follows:

- 1) In Section 3, delete Paragraph 10 in section 3.01, entitled “Watershed Protection District”, in its entirety and replace it with the following paragraph -
- 2) Replace the terms “Watershed Protection District” and “(WP)”, in all instances that such appear in the Zoning By-laws, with references to “Limited Industrial District” and “(LI)”, respectively.
- 3) In Section 15.02, entitled “Applicability”, insert the words “Limited Industrial” in the first sentence of the paragraph.
- 4) Revise the Official Zoning Map by replacing all references to “Watershed Protection” with references to “Limited Industrial”. (Section 3.14 – update reference to this article)

2009 May 04, Annual Town Meeting

ARTICLE 30, amend the Zoning By-Laws of the Town of Boylston as required by its acceptance of G.L. c. 43D and its designation of “Priority Development Sites” there-under, by adding a new section 11.06, as follows:

11.06 PRIORITY DEVELOPMENT SITES

For any project located on a Priority Development Site (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 11, Parcel 2; Map 11, Parcel 2-1; and Map 17, Parcel 40, decision(s) on all permit(s) hereunder, as defined in said G.L. c. 43D, as amended, whether issued by the Board of Appeals or the Planning Board, shall be rendered no later than one hundred eighty (180) days following submission of completed application(s) therefore. Said one hundred eighty (180) days may be waived or extended as provided in G.L. c. 43D.

2009 Nov. 09, Special Town

Article #2 Amend the Zoning By laws as follows:

- 1) In Section 4 of the Zoning Bylaws, entitled “Use Regulations”, amend the table in Part 4.02 therein, entitled “Schedule of Use Regulations”, by inserting the following new designations at line 4.02.05, “Transportation, Communication, Utility,” Note 3, “Wireless Communication Facility”, and under the columns “H” and “RR”:
SP# and
- 2) In Section 8 of the Zoning Bylaws, entitled “Wireless Communication”:
 - (a) Amend subparagraph A in Part 8.01, “Applicability,” to read as follows: (new text shown in bold):
 - A. Any Wireless Communication Facility to be constructed, installed, replaced, maintained and/or used in the Industrial Park (IP), and Industrial (I), **Heritage (H) and Rural Residential (RR)**, zoning districts as specifically provided for

Zoning By-Laws for the Town of Boylston, Massachusetts

hereafter, in compliance with the provisions of this Wireless Communication By-law and upon the grant of Special Permit.”

(b) Amend subparagraph B in Part 8.01 by deleting the following text (shown in bold/strikethrough):

Any Wireless Communication Facility to be constructed, installed, replaced, maintained and/or used on property owned by the Town of Boylston in the above ~~(4)~~ zoning districts as specifically provided for hereafter in compliance with the provisions of this By-law.

(c) Amend the second sentence in the first paragraph of Part 8.03, entitled “Jurisdiction”, by deleting the following words (shown in bold/strikethrough):

The Planning Board is further authorized to grant or modify Special Permit(s) for the construction, installation, replacement, maintenance and or use of a Wireless Communication Device(s) on already existing buildings or structures ~~in the Industrial Park (IP) and Industrial (I) zoning districts.~~

(d) Amend subparagraph J in Part 8.04, entitled “Required Findings For a Special Permit,” by deleting the following words in the first sentence therein (shown in bold/strikethrough):

That any Wireless Communication Facility ~~in the Industrial Park (IP) or Industrial (I) zoning districts~~ is set back from:

The 1978 Zoning change was the result of a comprehensive look at Boylston's future needs by the Planning Board, an Advisory Committee and CMRPC. In the mid 1970' s many studies were conducted in Central Massachusetts & paid for by the Federal Wastewater Study Program. Land use maps were prepared for Boylston along with other maps such as slope maps, watershed maps, soil maps, and population projections. Opinion surveys were conducted by the Planning Board and on a state level by a Growth Policy Commission. All of these tools were used as an input to rewrite the Zoning By-Laws. There were some issues identified that were not addressed and would need further study to develop additional protection in the future. Protection of the municipal wells was the first priority; identification of the zone for the wells would be necessary to create a protective zone. Arrangements were made with UMASS to have a PhD candidate conduct studies for Boylston. Unfortunately, the student never completed the program.

The Board attempted to obtain funds from the Town for this work, however we were asked by the Finance Committee to "wait until next year" several times.

The other point that was not addressed was the evidence that due to soil conditions and the absence of town water and sewers many parts of Boylston should have lots larger than the 40,000 sq. Ft. It was a practical decision not to attempt to change this in 1978 since the Support of the Advisory Committee did not exist. (Prepared for the Boylston Planning Board by. R. Duffy in May 1993)