Town of Tyngsborough-
Zoning Bylaw

(Amended Through June 26, 2021)

TABLE OF CONTENTS

Page No.

1.00.00 PURPOSE, AUTHORITY AND PROCEDURE 1
1.10.00 Authority and Purpose 1
1.10.10 Authority 1
1.10.20 Purpose 1
1.11.00 Administration 1
1.11.10 Enforcement 1
1.11.20 Compliance Certification 2
1.11.30 Building Permit 2
1.11.40 Professional Inspection 2
1.11.50 Penalty 2
1.12.00 Reserved 3
1.13.00 Board of Appeals 3
1.13.10 Establishment 3
1.13.20 Powers and Duties of the Board of Appeals 3
1.13.30 Public Hearings 4
1.13.40 Repetitive Petitions 4
1.14.00 Amendments 4
1.15.00 Appeals 4
1.16.00 Special Permits 4
1.16.10 General Rules, Regulations and Administration 5
1.16.20 Site Plan Special Permits 7
1.17.00 Applicability 9
1.17.10 Other Laws 9
1.17.20 Minima 9
1.18.00 Validity 9
1.19.00 Growth Management 9
1.19.10 Intent and Purpose 10
1.19.20 Applicability 10
1.19.30 Planned Growth Rate of Development 11
1.19.40 Development Scheduling 11
1.19.50 Exemptions 12
1.20.00 Inclusionary Zoning 13
1.20.10 Intent and Purpose 13
1.20.20 Definitions 14
1.20.30 Applicability 15
1.20.40 Methods of Providing Affordable Housing Units 15
1.20.50 General Provisions for Affordable Housing 16
1.20.60 Local Preference 17
1.20.70 Construction, Building Permit and Occupancy Requirements, Severability 17

2.00.00 DISTRICT REGULATIONS....18
2.10.00 Establishment of Districts....18
2.11.00 Regulation of Uses....18
2.11.10 Application....18
2.11.20 Uses Not Listed....18
2.11.30 Table of Permitted Uses....19
2.11.40 Principal Use Definitions....23
2.11.50 Accessory Use Regulations....33
2.12.00 Intensity of Use (Dimensional Requirements)....35
2.12.10 Standard Dimensional Provisions....35
2.12.20 Minimum Land Area....35
2.12.30 Lot Perimeter....35
2.12.40 Methods for Calculating Dimensional Requirements....36
2.12.50 Table of Standard Dimensional Requirements....40
2.13.00 Flood Plain and Floodway Districts....41
2.13.10 Purpose....41
2.13.20 Methods for Determining Flood Plain District and Floodway Boundaries....43
2.13.30 Flood Plain Regulations....43
2.13.40 Floodway Regulations....44
2.13.50 Permits are Required for all Proposed Development in the Floodplain Overlay District....45
2.13.60 Procedures for Applying for a Special Permit Pursuant to Section 2.13.51....46
2.13.70 Local Enforcement....48
2.13.80 Definitions Not Found in the State Building Code....48
2.14.00 Wetlands District....51
2.14.10 Purposes of District....51
2.14.20 Boundaries of Wetlands District....51
2.14.30 Prohibited Uses....51
2.14.40 Allowed Uses....52
2.14.50 Notification of Water Course Alteration....53
2.15.00 Nonconforming Lots, Uses and Structures....54
2.15.10 Nonconforming Lots....54
2.15.20 Nonconforming Uses and Structures....54
2.16.00 Mixed Use Overlay District....56
2.16.10 Purposes of District....56
2.16.20 Boundaries....56
2.16.30 Relationship to Existing Zoning....56
2.16.40 Definitions....56
2.16.50 Permitted Uses....56
2.16.60 Site Plan Special Permit....58
2.16.70 Dimensional Requirements....58

2.16.80 Applicant Procedures……60
2.16.90 Waiver……61
2.16.100 Other.....61
3.00.00 GENERAL REGULATIONS.....61
3.10.00 Parking and Loading.....61
3.10.10 Objectives and Applicability.....61
3.10.20 Parking Requirements.....62
3.10.30 Loading Areas.....65
3.10.40 Parking and Loading Area Design and Location.....65
3.11.00 Sign Regulations.....69
3.11.10 Purpose.....69
3.11.20 Definitions.....69
3.11.30 General Provisions ……71
3.11.40 Permitted Signs.....74
3.11.50 Signs for Property Abutting Limited Access, High Speed Highways 80
3.12.00 Soil, Vegetation, Rock, and Gravel Removal.....81
3.12.10 Purpose.....81
3.12.20 General Provisions.....82
3.12.30 Application for Soil, Vegetation, Rock and Gravel Removal 82
3.12.40 Permit for Soil, Vegetation, Rock and Gravel Removal.....83
3.12.50 Removal Incidental to Development, Construction or Improvement.....84
3.12.60 Public Hearing 84
3.12.70 Operational Standards for Removal and Restoration.....84
3.12.80 Security Requirements.....87
3.13.00 Buffering, Screening and Grading 88
3.13.10 Purposes 88
3.13.20 Buffering and Screening from Adjacent Residential Uses 88
3.13.30 Buffering and Screening Requirements Between Land Uses in Business and Industrial Zones 89
3.13.40 Grading 90
3.14.00 Environmental Protection Standards.....90
3.14.10 Compliance 90
3.14.20 Water Quality.....91
3.14.30 Air Quality 91
3.14.40 Noise 91
3.14.50 Solid Waste Storage.....92
3.14.60 Other Requirements 92
3.15.00 Outdoor Lighting 92
3.16.00 TREE PROTECTION.....93
3.16.01 Purpose.....93
3.16.02 Definitions.....93

3.16.03 Applicability 94
3.16.04 Exemptions 94
3.16.05 Review and Decisions 95
3.16.06 Application Requirements 95
3.16.07 Review Standards 96
3.16.08 Additional Considerations 96
3.16.09 Replacement Trees 97
3.16.10 Required Security 97
3.16.11 Enforcement 98
3.16.12 Severability 98
4.00.00 SPECIAL REGULATIONS 98
4.10.00 Special Permits - Major Business Complex 98
4.10.10 Applicability and Objectives 98
4.10.20 Submittals Generally 99
4.10.30 Decision Criteria 99
4.11.00 Special Permits - Major Industrial Complex 100
4.11.10 Applicability and Objectives 100
4.11.20 Submittals Generally 100
4.11.30 Decision Criteria 101
4.12.00 Special Permits - Multifamily Development 101
4.12.10 Applicability and Objectives 102
4.12.20 Submittals Generally 102
4.12.30 Decision Criteria 103
4.12.40 Additional Dwelling Units 104
4.13.00 Special Permits - Fairs, Carnivals and Similar Events 104
4.13.10 Purpose 104
4.13.20 Applicability 105
4.13.30 Sponsorship 105
4.13.40 Duration 105
4.13.50 Other Requirements 105
4.14.00 Special Permit - Open Space Residential Development 105
4.14.10 Objectives 105
4.14.20 Open Space Residential Regulations 105
4.14.30 Legal Requirements for Common Land Ownership and Maintenance 106
4.14.40 Submissions Generally 107
4.14.50 Decision Criteria 107
4.14.60 Relation to Subdivision Control Act 108
4.15.00 Special Permit - Temporary Independent Living Quarters 108
4.15.10 Applicability and Objectives 108
4.15.20 Submittals Generally 108
4.15.30 Decision Criteria 109
4.15.40 Special Permit Conditions 110

4.16.00 Special Permit - Telecommunications Towers (TC-1) 110
A Purpose…….....110
B General Requirements…….....110
C Application Process…….. 111
D Design Guidelines…….….....112
E Special Use Permit Review…….. 113
4.17.00 Special Permit - Outdoor Sales of Holiday Trees, Wreaths, or Similar Facilities 113
4.17.10 Purpose.....114
4.17.20 Applicability 114
4.17.30 Duration 114
4.17.40 Submittals Generally.....114
4.17.50 Decision Criteria 114
4.18.00 Special Permit - Farmer's Markets, Farm Stands, or Similar Facilities.....114
4.18.10 Purpose.....114
4.18.20 Applicability 114
4.18.30 Duration 114
4.18.40 Submittals Generally.....115
4.18.50 Decision Criteria 115
4.19.00 Special Permit – Assisted Living and Continuing Care Campus Development 115
4.19.10 Purpose.....115
4.19.20 Applicability 115
4.19.30 Uses.....115
4.19.40 Basic Requirements 116
4.19.50 Age Appropriate Design 116
4.19.60 Development Standards 117
4.19.70 Procedures.....117
4.19.80 Mandatory Findings 118
4.20.00 Special Requirements – Mini-Warehouse/Self Storage.....118
4.20.10 Purpose.....118
4.20.20 Submissions Generally.....118
4.20.30 Decision Criteria 119
5.00.00 Special Requirements for Licensed Marijuana Establishments.....119
5.10.00 Purpose 119
5.20.00 Applicability.....119
5.30.00 Definitions.....119
5.40.00 Eligible Locations.....121
5.50.00 General Requirements and Conditions for all Licensed Marijuana Establishments.....122
5.60.00 Special Permit Requirements 123
5.70.00 Abandonment or Discontinuance of Use.....126

5.80.00 Severability……127

Table of Revisions……...……127

1.00.00 PURPOSE, AUTHORITY AND PROCEDURE

1.10.00 Authority and Purpose

1.10.10 Authority - This By-law which shall be known as the Town of Tyngsborough Zoning By-law is adopted pursuant to Chapter 40A of the General Laws of the Commonwealth of Massachusetts and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.10.20 Purpose - The purpose of this By-law is to implement the zoning powers granted to the Town of Tyngsborough pursuant to the Constitution of the Commonwealth and Statutes of the Commonwealth and includes, but is not limited to, the following objectives: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town of Tyngsborough, including consideration of the recommendations of the land use plan adopted by the Planning Board; and the plans of the Northern Middlesex Area Commission; and to preserve and increase amenities; and to preserve and enhance the natural scenic and aesthetic qualities of the Town of Tyngsborough.

1.11.00 Administration

1.11.10 Enforcement - This By-law shall be enforced by the Building Inspector of the Town of Tyngsborough. The Building Inspector, upon being informed in writing of a possible violation of this By-law or on his own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. If the Building Inspector is so informed in writing and declines to act, he shall within fourteen (14) days of his receipt of such information give to his informant, in writing, his reasons for refraining from taking any action. The Building Inspector, on evidence of any violation after investigation and inspection, shall give written notice of such violation to the owner and to the occupant of such premises, and the Building Inspector shall demand in such notice that such violation be abated within such reasonable time as may be given by mail addressed to the owner at the address appearing for him on the most recent real estate tax records of the Town of Tyngsborough and to the occupant at the address of the premises of such seeming violation. If, after such notice and demand, such violation has not been abated within the time specified, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Tyngsborough to prevent, correct, restrain or abate any violation of this By-law.

1.11.20 **Compliance Certification** - Buildings, structures, or signs may not be erected, substantially altered, moved, or changed in use and land may not be changed in principal use without certification by the Building Inspector that such action is in compliance with then applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law.

1.11.30 **Building Permit** - No building shall be erected, altered, moved razed or added to in Tyngsborough without a written permit issued by the Building Inspector. Such permits shall be applied for in writing to the Building Inspector. The Building Inspector shall not issue any such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of the Town of Tyngsborough Zoning By-law (and other applicable town by-laws) except as may have been specifically permitted otherwise by action of the Town of Tyngsborough Board of Appeals, provided a written copy of the terms governing any exception so permitted be attached to the application for a building permit and to the building permit issued therefore. One copy of each such permit, as issued, including any conditions or exceptions attached thereto, shall be kept on file in the office of the Building Inspector.

In addition to the information required above, a plot plan shall indicate provisions for all other physical requirements of this By-law, including, but not limited to, off-street parking, screening and fencing.

Upon granting a permit the Building Inspector shall cause a copy to be posted on the property to which it relates in a conspicuous place.

1.11.40 **Professional Inspection** - Construction on projects under a single building permit involving either one or more structures (other than one and two family dwellings) each containing 10,000 gross square feet or more, or involve 3 or more dwelling units, irrespective of type, may be done with the inspection of a registered professional engineer or architect. Such engineer or architect shall periodically, as requested by the Building Inspector, attest that all work is being done in accordance with the plans as approved for a building permit, in accordance with any stipulations of applicable permits, special permits, or variances, and in accordance with all applicable Town and State codes and regulations. Discrepancies from the above noted by such engineer or architect shall be reported forthwith to the Building Inspector. Any and all costs associated with such professional engineer's inspection shall be reimbursed to the Town by the developer.

1.11.50 **Penalty** - Any person violating any of the provisions of this By-law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be fined not more than $100.00 for each offense. Each day that such violation continues shall constitute a separate offense.

1.12.00 **Reserved**

1.13.00 **Board of Appeals**

1.13.10 **Establishment** - The Board of Appeals shall consist of five members and two associate members, who shall be appointed by the Selectmen and shall act in all matters under this By-law in the manner prescribed by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth of Massachusetts.

Within two (2) weeks of the beginning of each fiscal year, the Zoning Board of Appeals shall organize and elect a Chairman and Clerk from within its own membership.

The length of terms of the members of the Board of Appeals shall be such that the term of one member expires each year. A member of the Board of Appeals may be removed for cause by the Board of Selectmen only after written charges have been made and a public hearing has been held.

Vacancies caused by dismissal, resignation, death or any other cause shall be filled in the same manner as Zoning Board of Appeals members are appointed.

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

1.13.21 **To hear and decide appeals or petitions for variances from the terms of this By-law, not including variances for use, with respect to particular land or structures**. Such variance shall be granted only in cases of where the Board of Appeals finds all of the following:

A literal enforcement of the provisions of this By-law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located. Desirable relief may be granted without either:

(1) substantial detriment to the public good; or
(2) nullifying or substantially derogating from the intent or purpose of this By-law.

1.13.22 **To hear and decide other appeals**. Other appeals will also be heard and decided by the Board of Appeals when taken by:

1. Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Ch. 40A, G.L.; or by
2. The Northern Middlesex Council of Governments; or by

3. Any person including any officer or board of the Town of Tyngsborough or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of Ch. 40A, G.L.; or this By-law.

1.13.23 **To issue comprehensive permits**. Comprehensive permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent with local zoning, building, health, or subdivision requirements, as authorized by Sec. 20-23, Ch. 40B, G.L.

1.13.24 **To issue withheld Building Permits.** Building Permits withheld by the Building Inspector acting under Sec. 31Y, Ch. 41, G.L., as a means of enforcing the Subdivision Control Law may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

1.13.30 **Public Hearings -** The Board of Appeals shall hold public hearings in accordance with the provisions of Chapters 40A, 40B, and 41 of the General Laws on all appeals and petitions brought before it.

1.13.40 **Repetitive Petitions -** Repetitive petitions for Special Permit, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in Section 16 of Chapter 40A, General Laws.

1.14.00 **Amendments -** This By-law may from time to time be changed by amendments, additions, or repeal of the Town Meeting in the manner provided in Chapter 40A of the General Laws of the Commonwealth, as amended.

1.15.00 **Appeals** - Any person aggrieved by a decision of the Board of Appeals or any Special Permit Granting Authority, whether or not previously a party to the proceeding, or any municipal officer or board may, as provided in Section 17, Ch.40A, G.L., appeal to the Superior Court or to the Land Court by bringing an action within twenty days after the decision has been filed in the office of the Town Clerk.

1.16.00 **Special Permits** - The Board of Selectmen or the Planning Board shall be the special permit granting authorities as specified in the various sections of this By-law and shall hear and decide applications for special permits including Site Plan Review Special Permits upon which they are empowered to act under this By-law. The Planning Board, as allowed in accordance with Chapter 40A, Section 9, Massachusetts General Laws, may provide for one associate member when the Planning Board has been designated as a special permit granting authority. This associate member position shall be filled in the same manner as filling a vacancy on the Planning Board. The Chairman of the Planning Board may designate the associate member to sit on the board for

the purpose of acting on a special permit application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of vacancy on the Board.

1.16.10 **General Rules, Regulations and Administration** - Application - Any person who desires to obtain a special permit shall submit a written application therefore to the Special Permit Granting Authority. Each application shall be accompanied by the information required by the Special Permit Granting Authority and this By-law.

1.16.11 **Rules and Regulations and Fees** - The Special Permit Granting Authority shall adopt, and from time to time amend, Rules and Regulations, not inconsistent with the provisions of this By-law or Chapter 40A of the General Laws or other applicable provision of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk. Such rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, the town boards or agencies from which the Special Permit Granting Authority shall request written reports and the procedure for submission and approval of such permits. The Special Permit Granting Authority may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the Town in the review and administration of special permits.

1.16.12 **Reports from Town Boards or Agencies** - The Special Permit Granting Authority shall transmit or cause to be transmitted pursuant to 1.16.12 forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports. At a minimum, unless waived pursuant to Section 1.16.23, all applications for special permits pursuant to this section shall be submitted to the Planning Board, the Board of Selectmen, the Building Inspector, and Conservation Commission. Other referrals may involve at the SPGA's discretion the Police Chief, the Fire Chief, the Highway Surveyor and others whose input it determined to be of value in the decision making process. Any such board or agency to which petitions are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

1.16.13 **Public Hearing and Decision** - The Special Permit Granting Authority shall hold a public hearing no later than 65 days after the filing of an application. The Special Permit Granting Authority shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Special Permit Granting Authority shall issue a decision no later than 90 days following the close of the hearing. Failure by a Special Permit Granting Authority to take final action upon an application for a special permit said 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

1.16.14 **Mandatory Findings by Special Permit Granting Authority** - The Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed use:

1. Is in harmony with the purpose and intent of this By-law.

2. Will not be detrimental or injurious to the neighborhood in which it is to take place.

3. Is appropriate for the site in question.

4. Complies with all applicable requirements of this By-law.

1.16.15 **Special Permit Conditions** - The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

1. Dimensional requirements greater than the minimum required by this By-Law

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

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

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

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

6. Requirement of off-street parking and other special features;

7. Requirement for performance bonds or other security; and

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

9. Requirement of an as-built plan and certification by the applicants' engineer regarding a project's completion prior to issuance of an occupancy permit.

1.16.16 **Time Limitation on Special Permit** - A special permit shall lapse if a substantial use thereof has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within a period of time to be specified by the Special Permit Granting Authority, not to exceed two years from the date of grant thereof.

1.16.17 **Effective Date of Special Permit** - No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

1.16.18 **Conditioning by the Special Permit Granting Authority** -The Special Permit Granting Authority may for valid reason limit the term of a special permit to be conditional upon specific ownership of the property and/or structure. The Special Permit Granting Authority may also require a resubmission of documentation concerning the conditions in evidence at the time of the original granting or subsequent thereto if for said good reason a reevaluation of items concerning the health, safety and welfare of the inhabitants of the Town of Tyngsborough is in order. Said reevaluation must be so stated and fixed in period during the original granting.

1.16.20 **Site Plan Special Permit** - Site plan review of the Special Permit Granting Authority is requested for certain uses prior to approval of an applicant for a special permit.

1.16.21 **Applicability** - A Site Plan Special Permit shall be required in all instances as follows:

1. for the initial development of land specified in section 2.11.30 Table of Permitted Uses as requiring a Site Plan Special Permit and for all accessory uses thereto, or

2. where the gross floor area of an existing building is increased 1,200 square feet or more for uses designated as requiring a Site Plan Special Permit on the Table of Permitted uses, or

3. where a use designated as requiring a Site Plan Special Permit on the Table of Permitted Uses is expanded in ground area by 1,200 square feet or more of either impervious material, open storage or any area of the site devoted to the conduct of the principal accessory use.

1.16.22 **Application Contents** - Any person who desires to obtain a Site Plan Special Permit shall submit a written application therefore to the Special Permit Granting Authority as shown in Section 2.11.30 of this By-law. Each such application shall be accompanied by the following:

1. A written statement detailing the proposed use, the extent of the building coverage and open space, drainage calculations and calculations of the volume of earth to be removed, if any.

2. Site Plan(s) prepared by a Registered Professional Engineer as appropriate to the data, showing all lot lines and setbacks, zoning district boundaries including flood plain; all wetlands and wetland buffer zones; all areas designated as open space; all existing and proposed topography at two foot intervals, buildings, structures, signs, parking, fire lanes, and loading spaces; the limits of all paving and open storage areas and all facilities for sewage, waste disposal and drainage. The Site Plan shall include that portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which the Site Plan Special Permit is sought.

3. A Landscape Plan(s) shall be prepared by a Registered Landscape Architect in all cases where the plan(s) specifies a proposed facility of 7,500 square feet or more of gross floor area, or a facility requiring 40 or more parking spaces. In any case, a Landscape Plan(s) shall show the limits of work, the existing tree line and all proposed landscape features and improvements including walks, planting areas with size and type of stock for each shrub or tree; walls, fences, outdoor lighting, and existing and proposed contours of the land at two foot intervals.

4. A Building Elevation Plan(s) shall be prepared by a Registered Professional Engineer in all cases where the plan specifies a facility of 7,500 square feet or more of gross floor area. In any case, a Building Elevation Plan(s) shall show the front elevation of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the net floor area used to calculate the required parking and the proposed uses to be conducted on each floor.

   Such other information as the Special Permit Granting Authority may reasonably require including special studies or reports, such as traffic or hydrological impact studies and any other information or material required by virtue of any other part of this By-law.

1.16.23 **Site Plan Special Permit Waiver of Application Contents** - At the time of application for a building or occupancy permit, a site plan, as required in Section 1.16.21 shall be transmitted to the Special Permit Granting Authority in two copies, together with all supporting documentation. The applicant may, prior to submitting his application, request in writing to the Special Permit Granting Authority, a waiver of one or more of the requirements of Section 1.16.22 by submitting a preliminary plan sufficient to describe the proposed development and conferring thereon with the Special Permit Granting Authority at a regular meeting. The Special Permit Granting Authority shall prepare a written report, within twenty-one days of its conference with the applicant, on the waiver request which shall accompany the application recommending either

1. that the applicant's preliminary plan is sufficient for review and is either approved, not approved, or approved with certain changes by the Special Permit Granting Authority without further review by them, or,

2. that a site plan under Section 1.16.21 is necessary and must be submitted to the Special Permit Granting Authority or,

3. a modified site plan, with specifically named elements, is necessary and must be submitted to the Special Permit Granting Authority.

1.17.00 **Applicability**

1.17.10 **Other Laws** - Where the application of this By-law imposes greater restrictions than those imposed by any other regulations, permits, easements, covenants or agreements, the provisions of this By-law shall control.

1.17.20 **Minima** - The regulations set by this By-law shall be the minimum regulations and shall apply uniformly to each class or kind of structure or use and, particularly:

1.17.21 No building, structure, or land shall hereafter be used or occupied, and no building or structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations specified herein for the district in which it is located.

1.17.22 No building shall hereafter be used, erected, or altered to accommodate or house a greater number of families; to occupy a greater percentage of lot area; to exceed the height or bulk requirements; or to have narrower or smaller rear yards, front yards, side yards, than is specified herein.

1.17.23 No yard or other open space; or off-street parking or loading area, or any portion thereof, provided for any building, structure, or use in conformity with this By-law shall be included as part of the yard, open space or off-street parking or loading area similarly required for any other building, structure, or use, unless specifically allowed in this By-law.

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

1.19.00 **Growth Management**

1.19.10 **Intent and Purpose** - This section is adopted for the following purposes:

1. to ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year-to-year variations in the development rate;

2. to provide the Town with time to study the effect of growth on the municipality's infrastructure, character and municipal services;

3. 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 ½;

4. to preserve and enhance the existing community character and value of property; and

5. to allow departures from the strict application of the growth rate measures herein in order to encourage certain types of residential growth, which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the Town.

1.19.20 **Applicability** - Beginning upon adoption at Town Meeting, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this section or unless specifically exempted by this section. This section shall be effective for four years from the date of adoption and may be extended by vote at Town Meeting without lapse of its provisions. Prior to that time the Planning Board shall report to Town Meeting the effectiveness of the growth rate of development limitations and the need, if any, to continue and/or amend said limitation. For the purposes of this section, the following terms shall have the following meaning:

1. "Growth rate of development" shall mean the maximum number of building permits for new dwelling units that may be authorized in a two year period which shall be one hundred and thirty (130) permits. The growth rate of development is based upon an analysis of recent average growth rate and the 1998 Master Plan Update build-out analysis. Units exempt under this section are included within the calculation of the growth rate of development.

2. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.

3. "Development schedule" shall mean a schedule authorized by the Planning Board in accordance with this section.

1.19.30 **Planned Growth Rate of Development.** The growth rate of development limit shall be based on a target growth rate of sixty-five (65) new dwelling units per year. In order to provide flexibility for fluctuations in the general economy as well as the development cycle, the target limit is established as one hundred and thirty (130) for new dwelling units over a rolling twenty-four (24) month period.

1.19.31 Whenever the number of building permits issued for new dwelling units exceeds the applicable growth rate of development limit, the Building Commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the provisions of this section.

1.19.32 The Planning Board shall not approve any development schedule under this section that would result in authorizations exceeding the applicable growth rate of development limit.

1.19.33 Building permits authorized by a development schedule, but not acquired during the scheduled period shall not be counted in computing the applicable growth rate of development limit. Building permits issued, but subsequently abandoned under the provisions of the State Building Code shall not be counted in computing the applicable growth rate of development limit.

1.19.40 **Development Scheduling** - This section shall apply to the following types of development which would result in the creation of new dwelling units:

1. definitive subdivision plans;

2. plans subject to MGL Chapter 41 Section 81-P (ANR Plans);

3. special permit developments subject to Section 4.12.00 and 4.14.00 of this zoning bylaw unless meeting the specific requirements for exemption under this section.

1.19.41 Dwelling units shall be considered as part of a single development, for the purposes of development scheduling, if located on either a single parcel or on a set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw.

1.19.42 Where consistent with the applicable growth rate of development limit, building permits for the construction of new residential units in the types of development set forth above shall be authorized only in accordance with the following table:

Number of New Units in Development	Maximum Number of Permits/Year
1-8	100%
9-20	50%
21-30	33%
31-50	25%
More than 51	15%

1.19.43 Where the applicable growth rate of development 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 new dwelling units per year. However, the Planning Board shall not establish any development schedule which phases development for longer than a ten year period.

1.19.44 In addition to the types of development described above, the Planning Board is authorized, upon request, to approve a development schedule for any other building lot or dwelling unit, specifying the month and year in which such lot/unit shall be eligible for a building permit.

1.19.45 In order to facilitate review, the developer may submit a written proposed development schedule to the Planning Board as part of any application for the types of development listed above. Where the developer has not submitted a development schedule, the Building Commissioner shall refer any application for a building permit on a lot within these types of plans to the Planning Board for development scheduling. The Planning Board shall approve a development schedule that is consistent with the provisions of this bylaw. Approved development schedules for the types of development described in this section shall be incorporated, where appropriate as part of the decision filed with the Town Clerk, whether inscribed on the plan and/or filed as a separate attached document. No approved development schedule shall take effect for the purposes of obtaining building permits until recorded separately or as part of the decision. Upon transfer of any lot or unit in the types of development subject to development scheduling, the deed shall reference the development schedule and state the earliest date on which construction may be commenced in accordance with the provisions of this bylaw.

1.19.50 **Exemptions** - The following developments are specifically exempt from the Growth Rate of Development limits established by this section:

1. Dwelling Units in the types of development set forth in Section 1.19.40 which are exempt by virtue of the provisions of MGL Chapter 40A, Section 6;

2. An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this bylaw, provided no additional residential dwelling unit is created;

3. Temporary Independent Living Quarters approved and permitted under section 4.15.00 of this bylaw.

4. For the purpose of this Section, any person who owned a parcel of land in Tyngsborough prior to April 6, 2000 shall receive a one-time exemption (one building permit) from the Planned Growth Rate of Development Section 1.19.20 and the Development Schedule Section 1.19.30 for the purpose of constructing a single-family dwelling unit on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of that parcel of land. In addition, the applicant for the building permit shall comply with applicable standards and regulations regarding the issuance of a building permit as well as any local, state, and federal regulations that are applicable to the parcel. The issuance of a building permit for this purpose shall, however count toward the growth rate limit of one hundred and thirty (130) dwelling units.

5. Dwelling units defined as affordable housing units under any program or statute intended to assist in the construction of low or moderate income housing provided that such housing units have deed restrictions to ensure that they remain affordable in perpetuity unless otherwise specified for a time period required by the applicable program or statute.

1.20.00 **Inclusionary Zoning**

1.20.10 **Intent and Purpose** – This section is adopted for the following purpose:

1. To provide multiple housing choices for people of all economic backgrounds;

2. To increase the supply of housing that is available and permanently affordable to low or moderate-income households in Tyngsborough;

3. To contribute to the Town's Subsidized Housing Inventory (SHI).

The intent of the By-Law is that all units created under this By-law count towards the satisfaction of the Town's affordable housing requirements under the Comprehensive Permit Law, M.G.L c. 40B, §§ 20-23.

1.20.20 Definitions

Affordable Housing Trust Fund (Fund) – An account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing units.

Affordable Housing Trust – The Tyngsborough Affordable Housing Trust was established by Town Meeting vote on February 10, 2015 Article 7. The Tyngsborough Affordable Housing Trust Fund shall be for the preservation and creation of affordable housing in the Town for the benefit of low and moderate-income households. The Affordable Housing Trust Fund is overseen by a Board of Trustees who shall be appointed by the Board of Selectmen.

Affordable Housing - A dwelling unit that is affordable to and occupied by a low or moderate-income household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory. Affordable units shall remain as affordable units in perpetuity. These units shall have the same construction methods, physical characteristics as, and be intermingled with other units in the subdivision or development.

Affordable Housing Restriction – A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law, and be entered into and enforceable under the provisions of M.G.L c. 184, §§ 31-33 or other equivalent state law.

Area Median Income – The median family income for the metropolitan area that includes the Town as defined in the annual schedule of low- and moderate-income limits published by the U.S. Department of Housing and Urban Development, adjusted for household size.

Local Initiative Program (LIP) – A program administered by DHCD pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing, with or without a comprehensive permit as defined in M.G.L Ch. 40B, § 20 through § 23.

Low Income – Household income that does not exceed 50% of the area median family income adjusted for household size as determined by the United States Department of Housing and Urban Development (HUD), then in effect.

Moderate Income - Household income that does not exceed 80% of the area median family income adjusted for household size as determined by HUD, then in effect.

Qualified Affordable Housing Purchaser or Tenant – A low or moderate income household that purchases or rents and occupies an Affordable Housing Unit as its principal residence.

Subsidized Housing Inventory (SHI) DHCD – Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

1.20.30 Applicability

The inclusionary zoning provisions of this By-law are applicable to:

1. Any project, other than a conventional subdivision, that results in a new increase of 7 or more residential dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space including mixed-use developments.

1.20.31 Willful evasion of this section of the By-law is prohibited. Developments may not be segmented land or properties over any 5-year period with the intention of avoiding inclusionary housing requirements by either subdividing one parcel of land into two parcels of land or purposefully dividing a project that would be subject to this By-law into phases in such a way that would not result in the creation of affordable units.

1.20.32 If requested by the Planning Board or Zoning Board of Appeals, the Building Commissioner shall determine in writing the number of pre-existing, legal housing units on a development site.

1.20.40 Methods of Providing Affordable Housing Units

1.20.41 On Site Units may be provided by-right and is the preferred method of providing affordable units under this By-law as follows:

1. For age-restricted housing, at least 15% of the new housing created must be designated as affordable in perpetuity.

2. For all other housing development subject to this requirement, at least 12% of the new housing units created shall be restricted as affordable in perpetuity.

3. For Assisted Living or Continuing Care Campus development, at least 10% of the new units created must be designated as affordable in perpetuity.

4. When the calculation results in a fractional affordable housing unit (FAHU) of 0.5-0.9, the developer shall provide a whole on-site unit for that fractional unit.

1.20.42 The Planning Board shall serve as the permit granting authority. The Planning Board may grant a special permit for one or more of the following methods, alone or in combination. In no event shall land area or cash payments provided be less than the equivalent number or value of affordable housing units that could be built on-site under 1.20.41 above.

1. Payment of a fee-in-lieu to the Town Affordable Housing Trust Fund made shall be allowed for housing developments with 16 units or less in compliance with 1.20.43 below.

2. Donation of developable land in the Town of Tyngsborough to the Tyngsborough Housing Authority, the Town Affordable Housing Trust Fund, or a comparable entity, providing the receiving organization agrees in writing to accept the land, and the applicant demonstrates to the Planning Board's satisfaction that said land is developable for an equivalent number of affordable units in conformance with this section.

1.20.43 Contribution in lieu of on-site units – The cash payment shall be equal to the most current "Total Residential Development Cost Limit" as articulated in the DHCD's Qualified Allocation Plan for Low Income Housing Tax Credit, https://www.mass.gov/files/documents/2017/10/16/2017qap.pdf, for the areas described as the Lowell MA HUD Metro Area, as adjusted for the type of project and number of units.

1.20.50 **General Provisions for Affordable Housing**

Applicants are encouraged to consult with the Town Affordable Housing Trust early in the development process concerning the Town's affordable housing needs and the optimum manner in which the Town's needs and the developer's affordable housing requirement can be met by the proposed development consistently with any housing and/or master plan then in effect.

1.20.51 Each affordable unit shall be subject to an affordable housing restriction as defined herein. The developer shall be responsible for preparing any documentation required by DHCD and the Town to qualify the unit for listing on the SHI.

1.20.52 The selection of qualified purchasers or qualified renters shall be carried out under an affirmative fair housing marketing plan prepared by the developer in compliance with the DHCD LIP guidelines.

1.20.53 Developers may sell affordable for-sale units to the Town, the Town Affordable Housing Trust, or to a private nonprofit entity serving the Town for the purpose of providing affordable housing opportunities and to permit such entity to market the affordable housing units and manage the choice of buyers.

1.20.60 Local Preference

To the extent practicable, local preference shall be included for the maximum number of affordable housing opportunities and to permit such entity to market the affordable housing units permitted in each development. To the extent permitted by DHCD, local preference for all sales and resales shall be granted to Town residents as follows:

1. Current residents living in the town at the time of application;
2. Employees of businesses located in the municipality;
3. An individual employed by the Town.
4. Active duty servicemen or servicewomen and veterans as defined in MGL Ch. 4, § 7, clause 43.

1.20.70 Construction, Building Permit and Occupancy Requirements, Severability

1.20.71 Location of Affordable/Comparability: Unless otherwise approved by the Planning Board or the Zoning Board of Appeals, as applicable, all on-site affordable housing units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in interior finish, fixtures and appliance. For both on-site and off-site units that are a part of any development proposal, the number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate units in the development.

1.20.72 Timing of construction: Unless otherwise directed by the permitting board as a condition of approval, all affordable housing units shall be provided concurrently and proportionately with the development of market-rate units. To ensure compliance with this requirement, the permitting board may establish a schedule for construction of affordable and market rate housing units.

1.20.73 No certificate of occupancy shall be issued for any market-rate units in a development subject to this article until all deed restrictions, agreements with the Town and/or other documents necessary to ensure compliance by the applicant (and any purchasers of the affordable housing units) with the requirements of the By-law have been executed and recorded.

1.20.74 In the event that one or more of the provisions of the By-law are found or determined to be illegal or unenforceable, such finding shall not affect the validity of any other provisions of this By-law which provisions will remain in full force and effect.

2.00.00 DISTRICT REGULATIONS

2.10.00 Establishment of Districts

For the purpose of this By-law, the Town of Tyngsborough is hereby divided into the following districts.

Residential	Residential 1 Low Density	(R-1)
	Residential 2 Moderate Density	(R-2)
	Residential 3 Multi-Family	(R-3)
Business and Commercial	Business 1 Neighborhood	(B-1)
	Business 2 Office/professional	(B-2)
	Business 3 General shopping	(B-3)
	Business 4 Adult zone	(B-4)
Industrial	Industrial 1 Light	(I-1)
Special Overlay Districts	Wetlands	(WT)
	Flood Plain District	(FP)
	Telecommunications District	(TC-1)
	Mixed Use	(MUD)

The boundaries of each district are herein established, defined and bounded as shown on the map accompanying this By-law and on file with the Clerk of the Town of Tyngsborough.

Telecommunications District shall be prohibited in all districts except as defined as follows. Assessors' map 4, lots 1, 2, 3, and 4, map 12, lots 27 and 32, map 13, lots 19 and 21, map 21, lot 5, and map 22, lots 20-1 and 27.

2.11.00 Regulation of Uses

2.11.10 **Application** - No building or structure shall be erected and no premises shall be used except as herein set forth in the following sections.

2.11.20 **Uses Not Listed** - If a particular use or activity is not listed in Section 2.11.30 and further identified in Section 2.11.40, such use is prohibited. If an activity might be classified under more than one of the Principal Use Definitions, the more specific definition shall determine whether the use is permitted. If the activity might be classified under equally specific definitions, it shall not be permitted unless both Principal Uses are permitted in the district.

2.11.30 TABLE OF USES

	Residential Districts			Business Districts				Industrial Districts
Principal Uses	**R-1**	**R-2**	**R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
General Uses								
Agricultural	P	P	P	P	P	P	P	P
Conservation	P	P	P	P	P	P	P	P
Earth Removal	O	O	O	O	O	O	O	SS
Recreation	P	P	P	P	P	P	P	P
Residential Uses								
Single-family dwelling	P	P	P[5]	O	O	O	O	O
Two-family dwelling	O	O	P[5]	O	O	O	O	O
Multi-family dwelling[1]	O	O	SPB-R	O	O	O	O	O
Temporary Independent Living Quarters[6]	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB
Governmental, Institutional and Public Service Uses								
Municipal	P	P	P	P	P	P	P	P
Educational[10]	SS	SS	SS	SS	P	P	P	O
Religious	P	P	P	P	P	P	P	P
Nursing Home	O	O	SPB	P	P	P	O	O
Assisted Living	O	O	O	O	O	SPB-R	O	O
Independent Living	O	O	O	O	O	O	O	O
Continuing Care Campus	O	O	O	O	O	SPB-R	O	O
Public or Private Utility Facilities	SS	SS	SS	SS	SS	SS	SS	P
Hospitals	O	O	O	SS	SS	SS	SS	O
Correctional Facilities	O	O	O	O	O	O	O	SS
Cemeteries	P	P	P	O	O	O	O	P
Post Office	O	O	O	P	P	P	P	P
Business Uses[2]								
Retail Store Less Than 5,000 G.S.F.	O	O	SPB-R	P	P	P	P	SPB-R
Retail Store More Than 5,000 G.S.F	O	O	O	O	O	P	P	SPB-R
Professional Offices Less Than 15,000 G.S.F	O	O	SPB	SPB	SPB	P	P	O
Professional Offices More Than 15,000 G.S.F.	O	O	O	O	O	SPB-R	SPB-R	SPB-R
Financial Service	O	O	O	SPB	SPB	P	P	O
Restaurant	O	O	SPB	SPB-R	SPB-R	P	P	SPB-R
Restaurant – Fast Food	O	O	O	O	O	P	P	SPB-R
Hotel, Inn or Motel	O	O	SPB	O	O	P	P	SPB
Combined Business and Dwelling	O	O	SPB	SPB	P	O	O	O

2.11.30 TABLE OF USES (Continued)

Business Uses[2] (Continued)								
	R-1	**R-2**	**R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
Lodge or Club	O	SS	SS	O	P	P	P	P
Funeral Home	O	O	SS	O	P	P	P	O
Veterinary Care	O	O	O	SS	P	P	P	O
Commercial Kennel	O	O	O	O	O	SS	SS	SS
Personal Services	O	O	O	SPB	SPB	P	P	SPB
General Services	O	O	O	SPB	SPB	P	P	SPB
Studio	O	O	O	SPB	P	P	P	P
Building Trade Shop	O	O	O	O	SS	P	P	P
Lounge or Pub	O	O	O	O	SS-R	SS-R	SS-R	O
Commercial Recreation	O	O	O	O	O	SS-R	SS-R	SS-R
Commercial and Trade School	O	O	O	O	SS	P	P	P
Amusement Facility Indoor	O	O	O	O	SS-R	SS-R	SS-R	O
Amusement Facility Outdoor	O	O	O	O	O	SS-R	SS-R	SS-R
Motor Vehicle Service Station	O	O	O	SS-R	SS-R	SS-R	SS-R	SS-R
Car Wash	O	O	O	O	O	SS-R	SS-R	SS-R
Motor Vehicle Repair or Body Shop	O	O	O	O	O	SS-R	SS-R	SS-R
Light Vehicle Sales	O	O	O	O	O	SS	SS	O
Vehicle Equipment Sales	O	O	O	O	O	SS	SS	O
Parking Facility	O	O	O	O	SS-R	SS-R	SS-R	SS
Commercial Breeding Facility	O	O	O	O	O	O	O	SS
Commercial Broadcast Facility (Excluding Studio)	O	O	O	O	SS	SS	SS	SS
Airport – Fixed Wing Aircraft	O	O	O	O	O	O	O	SPB-R
Heliport	O	O	O	O	O	SPB	SPB	SPB-R
Rifle Range (Outdoor)	O	O	O	O	O	O	O	SS
Zoo	O	O	O	O	O	SS	SS	SS
Boarding Houses	O	O	SPB	O	O	O	O	O
Daycare Facility	SS	SS	SS	SS	SS	O	O	O
Marina	SPB	SPB	SPB	SPB	SPB	SPB	SPB	SPB
Self-Service Gas Station	O	O	O	SS-R	SS-R	SS-R	SS-R	SS-R
Industrial Uses[3]								
Warehouse	O	O	O	O	O	O	SPB-R	SPB-R
Mini-Warehouse	O	O	O	O	O	O	SPB-R	SPB-R
Construction Yard	O	O	O	O	O	O	SPB-R	SPB-R

2.11.30 TABLE OF USES (Continued)

Industrial Uses[3] (Continued)								
	R-1	**R-2**	**R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
Lumber Yard	O	O	O	O	O	SPB-R	SPB-R	SPB-R
Heating Fuel Sales and Service	O	O	O	O	O	SPB-R	SPB-R	P
Heavy Manufacturing	O	O	O	O	O	O	O	SPB-R
Heavy Vehicle Sales	O	O	O	O	O	O	SPB-R	SPB-R
Heavy Vehicle Repair	O	O	O	O	O	O	SPB-R	SPB-R
Light Manufacturing	O	O	O	O	O	O	SPB-R	P
Industrial Office/R&D	O	O	O	O	O	O	SPB-R	P
Waste Treatment	O	O	O	O	O	O	O	O
Waste Recovery	O	O	O	O	O	O	O	SS-R
Waste Transfer Facility	O	O	O	O	O	O	O	O
Public Transit Vehicle Parking	O	O	O	O	O	O	O	P
Other Uses								
Storage	O	O	O	O	O	O	O	O
Truck Terminal	O	O	O	O	O	O	O	O
Slaughterhouse & Similar Processing	O	O	O	O	O	O	O	O
Solid Waste Disposal	O	O	O	O	O	O	O	O
Massage Parlors	O	O	O	O	O	O	O	O
Biological Research	O	O	O	O	O	O	O	SS-R
Adult Entertainment	O	O	O	O	O	O	SS-R	O
Fairs, Carnivals, Etc.[4]	O	O	O	O	SS-R	SS-R	SS-R	SS-R
Telecommunication Towers[7]	O	O	O	O	O	O	O	O
Outdoor Sales of Holiday Trees, Etc.[8]	O	O	O	SS	SS	SS	SS	SS
Farmer's Markets, Farm Stands, Etc.[9]	O	O	O	SS	SS	SS	SS	SS
Solar Energy Systems								
Principal Uses	**R-1**	**R-2**	**R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
Ground-mounted Solar Energy Systems								
large-scale	SPB-R	SPB-R	SPB-R	SS	SS	SS	SS	P
medium-scale	SPB-R	SPB-R	SPB-R	P	P	P	P	P
small-scale	SPB-R	SPB-R	SPB-R	P	P	P	P	P
Accessory Uses								
Ground-mounted Solar Energy Systems								
large-scale	SPB-R	SS-R	SS-R	SS	SS	SS	SS	P
medium-scale	R	R	R	P	P	P	P	P
small-scale	P	P	P	P	P	P	P	P
Roof-mounted Solar Energy Systems								
large-scale	P	P	P	P	P	P	P	P
medium-scale	P	P	P	P	P	P	P	P
small-scale	P	P	P	P	P	P	P	P

CODES:
P = A Permitted Use
O = A Prohibited Use
SPB = Special Permit-Planning Board
SS = Special Permit – Board of Selectmen
-R = Denotes Site Plan Review (Also a Special Permit); for example SS-R denotes a Special Permit by the Board of Selectmen Plus a Site Plan Review Pursuant to Section 1.16.20

FOOTNOTES:
[1] See Section 4.12.00 Special Permits – Multi-family Development
[2] See Section 4.10.00 Special Permits – Major Business Development (for uses exceeding 5,000 G.S.F.)
[3] See Section 4.11.00 Special Permits – Major Industrial Uses (for uses exceeding 15,000 G.S.F.)
[4] See Section 4.13.00 Special Permits – Fairs Carnivals and Other Similar Events
[5] Single-Family Homes in the R-3 District shall require 44,000 square feet of area and 200 feet frontage, and duplexes in the R-3 District shall require 88,000 square feet of area and 400 feet frontage.
[6] See Section 4.15.00 Special Permits - Temporary Independent Living Quarters
[7] See Section 4.16.00 Special Permits – Telecommunication Towers
[8] See Section 4.17.00 Special Permits – Outdoor Sale of Holiday Trees, Wreaths, or Similar Products
[9] See Section 4.18.00 Special Permits – Farmer's markets, Farm Stands, etc.
[10] See Section 2.11.43 - Education

Principal Use Regulations pertaining to Special Overlay Districts are contained in Sections 2.13.00 through 2.14.00 and in 2.16.00.

2.11.40 Principal Use Definitions

2.11.41 General

Agriculture - Cultivating and harvesting general crops including the storage of necessary farm equipment on parcels of less than five acres and raising of livestock if on parcels of more than five acres.

Conservation - The use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state.

Earth Removal - The removal of earth products from a lot, including but not limited to, sand, gravel, soil, loam, and mineral products. The moving of earth products within a lot which is incidental to and in connection with 1) the necessary excavation and grading of a site for a building or structure and its appurtenant driveways or parking facilities for which a special permit has been granted by either the Board of Selectmen or the Planning Board or 2) the construction of a street or lots approved under the Subdivision Control Law, shall not be considered as earth removal for the purposes of this definition, but shall be considered as earth removal if moved off the building site or subdivision site.

Recreation - Non-commercial outdoor facilities for activities such as horseback riding, skiing, ice skating, swimming and tennis.

Solar Energy Systems -

- Solar Access – the access of a solar energy system to direct sunlight.
- Solar Canopy – A structure supporting solar collectors suspended pever parking areas or walkways.
- Solar Collector – A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- Solar Energy System – A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.
- Solar Energy System, Active – A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- Solar Energy Systems, Grid-Intertie – A photovoltaic system that is connected to an electric circuit served by an electric utility.

- Solar Energy System, Ground-Mounted – An Active Solar Energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).
- Solar Energy System, Large-Scale – An Active Solar Energy System that occupies more than 40,000 square feet of surface area 9equivalent to a rated nameplate capacity of about 250kW DC or greater).
- Solar Energy System, Medium-Scale – An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 – 250 kW DC).
- Solar Energy System, Small-Scale – An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DV or less).
- Solar Energy System, Off-Grid – A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.
- Solar Energy System, Passive – A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
- Solar Energy System, Roof-Mounted – An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).
- Solar Thermal System – An Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.

2.11.42 **Residential Uses** - No more than one building for dwelling purposes shall be located upon a lot.

Single-Family Dwelling - A detached dwelling unit designed as the residence of one family.

Two-Family Dwelling - A detached dwelling unit designed as the residence for two families.

Multi-Family Dwelling - Dwelling attached or detached designed for the residence of three or more families.

Temporary Independent Living Quarters - One or more rooms attached to be located within the primary dwelling, with separate kitchen and bathroom facilities originally constructed and permitted as a residential housing unit designed for the temporary occupancy of another individual(s) related to the owner and resident of the primary structure.

2.11.43 Governmental, Institutional and Public Service Uses

Municipal - Use of land, buildings and structures by the Town of Tyngsborough and the Tyngsborough Water District.

Educational - Use of land, buildings and structures for providing learning in a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic; or by a religious sect or denomination; or by a nonprofit educational entity. Within education facilities containing more than 100,000 square feet of floor space, a commercial bank and credit unions shall be permitted as an educational component, provided that: the bank operation shall be conducted entirely within the school building; shall have no exterior signs or interior signs closer than ten (10) feet from any window; shall have no parking spaces identified for use by the bank; shall occupy less than one (1%) percent of the entire floor space of the school building; shall employee students in a training program as part of the school's educational curriculum; shall operate only during normal school hours; and any automatic teller machine shall operate only when the building is open.

Religious - Use of land, buildings and structures for religious purposes by a religious sect or denomination.

Nursing Home - an extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care.

Assisted Living Facility - A structure or structures owned by a single entity containing four or more dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by MGL c19D § 1 and 651 CMR 12.00 et seq. or any successor statute or regulations. Assistance with activities of daily living include assistance with tasks related to bathing, dressing, grooming, ambulation, eating, toileting, and other similar tasks related to personal care needs.

The Facility may consist of, in one or more buildings, dwellings, common areas, including without limitation: central dining facilities, lounges, meeting rooms, laundry rooms, greenhouses, exercise rooms and recreational areas, libraries, offices, and such other common areas, facilities, and accessory uses for the residents or staff as may be desirable. Dwelling areas/units shall not include private kitchen or food preparation appliances such as a stove but may include a kitchenette with a refrigerator, microwave and hot plate. Shared living environment shall include shared dining facilities.

Independent Living Facility - A structure or structures owned by a single entity containing dwelling units and common areas. Independent Living dwelling buildings must be accompanied by Assisted Living units as part of a Continuing Care Campus and shall include four (4) or more units per building. Units shall contain no more than two bedrooms each and a maximum habitable living area of 1,200 square feet. All dwelling units shall be constructed to be handicap accessible in accordance with 521 CMR and age-appropriate design requirements included in the Assisted Living and Continuing Care Campus Development by-law.

Continuing Care Campus - A combination of Assisted Living and Independent Living facilities or units in one or more buildings owned by the same entity. The number of Independent Living units shall not exceed 1.5 times the number of Assisted Living units.

Public or Private Utility Facilities - Facilities, equipment and structures necessary for conducting a utility service by a public or private entity, including publicly or privately owned and operated facilities, equipment and structures associated with the generation, utilization, transmission and/or storage of solar energy, equal to 250 kw or greater, hydroelectric and geothermal energy systems.

Hospital - Any facility principally designed to provide medical treatment including surgical services and short term to intermediate care so licensed as a hospital of the Commonwealth of Massachusetts.

Correctional Facilities - Any facility designed to house, feed and hold persons duly sentenced to be incarcerated in accordance with the penal system of the Commonwealth of Massachusetts the County of Middlesex or other judicial authority for a period of time exceeding ten days.

Cemeteries - Any land or portion thereof used for the purpose of internment by burial or placement in a crypt or mausoleum of deceased humans or animal remains.

Post Office - Any facility designed for the sorting, storage, including lock boxes, delivery and/or mail including parcels whether operated publicly or privately.

2.11.44 Business Uses

Retail Store - An establishment engaged in displaying and selling goods or merchandise within a building to the general public or to business establishments which goods
or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products.

Business or Professional Office - A business or professional office; a medical office or out-patient clinic, including laboratories incidental thereto.

Financial - Bank, loan agency or similar facility.

Restaurant - Establishment where food and beverages are sold within a building to customers for consumption 1) at a table or counter, or 2) on a patio closed on all sides with entrance to the patio normally available only from the building, or 3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or 4) any combination of the above.

Restaurant - Fast Food - A food establishment where food and beverages are principally sold and packaged individually and or in a self-service manner with no at table service if so equipped. A drive up facility in addition to or in combination with the criteria above shall also be so classified.

Hotel, Inn or Motel - A facility providing transient lodging accommodations to the general public.

Business and Dwelling - A single primary building used for one or more business uses at the ground or lowest level that are prominently visible from the street side or parking area with residential uses above or adjacent. The number of business units shall exceed the number of residential units. The business uses must be permissible either by right or by special permit in the zoning district where the building is located. Excludes home office or home-based businesses operated as an accessory use by Special Permit from the Board of Selectmen under section 2.11.50.

Lodge or Club - A facility used by a non-commercial organization which is characterized by formal written membership requirements.

Funeral Home - Undertaking or funeral establishment.

Veterinary Care - A facility where animals are given medical or surgical treatment and where boarding of animals is limited to short term care incidental to the medical or surgical treatment.

Commercial Kennel - Establishment where dogs, cats or other pets are kept for the purpose of sale, breeding or boarding care.

Personal Service Facility - Establishments providing services involving the care of a person or his or her apparel such as a barber shop, laundry or dry cleaning shop, diaper service, shoe repair shop, steam baths, reducing salons and health clubs, pet grooming, and clothing rental shop.

General Services - Establishments providing services to the general public or to business establishments such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services; computer service bureaus; facilities for dancing, martial arts or music instruction; facilities for repair of appliances, office equipment, bicycles, lawn mowers, or similar equipment; and food catering facilities.

Studio - A facility used as a place of work by an artist, photographer or artisan.

Building Trade Shop - An establishment for use by the practitioner of a building trade such as a carpenter, welder, plumber, electrician, builder, mason or similar occupation.

Commercial Recreation - Indoor or outdoor facilities, operated as a business and open to the public for a fee such as facilities for ice skating, roller skating, racquet sports, bowling, horseback riding, swimming, miniature golf, soccer, softball, baseball, golf, wrestling, martial arts, mixed martial arts, boxing, basketball, fitness activities, volleyball, football, lacrosse, and other sports or sporting related social events. Such activities may either be participatory by the public or conducted for the public to attend as spectators at entertainment sporting related events conducted by the business or third party vendors or promoters at an arena like setting for a free for admission.

Lounge or Pub - Any facility other than a restaurant designed primarily for the serving of alcoholic beverages within which entertainment may be provided and requiring a license from the Town of Tyngsborough pursuant to Massachusetts General Laws Ch. 138 Section 2.

Commercial and Trade School - Private educational facility for profit including training centers, and business schools.

Amusement Facility Indoor - Facilities open to the public for a fee or admission charge such as a theater, cinema or video arcade.

Amusement Facility Outdoor - An outdoor amusement park; outdoor cinema; stadium; race tracks including horse, dog other animal or vehicular including motorized cycles, and other vehicles whether track is designed for lap racing, elapsed time or a combination.

Car Wash - A commercial facility designed for the principal use of vehicle washing with mechanized equipment whether automatic, semi-automatic, or manual.

Motor Vehicle Service Station - Facility for outdoor sale of motor vehicle fuels, related products and services provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

Motor Vehicle Repair or Body Shop - Establishment where the principal service is the repair of automobiles or similar light motor vehicles provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

Light Vehicular and Equipment Sales - Salesroom and related facilities, including but not limited to open air display, for the sale of automobiles, motorcycles, recreational vehicles and similar vehicles; boats, or light industrial or farm equipment.

Parking Facility - Commercial parking open to the public for automobiles and similar light motor vehicles.

Commercial Broadcast Facility - Any facility designed and operated so as to provide for radio frequency transmissions including satellite "up link" facilities under the authority of a commercial radio or television station license issued by the Federal Communications Commission. This term does not include a broadcast station's

studio/office if said studio/office is separated from the transmission facility and connected by an over the ground, non RF signal transmission link.

Airport- Fixed Wing - Any facility designed for the take-off and landing of fixed wing aircraft registered by the Federal Aviation Administration and having a runway in excess of 1,000 feet.

Heliport - Any facility designed solely for the takeoff, landing and/or storage of rotary wing aircraft and encompassing no linear runway in excess of 1,000 feet.

Rifle Range - Any facility enclosed or open designed and intended for the safe discharge of firearms for the purpose of sport, practice, or training.

Boardinghouse - Any structure with one or more rooms designed, occupied or intended for occupancy by the same person(s) for more than one week as separate living quarters for one or more roomers or boarders with sleeping facilities but no kitchen facilities. The term boardinghouse also refers to rooming houses.

Commercial Breeding Facility - Any facility designed solely for the purpose of breeding animals of any sort, including but not limited to, fowl, swine, cattle, primates, rodents, reptiles and fish.

Zoo - Any facility enclosed or open designed for the purpose of exhibiting live animals for the purpose of profit. This term does not include the exhibition of animals for contest or prize whose primary purpose is part of the operation of a bona fide farm and are considered farm or draft animals.

Day Care Facility - Any facility operated on a regular basis which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, or non-residential custody and care during part or all of the day separate from their parents or the elderly 60 years of age or older. Day Care Center shall not include any part of a public school system; any part of a private organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children without compensation.

Marinas - Any facility designed for the in-water dockage, berthing and/or launching of water borne craft, excluding fueling service and limited to not more than ten slips or linear footage not to exceed 200 feet. The term does not apply to dockage or berthing facilities designed solely for non-commercial, private and personal use.

Motor Vehicle and Full Service Gas Stations - Facility for outdoor sale of motor vehicle fuels, related products and services, products and services, provided that maintenance and servicing of vehicles shall be conducted entirely within a building.

2.11.45 Industrial Uses

Warehouse - Wholesale business or storage conducted entirely within an enclosed structure, excluding self-storage (with noise, dust, fumes, gases and odors confined to the premises).

Mini-Warehouse - An enclosed facility containing separate storage spaces, commonly known as self-storage, no larger than 400 square feet each, leased or rented on an individual basis. Exterior storage of vehicles, recreational vehicles including boats, trailers, campers, etc., or other materials is strictly prohibited. Excludes storage spaces that are wholly accessory to on-site uses and not offered for rent or lease to off-site tenants.

Construction Yard - Facility or area for storage, open or enclosed, of construction equipment or materials.

Lumber Yard - A facility for the open or enclosed storage and sales of building materials; except that in the General Business District the open or outdoor storage or display of building materials is prohibited.

Heating Fuel Sales and Service - A facility for the storage and retail sale of heating fuels and the sales and service of heating equipment where the storage of heating fuel in containers is permitted provided such storage is incidental to the retail sale of heating fuel.

Heavy Vehicular Sales or Repair Garage - Salesroom and related facilities, including but not limited to open air display of trucks, buses, construction and industrial equipment; establishments for the repair of trucks, buses, construction and industrial equipment provided that all major repairs shall be conducted within the building.

Light Manufacturing - Printing or publishing plant; manufacturing of building systems and components; fabrication and assembly of electronic components, precision instruments, or other high technology products; manufacture of light metal products, hardware and office supplies; or similar light manufacturing plants and facilities.

Industrial Office/R&D - Facilities designed for the conduct of research and/or engineering and the support and operation thereof including but not limited to the fields of biology, chemistry, electronics, engineering, geology, medicine and physics.

Heavy Manufacturing - Asphalt, block, bottling, concrete or fertilizer plants; monument works; paper or pulp mill; refinery; rendering or smelting plants; slaughterhouses.

Waste Treatment - Any process designed to treat or alter a solid or liquid waste prior to disposal.

Waste Recovery - Any process designed to treat, alter, clean, filter, distill, separate, or by any other method recover a usable material of liquid from a waste product prior to or as an alternative to disposal.

Waste Transfer Facility - Any facility designed for the temporary storage in bulk or containerized form of any solid or liquid waste prior to treatment or ultimate disposal at another location. The term waste transfer facility shall not apply to containers used for the storage of solid waste prior to disposal generated on site by any business or industrial use permitted by the By-law, however, all regulations pertaining to waste storage shall apply.

Slaughterhouse and Similar - Any facility designed for the commercial slaughter, butchering, cleaning, skinning, or otherwise killing of animals for food, fur or hide and any subsequent related activity such as tanning or rendering. The term abattoir shall also apply. Such uses associated with the normal conduct of farming operations shall not be considered inclusive.

Public Transit Vehicle Parking - The parking and temporary storage of public transit vehicles including buses, special needs equipped vehicles, and related or support vehicles serving in whole or in part educational facilities located in the Town of Tyngsborough. The term does not include the on-site repair and maintenance of vehicles, and the storage of and dispensing of fuel products but does include the provision for dispatching and security personnel and necessary emergency vehicles and equipment.

Motor Vehicle and Full Service Gas Stations - Facility for outdoor sale of sale of motor vehicle fuels, related products and services, products and services, provided that maintenance and servicing of vehicles shall be conducted entirely within a building.

2.11.46 Other Uses

Storage - Non-municipal dump; salvage materials yard, including non-operable motor vehicles; tank farmers.

Truck Terminal - A facility designed primarily for the storage, origination, destination, temporary layover of trucks exceeding a gross vehicle weight of 10,000 pounds including those facilities designed for the transfer or forwarding of goods shipped by trucks.

Solid Waste Disposal - Sanitary landfill, refuse transfer station, refuse incinerator with grate area in excess of ten (10) square feet, composting plant, solid waste recycling operation, and any other works or use for processing, handling, treating, and disposing of solid waste materials, including garbage, rubbish, junk discarded bulk items, and sludge but not raw sewage, and similar waste items.

Massage Parlors - See Adult Entertainment Establishments, but the definition of Massage Parlor shall not be deemed to include Massage Therapists who are properly licensed, certified and insured in the Commonwealth of Massachusetts as Massage Therapists, or their professional offices.

Biological Research - Any facility or operation engaged in the production or use as an end product or as an intermediate or ancillary product, any material, organism, cellular or sub-cellular classified as a Biological Hazard to Humans by the Massachusetts Department of Public Health.

Adult Entertainment Establishments - Shall include and be defined as follows:

1. Adult Bookstore - An establishment having as a substantial or significant portion of its stock and trade in printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, or coin-operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Sexual Conduct" as that term is described in General Laws Chapter 272, Section 31.
2. Adult Motion Picture Theater - An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct" as defined in the General Laws Chapter 272, Section 31, for observation by patrons therein.

3. Adult Mini Motion Picture Theater - An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to "Sexual Conduct" as defined in the General Laws Chapter 272, Section 31, for observation by patrons therein.

4. Adult Live Entertainment Establishments - Establishments which feature live entertainment which consists of entertainers engaging in "Sexual Conduct" or "Nudity" as defined in the General Laws Chapter 272, Section 31.

5. Massage Service Establishments

    a. Massage - Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibration, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of

massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefore.

b. The practice of massage shall not include the following individuals who engage in the personal performance of duties of their respective professions:

(1) Physicians, surgeons, chiropractors, osteopaths, nationally certified massage therapists, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.

(2) Nurses who are registered under the laws of the Commonwealth of Massachusetts.

(3) Barbers and beauticians who are duly licensed under the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

Fairs, Carnivals, etc. - An event of a temporary nature designed to provide for entertainment, sale of merchandise and/or services or for purposes of display which is of a commercial nature not including the use of a permanent structure designed to enclose such a use and meeting all appropriate codes and other conditions of this By-law.

Outdoor Sales of Holiday Trees, Wreaths or Similar Products - An event of a temporary nature during the holiday season designed to provide for the outdoor sales of trees, wreaths, or similar holiday horticultural products. Such facilities would not include the use of a permanent structure designed to enclose such use and would meet all appropriate codes and other conditions of this bylaw.

Farmer's Markets, Farm Stands, and Similar Facilities - An event of a temporary nature during the harvest season designed to provide for the outdoor sales of primarily locally grown produce and agricultural products not located on the property where the produce and agricultural products are grown or raised. These facilities would not include the use of a permanent structure designed to enclose such use and would meet all appropriate codes and other conditions of this bylaw.

2.11.50 **Accessory Use Regulations** – Accessory uses shall be permitted in all districts on the same lot with the principal use subject to the following provisions:

Accessory Uses Permitted in the Residential Districts and Dwellings in the non-residential Districts

Private garage or carport for not more than four motor vehicles, solar system, greenhouse, tool shed or barn; swimming pool or tennis court provided that such recreational facilities are used only by the residents and their guests.

A home occupation, other than retail sales, conducted entirely within the dwelling unit or an accessory building by a resident and employing no persons other than the residents, may be allowed by Special Permit by the Board of Selectmen provided that the Board finds such use meets the requirements of Section 1.16.14, Mandatory Findings by a Special Permit Granting Authority.

Utility/Storage sheds shall be an accessory use to all single and two family dwellings when said structure is 120 square feet or less (approximately 10ft x 12ft). Such structures shall require a setback of thirty (30) feet from front lot line and not less than five (5) feet from side and rear lot lines. Utility/storage sheds larger than 120 square feet shall comply with the setback requirements of Section 2.12.50. Utility and storage sheds shall be used only to store household and garden equipment customarily used for dwellings.

Above ground swimming pools shall be an accessory use to all single and two family dwellings and require a setback of thirty (30) feet from front lot line and not less than ten (100 feet from side and rear lot lines. In-ground pools shall continue to adhere to the dimensional requirements of Section 2.12.50.

Solar energy systems, roof-mounted, are permitted as an accessory use by right in all districts. Small-scale ground-mounted solar energy systems are permitted as an accessory use by right in all districts. Medium-scale ground-mounted systems are permitted as an accessory use in the Business 2, 3, 4, and Industrial districts, but require site plan review in residential and Business 1 districts. A large-scale ground-mounted system proposed as an accessory use will be treated as if it were a principal use.

Accessory Uses Permitted in the Business Districts

The rental of automobiles, light trucks or trailers and similar light motor vehicles provided that such rental is secondary to the operation of (1) a motor vehicle service station permitted under section 2.11.30.

Accessory Uses Permitted in the Light Industrial District

Uses necessary in connection with scientific research or scientific development or related production may be authorized by special permit from the Planning Board.

Accessory Uses Permitted in any Zoning District

Wind machines designed to serve a principal use on a lot may be authorized by special permit from the Planning Board provided the Planning Board finds that the wind machine is set back from all lot lines at least the distance equal to the height of the tower from its base on the ground to the highest extension of any part of the wind machine. The Planning Board may allow the wind machine to exceed the maximum height limitations established by this by-law provided that the setback requirement stated above is met.

A mobile home may be placed on the site of the residence which has been rendered uninhabitable by accident provided it is used for a period not to exceed 12 months as the primary residence of the owners of the residence which has been rendered uninhabitable.

Farm products grown on the premises may be sold on the premises.

Where not otherwise permitted, a greenhouse may be authorized by special permit from the Planning Board where the principal use of the property is agriculture.

2.12.00 Intensity of Use (Dimensional Requirements)

2.12.10 Standard Dimensional Provisions - No land shall be used, and no structure or building shall be used or construction begun except in accordance with this Section and the Table of Standard Dimensional Regulations unless otherwise specifically permitted in this By-law.

2.12.20 Minimum Land Area - In any district the following areas may not be considered in computing minimum lot sizes.

1. Land classified as wetland pursuant to the regulations promulgated under Chapter 131 of the General Laws of the Commonwealth and land within a lot made non- contiguous by said wetland.

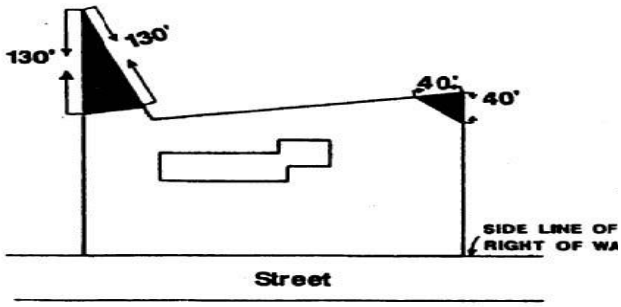
2. Land classified as floodway as determined by the U.S. Department of Housing and Urban Development, Federal Emergency Management Agency and depicted on the "Floodway Boundary Maps" prepared for the Town of Tyngsborough by said Agency dated September 2, 1982.

2.12.30 Lot Perimeter – Lots with a minimum lot area of 30,000 square feet or greater shall have no more than one foot of perimeter for every 40 square feet. Lots with a minimum lot area of less than 30,000 square feet shall have no more than one foot of perimeter for every 30 square feet of lot area. In no instance shall a lot have less than 50 in width in any location within the lot except in a portion of the lot where two lot lines meet at a point. Any lot created before adoption of this Bylaw and conforming to then applicable requirements shall be considered a conforming lot for purposes of this zoning Bylaw

2.12.40 **Methods for Calculating Dimensional Requirements** – The following shall apply:

2.12.41 **Lot Area** - Lot area shall be determined by calculating the area within a lot excluding any area within the lot over which easements have been granted, provided that no area within a street shall be included in determining minimum lot area. When the distance between any two points on lot lines is less than 50 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall not be considered in computing the minimum lot area unless the distance along such lot lines between such two points is less than 150 feet. (See Figure 1.)

130 ft. +130 ft. > 150 ft. **40 ft. + 40 ft. < 150 ft.**



Shaded (black) area is not used in minimum area calculation. Please refer to Table for Dimensions

Figure 1: Minimum Lot Area

2.12.42 **Frontage** - Frontage shall be measured in a continuous line along the sideline of a street between the points of intersection of the side lot lines within the street. (See Figure 2)

A. Common Driveways cannot be used as part of the frontage.

B. Frontage that has no real and actual access from the street to each lot is illusory and that particular lot has no frontage. Access is defined as the actual or potential provision of vehicular entry onto a lot by means of frontage on a street to a degree consistent with the use or potential use of the lot. For example, in the case of a residential lot, access shall mean that:
   (1) There is sufficient right of vehicular passage onto the lot from the street on which it has frontage and;
   (2) Vehicular passage is or may be provided between the frontage and the dwelling unit on the lot.

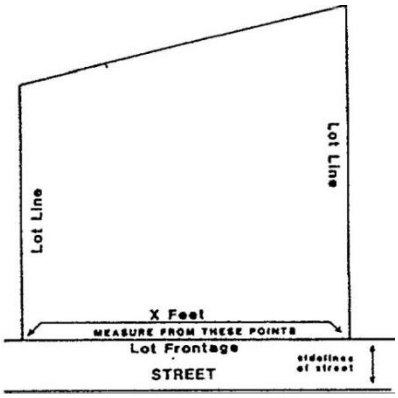


Figure 2: Measuring Lot Frontage

2.12.43 **<u>Frontage for a corner lot</u>** may be measured either to the point of intersection of the extension of the sideline of the rights of way or to the middle of the curve connecting the sideline of the intersecting streets. (See Figure 3)

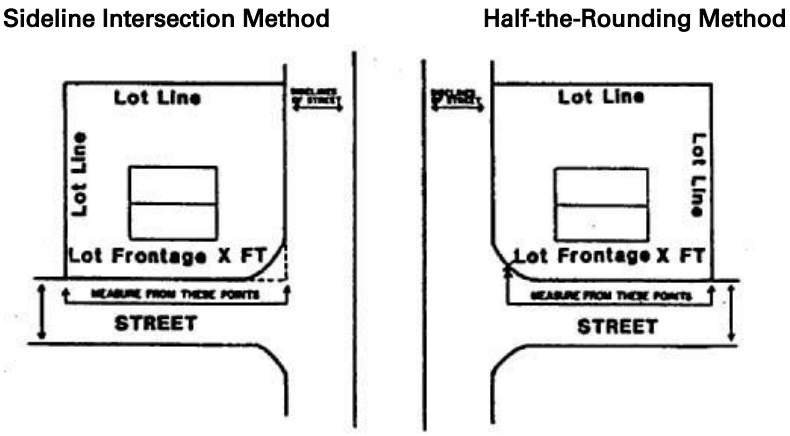


Figure 3: Measuring Lot Frontage (Corner Lot) (REFER TO TABLE FOR DIMENSIONS)

2.12.44 **<u>If a lot has frontage on more than one street</u>**, the frontage on one street only may be used to satisfy the minimum lot frontage.

2.12.45 **<u>Lot Width</u>** - Lot width shall be determined by measuring the diameter of the largest circle which can be located along a continuous, but not necessarily straight line from the lot frontage to the principal structure on the lot without the circumference intersecting the side lot lines. (See Figure 4)

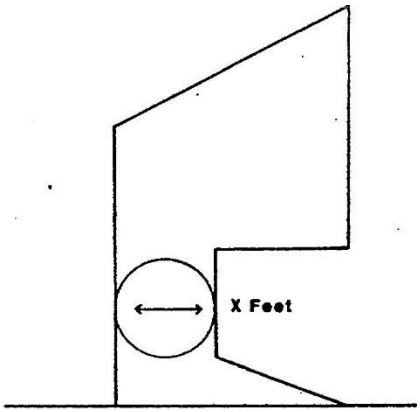


Figure 4: Measuring Lot Width
(REFER TO TABLE FOR DIMENSIONS)

2.12.46 **Front Yards** - Front yards shall be the distance measured in a straight line between the lot frontage and the nearest point of any building or structure. A lot having frontage on two or more streets shall have two or more front yards, each of which shall comply with the requirements of the front yard provisions. In no case shall any building or structure be located closer to the sideline of a street than the minimum required front yard. (See Figure 5)

2.12.47 **Side and Rear Yards** - Side and rear yards shall be the distance measured in a straight line from the nearest point of any building or structure to each side or rear lot line. (See Figure 5.)

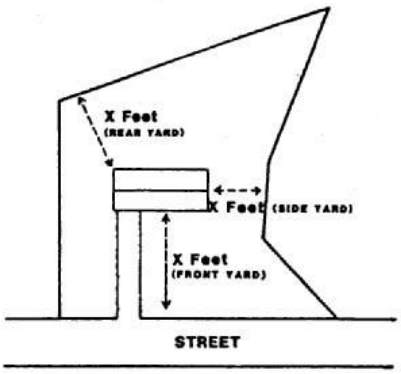


Figure 5: Measuring Yard Dimensions (Refer to Table for Dimensions)

2.12.48 **Building Coverage** - The building coverage shall be determined by dividing the total ground area of all buildings on a lot, including roof overhangs greater than 1.5 feet, carports and canopies, whether or not such carports or canopies are part of a building, by the total lot area. Ground-mounted solar panels are not included in the calculation of building coverage provided the area below the panel is pervious.

2.12.49 **Height in Feet, Buildings** - Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the top of the highest roof beams of a flat roof or to the peak of the highest

gable or slope of a hip roof. In all districts appurtenant structures, including solar energy systems, located upon the roof of a building may extend above the height limit but in no case shall they exceed 100 feet in height when combined with the height of the building. Appurtenant structures, exclusive of solar energy systems, in the aggregate may not occupy more than 20% of the roof plan area unless authorized by special permit from the Special Permit Granting Authority as designated for the particular use in Section 2.11.30 of the By-law or by the Planning Board if the principal use does not require a special permit. Roof-mounted solar energy systems are not subject to the 20% constraint nor are they to be included in any calculation aggregating other roof appurtenances. (See Figure 6.)

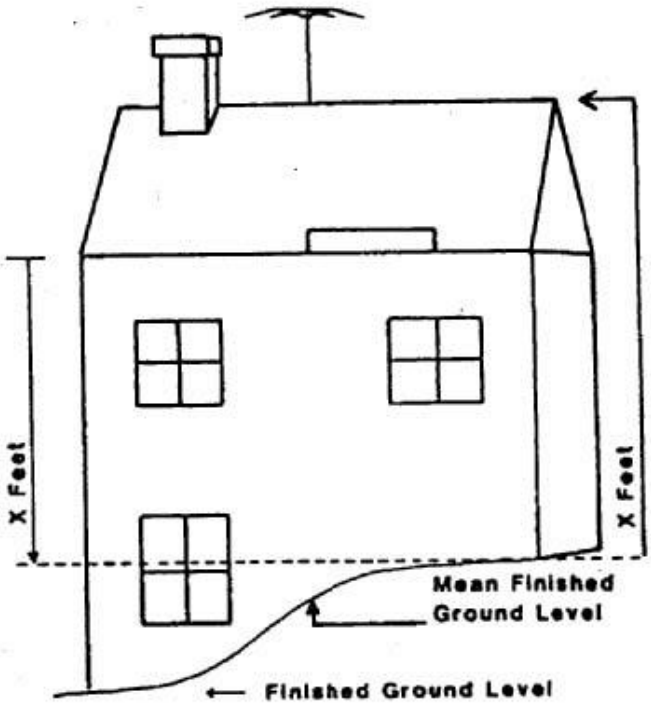


Figure 6: Measuring Buildings (Refer to Table for Dimensions)

2.12.50 Table of Standard Dimensional Requirements

Dimensions	Zoning District							
	R-1	**R-2**	**1/ R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
Minimum Lot Area (Square feet) X 1000	65	20	20	20	20	80	80	80
Minimum Lot Frontage (Lin. Feet)	200	75	75	100	50	150	150	200
Minimum Lot Width (Lin. Feet)	50	50	50	50	50	50	50	100
Minimum Front Yard (Lin. Feet)	30	30	30	30	30	75	75	100
Minimum Side Yard 2/ (Lin Feet)	30	20	15	15	15	30	30	40
Minimum Rear Yard 2/ (Lin Feet)	30	20	15	15	15	40	40	40
Minimum Open Space (Percent of Total Lot Area)	3/	N/A	N/A	N/A	N/A	25	25	25
Maximum Building Height (Lin. Feet)	4/ 36	4/ 36	4/ 36	4/ 36	4/ 36	5/ 40	5/ 40	6/ 45

Codes:

1/ Multi-family development must comply with Section 4.12.00 of this By-law. Single-family homes in the
R-3 district shall require 44,000 square feet of area and 200 feet of frontage, and duplexes in the R-3 district shall require 88,000 square feet of area and 400 feet of frontage.

2/ See Section 3.13.00 Buffering, Screening and Grading.

3/ See Section 4.14.00 Open Space Residential Development

4/ Not to exceed 2 ½ stories

5/ Not to exceed 3 stories

6/ Not to exceed 3 ½ stories

2.13.00 Flood Plain and Floodway Districts

The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within The Town of Tyngsborough designated as Zone A and AE, on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Tyngsborough are panel numbers 25017C0104E, 25017C0117E, 25017C0118E, 25017C0119E, 25017C0128E, 25017C0136E, and 25017C0226E dated June 4, 2010. The exact boundaries of the District may be defined herein by the 100-year base flood elevations shown on the Middlesex County FIRM and FIS are incorporated by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Town Engineer, and the Conservation Commission Director.

2.13.10 Purpose The purpose of the Flood Plain and Floodway Districts is to:

Ensure public safety through reducing the threats to life and personal injury

1. Eliminate new hazards to emergency response officials
2. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
3. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
4. Eliminate costs associated with the response and cleanup of flooding conditions 6. Reduce damage to public and private property resulting from flooding waters 7. To maintain the flood storage capacity and flow pattern of the floodplain for the base flood and to provide long-term control over the extent of land subject to inundation by the base flood.

2.13.11 Abrogation and Greater Restriction

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances, or codes.

2.13.12 Disclaimer of Liability

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

2.13.13 Severability

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

2.13.14 Designation of Community Floodplain Administrator

The Town of Tyngsborough hereby designates the position of Town Administrator to be the official floodplain administrator for the Town. This role may designate other staff/roles for specific requirements of the bylaw or tasks associated with enforcement.

2.13.15 Requirement to Submit New Technical Data

If the Town of Tyngsborough acquires data (e.g. LOMR, LOMA) that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

2.13.16 Variances to Building Code

Floodplain Standards

The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

2.13.17 Variances to Local Zoning Bylaws Related to Community Compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety,

extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

2.13.20 Methods for Determining Flood Plain District and Floodway Boundaries

The exact zoning district boundaries of the Flood Plain District shall be the location on the ground, as determined by an actual field survey of the base flood elevations(s) and limits of the floodway. In the event the field survey does not agree with the Middlesex County FIRM, the applicant must apply to FEMA requesting that the Middlesex County FIRM be amended.

2.13.21 FEMA Maps

The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department. Additional information can be found at FEMA.gov/flood-insurance and FEMA.gov/flood-maps.

2.13.22 The Base Flood Elevations

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

2.13.23 The Floodway Boundaries within The Town of Tyngsborough shall be as determined and shown on the Middlesex County FIRM as described on detail in section 2.13.00, dated June 4, 2010.

2.13.30 Flood Plain Regulations - The Flood Plain District shall be considered as overlying other Districts. Any uses permitted in the portions of the District so overlaid shall be permitted subject to all the provisions of section 2.13.32 and 2.13.50.

2.13.31 Prohibited Uses - In the Flood Plain District no new building shall be erected or constructed, and no existing structure shall be altered, enlarged or moved; no dumping, filling, or earth transfer or relocation shall be permitted; nor any land, building, or structure used for any purposes except as stated in 2.13.32 or as allowed by Special Permit in Section 2.13.50.

2.13.32 **Allowed Uses** - The following uses shall be allowed within the Flood Plain District:

1. Conservation of water, plants, and wildlife.

2. Outdoor recreation, including play areas, nature study, boating, fishing and hunting, where otherwise legally permitted, but excluding buildings and structures.

3. Non-commercial signs (as permitted in the residential districts), wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided that such uses do not affect the natural flow pattern on watercourse.

4. Grazing and farming, including truck gardening and harvesting of crops.

5. Forestry and nurseries.

6. Construction, maintenance and repair of municipal and private water supply structures.

7. Maintenance and repair of existing structures and improvement of existing structures provided that any such improvement is either within the existing structure or above the base flood elevation.

8. Any use permitted in the underlying district in which the land is located subject to the same use and development restrictions as may otherwise apply provided that, based upon properly documented engineering data, the land is found by the Building Inspector not to be subject to flooding during the base flood.

9. Maintenance and repair of existing structures and improvement of existing structures in any street or associated easement which is maintained or operated by the Town of Tyngsborough or the Tyngsborough Water District.

2.13.40 **Floodway Regulations**- The Floodway shall be considered as overlying other districts and a separate part of the Floodplain and Floodway District.

2.13.41 **Prohibited Uses within the Floodway** - All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless allowed pursuant to Section 2.13.42.

Floodway Data – In Zones A and AE along watercourses that have not had a regulatory floodway designated the best available Federal, State, local or other floodway

data shall be used to prohibit encroachments in floodways which would result in any increased in flood levels with the Town during the occurrence of the base flood discharge.

2.13.42 **Allowed Uses within the Limits of the Floodway** - The following uses are permitted within the limits of the floodway:

1. Maintenance and repair of existing structures and improvement of existing structures provided that any such improvement is either within the existing structure or above the base flood elevation.

2. Maintenance and repair of existing structures and improvement of existing structures in any street or associated easement which is maintained or operated by the Town of Tyngsborough or the Tyngsborough Water District.

2.13.50 **Permits are Required for all Proposed Development in the Floodplain Overlay District**

The Town of Tyngsborough requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

2.13.51 **Uses Allowed by Special Permit in the Flood Plain District (Excluding the Floodway)**

The following uses may be allowed within the Flood Plain not to include the Floodway upon the issuance of a Special Permit from the Planning Board. Any use permitted in the underlying district in which the land is located, including grading, filling or excavating, subject to the same use and development regulations as may otherwise apply thereto provided the Planning Board finds that:

1. The proposed use does not significantly conflict with the purposes of this section.

2. At least 98 percent of the natural flood storage volume of the flood plain on the site is preserved without the use of compensatory storage techniques and disturbance of the natural characteristics of the flood plain on the site is kept to a minimum.

3. The elevation of the lowest floor level including basement of any new or substantially improved residential structure is at or above the base flood.

4. The elevation of the lowest floor including basement of any new or substantially improved non-residential structure is at or above the base flood or flood proofed to above the base flood.

5. The elevation of the lowest point of any new vehicular or pedestrian access from a street to any building, including garages, used for human occupancy is at or above the base flood.

6. Any new construction or substantial improvements are constructed with flood resistant materials and methods and anchored to prevent flotation and lateral movement.
7. Any new or reconstructed utilities, such as water or sewer mains, drainage systems, fuel storage facilities, gas, electric or other utilities, are anchored to prevent flotation and designed to avoid impairment during the base flood.

2.13.60 <u>Procedures for Applying for a Special Permit Pursuant to Section 2.13.51</u>

Any person who desires to erect any structure or excavate, fill, grade or otherwise develop land in accordance with section 2.13.50 shall submit a written application to the Planning Board. Tyngsborough's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must submit the completed checklist demonstrating that all necessary permits have been acquired. Each such application shall be accompanied by the following:

1. A written statement indicating any special permits previously granted under this section for the subject lot, for any portion of the subject lot or for any larger lot which formerly included the subject lot.
2. Proposed site plan prepared and stamped by a Registered Professional Engineer for the entire area to be developed showing existing and proposed buildings, structures, signs, parking spaces, driveway openings and driveways; the Floodplain District boundary; existing and proposed topography at one foot intervals within the Floodplain District and two foot intervals outside the District; the floodway boundary; all facilities for surface and subsurface water, drainage and sewage disposal, electric, telephone and other utilities; and all existing and proposed landscape features.
3. Detailed calculations and supporting materials prepared by a Registered Professional Engineer showing the existing and proposed flood storage volume of the site between the elevation(s) of the property as it existed on September 2, 1982 and the elevation(s) of the base flood according to the Flood Insurance Rate Map. In unnumbered A-Zones the supporting materials shall include the methods and all data used in determining the elevation of the base flood.
4. Where flood-proofing is used, certification by a Registered Professional Civil Engineer or a Registered Professional Architect that the new construction is adequate to withstand the forces associated with the base flood and that the methods used are adequate to withstand flood depths, pressures and velocities, impact and uplift forces and other factors associated with the base flood.

5. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

2.13.61 Watercourse Alterations or Relocations in Riverine Areas

In a riverine situation, the Conservation Director shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  251 Causeway Street, 8th floor
  Boston, MA 02114
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

2.13.62 AO and AH Zones Drainage Requirements

Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

2.13.63 Recreational Vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

2.13.63 Protection of Sand Dunes
Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

2.13.64 Other Conditions - The Planning Board shall impose such conditions and safeguards as public safety, welfare and convenience may require. Upon completion of any authorized work an "as-built" plan, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, of all improvements in the Flood Plain District shall be submitted to the Building Inspector and the Planning Board and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been flood-proofed and the finished grades of all disturbed areas.

2.13.65 **Filing and Distribution Procedures** - The filing and distribution procedures relating to documents and other materials submitted pursuant to Special Permits referenced in section 1.16.12 of this By-law shall apply.

2.13.70 **Local Enforcement**
Enforcement shall be conducted as specified in section 1.11.10.

2.13.80 **Definitions Not Found in the State Building Code**

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100- year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM.) An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   a. By an approved state program as determined by the Secretary of the Interior or
   b. Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:
1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY – see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether

or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a floodplain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

ZONES, FLOOD – *These definitions do not need to be included in local bylaws.*

2.13.81 <u>Definitions of Flood Zones</u>

All of these terms are defined in the US Code of Federal Regulations, Title 44, Part 64.3.
ZONE A means an area of special flood hazard without water surface elevations determined ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. *(Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)*

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. *(Zone X replaces Zones B and C on new and revised maps.)*

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE *(for new and revised maps)* means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

2.14.00 Wetlands District

The Wetlands District is herein established as an overlay district superimposed on all other districts. Areas included in this District are subject to the rules and regulations governing land uses in the underlying district and the requirements of this Section.

2.14.10 Purposes of District- The Wetlands District is herein established in order to promote the public welfare through the protection, preservation and use of the Town's wetlands, water bodies, water courses and their adjoining lands; to protect the safety of persons and property against the hazards of flooding and contamination of ground water and surface water; to preserve and maintain the water retention capability, ecological functions and the utility and purity of natural groundwater supplies; and to promote the usefulness of wetlands for recreation, their natural beauty and the protection and proliferation of natural flora and fauna.

2.14.20 Boundaries of Wetlands District - The boundaries and delineation of the Wetlands District shall be coterminous with the bounds of land identified pursuant to the Massachusetts General Laws Chapter 131 s.40 to be Banks (natural occurring banks and beaches), Bordering Vegetated Wetlands (wet meadows, marshes, swamps and bogs) the land under water bodies and waterways (under any creeks, river, stream, pond, lake) and certain land subject to flooding including bordering and isolated areas.

2.14.30 Prohibited Uses - The following uses are prohibited in the Wetlands District:

1. The erection, or construction, of any new building or structure, or impervious surface, or enlargement of an existing structure or impervious surface.
2. Dumping, filling, earth transfer, removal or relocation (except as may be provided in 2.13.32)

3. Sewage or septic disposal systems, refuse dumping, sanitary landfills or other sources of potential pollution.
4. The storage of petroleum products, chemicals, manure, salt, fertilizer, toxic or hazardous substances, or other leachable material.
5. Driveways, streets, curbs, utilities, sidewalks and related facilities except where access is needed to service portions of a lot otherwise inaccessible and access is needed.
6. The draining, damming or relocating of any water feature except as part of an overall drainage basin plan or as a flood control or agriculture works authorized by a public agency.

2.14.40 **Allowed Uses** - The following uses shall be allowed within Wetlands District:

1. Bona fide agricultural activity including: work on land to be used primarily and directly in the raising of animals; the raising of fruits, vegetables, berries, nuts and other food for human or animal consumption; the raising of flowers, sod, trees, nursery or greenhouse products and ornamental plans and shrubs; the growing of cranberries.
2. Work on land used primarily and directly in the raising of forest products under a planned program to improve the quantity and quality of a continuous crop.
3. The construction, reconstruction, operation and maintenance of underground and overhead public utilities.
4. The maintenance and improvement of existing public roadways.
5. The excavation of wildlife impoundments, farm ponds and ponds for fire protection.
6. The maintenance of beaches and boat launching ramps.
7. The maintenance, repair and improvement (excluding enlargement) of existing structures including buildings, piers, towers and headwalls.
8. The construction and maintenance of catwalks, footbridges, docks, piers, boathouses, boat shelters, duck blinds, skeet and trap shooting decks, provided however that such structures are constructed on pilings or posts so as to permit the reasonably unobstructed flowage of water and adequate light to maintain vegetation.
9. The routine maintenance and repair of road drainage structures.
10. Maintenance, repair and construction of structures or associated easement or property maintained or operated by the Town of Tyngsborough or the Dracut Water Supply District.

11. The alteration of wetlands considered to be isolated and said alterations consisting of less than 5,000 square feet if the purpose is to replicate the wetlands pursuant to Massachusetts General Laws Chapter 131 Section 40.

12. Any use permitted in the underlying district in which the land is located subject to the same use and development restrictions as may otherwise apply provided that based upon properly documented engineering or other data the land is found by the Building Inspector not to be definable as wetland pursuant to the intent of this Section and the definition of wetland as stated in Massachusetts General Laws Chapter 131 Section 40.

2.14.50 <u>Notification of Water Course Alteration</u>

In a riverine situation, the Conservation Director shall notify the following of any alteration or relocation of a watercourse:

Adjacent communities

NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 2114-2104

NFIP Program Specialist
Federal Emergency Management Agency, Region 1
99 High Street, 6th Floor
Boston, MA 02110

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

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 120G, "Flood Resistant Construction and Construction in Costal Dunes);

- Wetland Protection Regulations, Department of Environmental Protection ("DEP") (currently 310 CMR 10.00);

- Inland Wetland Restriction, DEP (currently 310 CMR 13.00);

- Minimum Requirements for Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

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

2.15.00 Nonconforming Lots, Uses and Structures

2.15.10 Nonconforming Lots

2.15.11 Existing Lots - Any lot which complied with the minimum area, frontage, and lot width requirements, if any, in effect at the time the boundaries of the lot were defined by recorded deed or plan, may be built upon or used for single family residential use, notwithstanding the adoption of new or increased lot area, frontage or lot width requirements, provided that:

1. At the time of adoption of such new or increased requirements or while building on such lot was otherwise permitted, whichever occurs later, such lot was held, and has continued to be held, in ownership separate from that of adjoining land; and

2. The lot has at least 5,000 square feet of area and 50 feet of frontage at the time the boundaries of the lot were defined.

   Notwithstanding the above, the separate ownership requirements identified in Paragraph 1 which reads "such lot was held, and has continued to be held, in ownership separate from that of adjoining land" and the requirement of 50 feet of frontage identified in Paragraph 2, shall not be applicable to any lot shown on any plan recorded with the Middlesex North Registry of Deeds Book before May 20, 1955, which lot abuts a lake or waterway, which has not been built upon and which has been held continuously by an individual or by a trust controlled by said individual, on or before the adoption of the Tyngsborough Zoning By-law, May 20, 1955; and

3. Any proposed structure is situated on the lot so as to conform with the minimum yard requirements, if any, in effect at the time the boundaries of such lot were defined.

2.15.20 Nonconforming Uses and Structures

2.15.21 **Existing Use** - Any structure or use lawfully existing at the time of the adoption of this By-law or any amendment hereto and any use or structure lawfully begun or in respect of which a building or special permit has been issued before the first publication of notice of public hearing on this By-law or any amendment hereto may be continued or completed, although such structure or use does not conform to the provisions hereof, provided that, in the case of the issuance of a building or special permit, construction or operation thereunder shall conform to the provisions of this By-law or any amendment hereto, unless the construction or use has commenced within a period of not

more than six months after the issuance of the permit and that in cases involving construction, such construction is continued through to completion as continuously and expeditiously as is reasonable.

2.15.22 **Changes, Extensions and Alterations** - A nonconforming structure or use may be changed, extended or altered, provided that in each case the Board of Appeals finds that such change, extension or alteration is not substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use.

2.15.23 **Restoration** - Restoration of a nonconforming structure, which has been damaged by fire, flood or other casualty or by vandalism, may be made without conformance to the provisions of this By-law or any amendment hereto, provided that such restoration shall have commenced within six months of the date the damage was sustained and that such restoration continue through to completion as continuously and expeditiously as is reasonable, provided that if the cost of such restoration shall exceed 50% of the fair market value of the structure immediately prior to such damage, as determined by the Building Inspector, such restoration shall only proceed if authorized by special permit and if the Planning Board shall find that the restoration of the structure would not:

1. Substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed;

2. Create a danger to public safety by reason of traffic access, flow and circulation; and

3. Be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed.

2.15.24 **Residential Dwellings** - A single or two family dwelling may be altered, reconstructed, extended or structurally changed if the alteration, reconstruction, extension or structural change does not increase any portion(s) of the existing nonconforming nature of said structure without applying for a special permit before the Zoning Board of Appeals provided, however, any increase in the height of the structure or any increase to the nonconforming nature of the structure shall require a special permit from the Zoning Board of Appeals pursuant to the provision of M.G.L. C.40A, S.6.

2.15.25 **Abandonment** - Any structure or lot, in or on which a nonconforming use is abandoned or superseded by a permitted use, shall thereafter conform to the regulations for the district and the nonconforming use or structure, other than a single or two family dwelling, not used for a period of two years shall be deemed abandoned and shall not again be revived or such structure used, except in conformity with all applicable provisions of this By-law or any amendment hereto.

2.16.00 Mixed Use Overlay District

2.16.10 Purpose: The purposes of this Mixed-Use Village Overlay District (MUVOD) are to encourage a mix of business, commercial, professional, residential and recreational uses and to promote compact, village style development that is pedestrian-oriented and incorporates traditional architectural features compatible with the Town character. A vibrant mixed-use village will minimize impacts on public services; maximize efficient use of public infrastructure; increase and diversify the Town's tax base; create a thriving small business environment; provide diverse housing opportunities; encourage the reuse of existing underutilized or vacant properties; attract new investment and promote economic development within the Town. The following section is intended to further the general goals, objectives and recommendations outlined in the Town of Tyngsborough Master Plan and Tyngsborough Economic Development Plan.

2.16.20 Boundaries: The boundaries of the MUVOD shall include the areas as shown on the Town of Tyngsborough Assessor's Map Sheet 21, Block 23-1, lots 6, 13, 14, 15, 16 and 17, encompassing an area consisting of approximately 43 acres with frontage on Westford Road.

The boundaries of the MUVOD shall also include the areas as shown on the Town of Tyngsborough Assessor's map Sheet 15, Parcel 18; Map Sheet 22, Parcels 7, and 23; and map Sheet 22, parcel 20, Lot 17, encompassing an area consisting of approximately 12.2 acres with frontage on Westford Road and Dunstable Road.

2.16.30 Relationship to Existing Zoning: The underlying zoning shall remain an integral part of the Town of Tyngsborough Zoning Bylaw and shall be neither modified, repealed nor amended, except as otherwise provided in this Section. The property owners in the MUVOD shall possess all current zoning rights and be subject to the requirements applicable in the underlying zones. In the event that an owner desires to use the owner's property for Mixed-Use Development as defined in the Section, the rules and regulations of the MUVOD shall apply and by filing an application for development subject to the rules and regulations of this Section, the owner shall be deemed to accept and agree to them. Where the MUVOD provisions are silent on a zoning rule or regulation, the requirements of the underlying zoning shall apply.

2.16.40 Definitions:

"Mixed Use Development" A combination of residential and non-residential uses, as permitted within the MUVOD, arranged vertically (in multiple stories of one or more buildings) or horizontally (adjacent to one another in one or more buildings) within a lot.

2.16.50 Permitted Uses:

The following uses are allowed, in the MUVOD, subject to the requirements set forth in this Section:

2.16.51 **General Permitted Uses:**

(a) Conservation; and
(b) Recreation

2.16.52 **Permitted Residential Uses:**

(a) Multi-family dwelling.

2.16.53 **Permitted Government, Institutional and Public Service Uses:**

(a) Municipal;

(b) Public or Private Utility Facilities; and

(c) Post Office

2.16.54 **Permitted Business and Industrial Uses:**

(a) Retail Store; provided however, no single Retail Store use shall occupy an area exceeding 10,000 square feet;

(b) Business or Professional Office

(c) Financial;

(d) Restaurant;

(e) Restaurant-Fast Food; provided, however, no such Restaurant-Fast Food use shall incorporate a drive-through service;

(f) Lodge or Club;

(g) Veterinary Care;

(h) Personal Service Facility;

(i) General Services;

(j) Studio;

(k) Commercial Recreation-Indoor or outdoor facilities, operated as a business and open to the public for a fee;

(l) Lounge or Pub;

(m) Amusement Facility Indoor; provided, however, no such Amusement Facility Indoor shall incorporate a cinema;

(n) Commercial Broadcast Facility;

(o) Day Care Facility;

(p) Light Manufacturing; provided, however, no single Light Manufacturing use shall occupy and area exceeding 10,000 square feet;

(q) Industrial Office/R&D; provided, however, no single Industrial Office/R&D use shall occupy an area exceeding 10,000 square feet.

2.16.55 Other Permitted Uses:

(a) Farmer's Markets, Farm Stands, and Similar Facilities; and
(b) Outdoor Sales of Holiday Trees, Wreaths or Similar Products.

2.16.60 Site Plan Special Permit: All uses and structures in the MUVOD are subject to a Special Permit and Site Plan Special Permit from the Town of Tyngsborough Planning Board in accordance with Sections 1.16.00 through 1.16.23 of this Bylaw. In addition to the requirements of sections 1.16.00 through 1.16.23, all design criteria set forth in this Section shall apply. The Planning Board shall be the Special Permit Granting Authority for any Special Permits under this Section.

2.16.70 Dimensional Requirements:

2.16.71 General Dimensional Requirements in the MUVOD:

Uses and structures within the MUVOD shall conform to the following requirements unless said requirements are otherwise waived by the Planning Board as provide herein:

	Residential/Business/Industrial
Minimum Lot Area:	2 acres
Minimum Frontage:	200 feet
Minimum Front Yard Setback:	30 feet
Minimum Side Yard Setback:	20 feet
Minimum Rear Setback:	20 feet
Maximum Building Height:	3 and ½ stories or 45 feet
Minimum land area per Lot/Dwelling area	Building coverage not to exceed 25% of total lot area

2.16.72 Special Provisions:

(a) The minimum separation between two of more buildings on the same lot shall be at least 20 feet.

(b) The Planning Board may waive or modify any dimensional requirements set forth in this Section if, in its opinion, such modifications will result in an improved design in light of the stated purposes of this Section.

(c) The building footprint of any single building located within the MUVOD shall not exceed 40,000 square feet.

(d) Public restrooms shall be made available in accordance with the design guidelines for the MUVOD.

2.16.73 **Parking/Bicycling Requirements:**

(a) The parking requirements for any use in the MUVOD shall be as set forth under Section 3.10.00 of the Bylaw, except as otherwise provide below:

i. At least 1.5 parking space(s) shall be provided for each dwelling unit, business or office or industrial use and at least 1 parking space shall be provided for each 200 square feet of business, industrial or office use. The Planning Board may reduce the required number of parking spaces set forth in this Section if, in its opinion, such reduction will result in an improved design in light of the stated purposes of this Section.

ii. The minimum width of all parking spaces in the development shall be 9 feet and the minimum depth of all parking spaces within the development shall be 18 feet. The width of all maneuvering aisles shall be 24 feet or greater.

iii. Parking lots shall contain or be bordered within five feet by at least one tree per 8 parking spaces trees to be of two inch caliper or larger. Trees and soil plots shall be located so as to assure safe internal circulation and to provide visual screening from streets and residential areas.

iv. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every 8 parking spaces abutting the perimeter.

v. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of ten or more parking spaces face each other, a landscaped open space not less than 4 feet in width shall be provided. The landscaped strip may be provided either: 1) between the rows of parking spaces parallel to the aisle or, 2) in two of more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each such strip at least 3 trees and in all such strips not less than one tree for every 8 parking spaces in the interior part of the parking lot.

vi. Structured parking facilities (including underground parking and parking garages) shall be permissible within the MUVOD.

vii. In order to maintain the aesthetic aims of this Section, loading bays at loading areas shall not be required within the MUVOD.

(b) The required number of parking spaces may be reduced by the Planning Board where the applicant demonstrates that such parking spaces will not be needed for the proposed use, subject to the condition that the area necessary for those spaces is available on the lot and is designated on the approved plan of record. If any time after the special permit for the MUVOD is granted, the Building Commissioner may require the spaces be added.

(c) Bicycle racks should be permanently mounted and placed in convenient location throughout public spaces to encourage bicycle use. The selected design should be simple and easy, allowing for convenient and safe use by the public. Bicycle racks should be placed so as not to obstruct views or cause hazards to pedestrians or motorists.

2.16.80 **Applicant Procedures**: Projects submitted for Special Permit consideration under this Section shall follow the application and approval process outlined below:

2.16.81 **Submittals Generally:**
The applicant for a Special Permit under this Section shall submit appropriate application materials in accordance with the regulations adopted pursuant to Section 1.16.00 of this Bylaw.

2.16.82 **Specific Requirements**

Any application for a special permit under this section shall provide to the Planning Board:

(a) A site plan in accordance with section 1.16.20.

(b) Analysis of the consequences of the proposed development, evaluation of the following impacts at a level of detail appropriate to the scale of development proposed.

i. Natural environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees), and wildlife habitats.

ii. Public services: traffic safety and congestion, need for water system improvements, need for public sewerage.

iii. Economics: amount and types of employment, labor force area.

iv. Visual environment: visibility of buildings and parking, visual consistency with existing development in the area.

2.16.83 Decision Criteria:

A Special Permit under his Section shall be approved upon determination by the Planning Board that the requirements of Section 1.16.00, including section 1.16.14, have been met and that the proposed plan is consistent with the stated purposes and guidelines set forth in this Section.

2.16.90 Waiver: The Planning Board under its special permit authority may waive one or more requirements of this Section 2.16.00 and its subsections where the waiver is not inconsistent with the public health and safety, where such waiver is in the public interest, and where such waiver does not undermine the purposes of this section.

2.16.100 Other: A development pursuant to a Special Permit approved by the Planning Board under this Section shall not be subject to the growth rate regulations under Section 1.19.00 of the Bylaws.

3.00.00 GENERAL REGULATIONS

3.10.00 Parking and Loading

3.10.10 Objectives and Applicability

Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:

1. promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;

2. increase the traffic-carrying capacity of streets and highways in the town and obtain a more efficient utilization of on-street curbside parking;

3. reduce hazards to pedestrians upon public sidewalks;

4. protect adjoining lots and the general public from nuisances and hazards such as: 1) noise, glare of headlights, dust and fumes, resulting from the operation of motor vehicles, 2) glare and heat from parking lots, 3) a lack of visual relief from expanses of paving, 4) accelerated run-off of surface water from land covered by impervious materials.

3.10.20 Parking Requirements

Adequate off-street parking must be provided to service all parking demands created by new structures, additions to existing structures, or changes of use. Existing buildings and uses need not comply unless expanded or otherwise changed to increase their parking needs. Section 3.10.24 of this By-law shall determine the number of spaces required except as per 3.10.21 or 3.10.22.

3.10.21 Exceptions to Minimum Requirements

In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below will be met for the new demand without counting existing parking necessary for existing uses to meet these requirements

These requirements may be reduced on Special Permit by the Special Permit Granting Authority as designated in Section 2.11.30 of this By-law for the particular use in question. If the primary use does not require a special permit, the Planning Board shall be the Special Permit Granting Authority if it finds that fewer spaces meet all parking needs. Such cases might include:

1. Use of a common parking lot for separate uses having peak demands occurring at different times;

2. Age of other characteristics of occupants which reduce their auto usage;

3. Peculiarities of the use which make usual measures of demand invalid.

3.10.22 Use of Common Parking Areas

Common parking areas may be permitted for the purpose of servicing two or more principal uses on the same or separate lots, provided that:

1. Evidence is submitted that parking is available within 500 feet of the premises, which lot satisfies the requirements of this By-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a Traffic Engineer registered in the Commonwealth of Massachusetts.

2. A contract, agreement, or suitable legal instrument acceptable to the Town, shall be filed with the application for building permit, occupancy permit, or special permit for exception which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any, on such parking.

3. Any reduction in area required for parking because of these joint use provisions shall be reserved in landscaped open space, such area shall be computed at the rate of 400 square feet per parking space.

4. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this By-law if subsequently the joint use of parking facilities shall terminate.

3.10.23 <u>Number of Spaces</u>

For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after increasing all fractions upwards to one. Employees shall include the largest number of owners, managers, full and part-time workers and volunteers that may be normally expected on the premises during any single shift or portion thereof. The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at twenty inches for each seat. The following minimum parking requirements shall apply to uses as listed in 3.10.24 Table of Off-Street Parking Requirements.

3.10.24 Table of Off-Street Parking Requirements

Use	Number of Spaces
Stores, Retail Business, and Services	One space per 200 square feet of gross leasable area or a minimum of at least three spaces per establishment
Banks, Libraries and Post Offices	One space per 100 square feet of floor area devoted to public use, plus one space per employee
Bowling Alleys	Four spaces for each alley
Business and Professional Offices, Office Buildings, and Office of a Wholesale Establishment including Sales Space	One space per 200 square feet of gross floor area
Medical and Dental Offices and Clinics	One space per 200 square feet of gross floor area
Restaurants, Lounges and Function Rooms	One space per three seats based on the legal seating capacity of the facility
Fast Food Establishment	One space per 50 square feet of gross floor area
Theater, Funeral Home, and Places of Assembly	One space for each four seats or for each 50 square feet of assembly area
Hotels, Motels, and Tourist Homes	One space per guest room, plus one space per employee, plus a number of spaces as required elsewhere for restaurants, assembly halls, function rooms, shops and similar functions if occurring on the premises
Non-family Accommodation	One space per two persons accommodated
Nursing and Convalescent Homes	One space for each three beds plus one space for each employee serving on the shift having the greatest number of employees, plus one space for each visiting staff
Clubs, Lodges and Association Buildings	One space per three memberships
Lumber and Building Material Yards, Nurseries, and Outdoor Sales	One space per 150 square feet of office and indoor sales area and/or one space per 1,000 square feet of outdoor sales area
Manufacturing, Truck Terminals, Wholesale Establishments, Public Utility Buildings other than their Business Offices, warehouses and similar uses not normally visited by the general public	One space per 1.4 employees plus one space for each vehicle used in the operation
Mini-Warehouse / Self-Storage	For single-level, direct-access self-storage, a minimum of 4 spaces should be located at the leasing office and a minimum of 1 space per 2 units located throughout the lanes. For indoor, multi-level self-storage, a minimum of 4 spaces should be located at the leasing office plus 1 parking space per 75 units. A loading bay shall count as a parking space.
Any other non-residential use, or any use involving a combination of functions similar to or listed herein	A number of spaces as determined by the Building Inspector by application of the ratios above or by the Special Permit Granting Authority if use requires a special permit
Single-family, Two-family, and Multi-family Dwelling	Two spaces per dwelling unit for units with two or more bedrooms, one space per dwelling units for others
Home Occupation	In addition to the spaces required for the dwelling, one space per non-resident employee, plus a number of spaces sufficient to satisfy the requirements of Section 3.10.10

3.10.30 Loading Areas

All buildings requiring the delivery of goods, supplies, or materials, or shipment of the same, shall have bays and suitable maneuvering space for off-street loading of vehicles in accordance with Section 3.10.31.

3.10.31 Table of Loading Requirements

Use	Number of Berths
Retail Stores and Services	For each establishment with a gross floor area from 5,000 to 8,000 square feet, at least one berth. Additional space is required at the rate of one berth per 8,000 square feet or nearest multiple thereof. Where two or more such establishments are connected by a common wall such as in a shopping center, common berths may be permitted for the use of all establishments at the rate of one berth space per 8,000 square feet in the entire shopping center.
Office Buildings	For each office building with gross area of 4,000 square feet or more, at least one berth shall be provided.
Manufacturing, Industrial Warehousing	For manufacturing, industrial and warehousing and similar uses up to 8,000 square feet of gross floor area, at least one berth shall be provided. For larger floor areas, additional berths shall be provided as required by the Building Inspector adequate for off-street loading and unloading.

3.10.40 Parking and Loading Area Design and Location

3.10.41 General Standards.

No off-street parking shall be located within 15 feet of a street right-of-way, or in any required buffer zone adjacent to a residential or institutional use.

Parking spaces more than 500 feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless the Special Permit Granting Authority as per 3.10.21 of this section determines that circumstances justify this greater separation of parking from use.

All required parking areas except those serving single-family residences shall be paved, unless exempted by Special Permit for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard, or unsightly conditions.

Parking areas for five or more cars shall not require vehicles to back onto a public way. The following shall apply to entrances or exits to all parking areas having 20 or more spaces:

1. Entrance or exit center lines shall not fall within 50 feet of an intersection of street sidelines or within 150 feet of the centerline of any other parking area entrance or exit on the same side of the street, whether on the same

parcel or not, if serving 20 or more spaces. Users shall arrange for shared egress if necessary to meet these requirements.

2. Egressing vehicles shall have 400 feet line of sight visibility in each travel direction as measured four feet above the pavement.

3. Such parking lots shall contain or be bordered within five feet by at least one tree per eight parking spaces, trees to be of two inch caliper or larger, with not less than 40 square feet of unpaved soil area per tree. Trees and soil plots shall be located so as to assure safe internal circulation and to provide visual screening from streets and residential areas. These planting requirements may be waived if solar canopies are installed over parking spaces.

4. Street entrances shall be designed consistent with Massachusetts DPW Traffic Regulations, Section 10A-9 or any subsequent revisions.

5. Continuous curbing shall be provided to control access and damage, and wheel stops shall be provided for all other parking areas of five or more vehicles. Loading areas and parking areas for 20 or more cars shall provide screening and landscaping in accordance with Section 3.10.49 of this By-law.

3.10.42 Parking Dimensions

On any lot, in any district, with the exception of single- and two-family dwelling use, parking spaces and maneuvering aisles shall have the minimum dimensions as set forth in the following table.

Minimum Parking Stall Dimensions (in feet)			
Angle of Parking	**Width**	**Depth**	**Width of Maneuvering Aisle**
Standard			
45'-90'	10	20	22
Parallel	9	22	15
Compact			
45'-90'	9	16	24
Parallel	8	18	15
Handicapped			
45'-90'	10	20	24
Parallel	10	22	15

3.10.43 Compact Spaces

Office uses, research/office parks and manufacturing facilities which contain at least 40,000 square feet of gross floor area, 30% of the required parking may be in stalls for compact cars in accordance with the dimensional requirements as set forth in 3.10.42.

3.10.44 Handicapped Parking

Parking spaces designated for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts and shall conform to the dimensional requirements of said Board or section 3.10.42, whichever is greater.

3.10.45 Loading Area Dimensions

All required loading bays shall have minimum dimensions as follows: 30 feet long, 12 feet wide and 14 feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Building Inspector or the Special Permit Granting Authority requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles, and trailers.

3.10.46 Marking

In a parking lot or loading area the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent. Where 5 percent or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in a multi-family building, parking spaces for guests or visitors to the use or establishment, not to exceed percent of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building which it serves.

3.10.47 Availability and Snow Storage

To insure the availability and utilization of required parking spaces and loading bays on a year round basis:

1. No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building or establishment.

2. A strip of land not less than five feet in width shall be provided on at least two sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.

3. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without

requiring the moving of any other vehicle or by passing over any other space or bay.

4. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.

3.10.48 Surfacing, Drainage and Grade

All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership.

It is the intent of this section that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this section. The site plan, if required by this By-law, shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Special Permit Granting Authority as per 3.10.21 of this section may deny the request for a Special Permit when more area is to be paved than is necessary to comply with the provisions of this section.

The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be eight percent. The maximum grade of any outdoor driveway shall be ten percent.

3.10.49 Landscaping

1. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every eight parking spaces abutting the perimeter; such trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.

2. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of ten or more parking spaces face each other, a landscaped open space not less than five feet in width shall be provided. The landscaped strip may be provided either: 1) between the rows of parking spaces parallel to the aisle or, 2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each such strip at least three trees and in all such strips not less than one tree for every eight parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.

3. Trees required by this section shall be at least 2 inches diameter at a height four feet above the ground at time of planting and shall be of a species characterized
by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section.

4. The Planning Board may use its site-plan review process to waive some or all of these landscaping requirements to facilitate the effective installation of solar canopies over parking areas.

3.11.00 Sign Regulations

3.11.10 Purpose

The purpose of this section is to regulate the effective use of signs as a means of communication in the Town; to maintain and enhance the aesthetic environment and the Towns' ability to attract sources of economic development and growth; to maintain pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This sign bylaw is adopted under the zoning authority of the Town in furtherance of the more general purpose set forth in the zoning bylaw.

3.11.20 Definitions

Words and phrases used in this bylaw shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in the zoning bylaw of the Town shall be given the meanings set forth in the zoning bylaw. All other words and phrases shall be given their common, ordinary meaning unless the context clearly indicates otherwise.

1. *Advertising flags* - flags that contain any commercial message, but not including "open" or holiday decorative flags.

2. *Animated or moving sign* - any sign that uses movement or change of lighting to depict action or create a special effect or scene.

3. *Banner* - any sign of lightweight fabric or similar material.

4. *Commercial message* - any sign wording, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.

5. *Freestanding or pole sign* - any sign supported by structures or supports that are placed on, or anchored to the ground and are independent from any building or other structure.

6. *Incidental signs* - any sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking, entrance, loading only, telephone", or other similar directives.

7. *Internally lit signs* - signs of translucent materials illuminated by a source internal to the sign.

8. *Off-premises signs* - any sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

9. *Off-premises directional signs* - a sign containing a business name and an arrow designed to show direction to the business at a location other than the premises on which the sign is located.

10. *Neon signs* - signs that are lit by neon gas and usually made with narrow tubes.

11. *Pennant* - any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

12. *Portable signs* - any sign that is not permanently affixed to a building, structure, or the ground, including signs mounted on wheels or on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day to day operations of the business.

13. *Projecting signs* - any sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from such building. No such sign shall project over any public right of way or over public property.

14. *Roof signs* - any sign mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge of building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

15. *Sign* - any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention, announce the purpose of, identify the purpose of a person or entity, or to communicate information of any kind to the public.

16. *Sign Area* - the area of the smallest horizontally or vertically oriented rectangle which could enclose all of the display area of the sign, together with any backing different in color or material from the finish material of the building face without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted.

Only one side of the flat, back to back signs need to be included in calculating sign area.

17. *Temporary signs* - any sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

18. *Time and temperature signs* - any portion of a sign that displays only time and temperature and contains no advertisement.

19. *Wall or attached signs* - any sign attached parallel to but within twelve (12) inches of a wall, painted on a wall, or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall, building, or structure.

20. *Window signs* - any sign, pictures, symbol, or combination designed to communicate information about an activity, business, commodity, event, sale or service, that is placed within twenty four (24) inches of the inside of a window or upon the window panes of glass and is intended to be visible from the exterior of the window.

3.11.21 **Exceptions**: The following shall not be considered signs within the context of this bylaw:

1. Flags and insignia of any government, except when displayed in connection with commercial promotion;

2. Legal notices or informational devices erected or required by public agencies;

3. Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of the gasoline or similar automobile fuel products;

4. Integral decorative or architectural features on buildings, except that letters, trade-marks, moving parts or parts internally illuminated or decorated with gaseous tubing or other lights shall be considered signs;

5. On-premise devices and incidental signs guiding and directing traffic and parking, not exceeding two (2) square feet in area, and bearing no advertising;

6. Dial-faced clocks, either unlighted or internally lit, bearing no advertising.

3.11.30 **General Provisions**

3.11.31 **Permits** - No sign shall be erected, enlarged, or structurally altered without a sign permit issued by the Building Commissioner or other appropriate authority as specified in this bylaw, unless specifically exempted from this requirement. Permits shall

only be issued for signs in conformance with this bylaw. Permit applications must be accompanied by two prints of scale drawings of the sign, supporting structure and the location. A copy of any relevant Special Permit issued under section 1.16.00 of this bylaw shall also accompany the application. All freestanding or roof signs shall be registered and identified as required by Section 3102.4 of the State Building Code as amended. All applications must be accompanied by the appropriate fees.

3.11.32 **Maintenance** - All signs shall be kept in a safe condition and maintained in accordance with Section 3102.5 and 3102.6 of the State Building Code as amended.

3.11.33 **Nonconformance** - Any nonconforming sign legally erected prior to the adoption of this provision, or any amendments hereto, may be continued and maintained. Any signs rendered nonconforming through change or termination of activities on the premises shall be removed within thirty days of order by the Building Commissioner. No existing sign shall be enlarged, redesigned, or altered in any way unless it conforms to the provisions contained herein. Any sign which has been destroyed or damaged to the extent that the cost to restore or repair will exceed one third of the replacement value as of the date of destruction shall not be repaired, rebuilt, restored, or altered unless in conformity with this bylaw.

3.11.34 **Prohibitions**

1. No sign shall be lighted, except by a steady, stationary light, shielded and directed solely at or internal to the sign. Use of neon or other gaseous elements is prohibited except as allowed under specific district regulations.

2. No illumination shall be permitted which casts glare onto any residential premises or onto any portion of a way so as to create a traffic hazard. All determinations on traffic hazards shall be made by the Chief of Police.

3. No sign shall be illuminated in any residential district between the hours of 11:00 P.M. and 7:00 A.M. unless the establishment is legally open to the public during those hours.

4. No sign having red or green lights shall be erected within sight of a traffic signal unless approved as non-hazardous by the Chief of Police.

5. No animated, revolving, or flashing sign shall be permitted.
6. No pennants, streamers, advertising flags, spinners, or similar devices shall be permitted, except as allowed by a sign permit from the Board of Selectmen.
7. No signs shall be attached to any motor vehicles, trailers, or movable objects such as portable signs, regularly or recurrently located for fixed display.

8. Corner visibility shall not be obstructed in such a manner that will create a traffic hazard. All determinations of traffic hazards shall be made by the Chief of Police.

3.11.35 **Off-Premises Signs** - Only signs pertaining exclusively to the premises on which they are located or to products, accommodations, services, or activities on the premises shall be allowed with the following exceptions:

1. One off-premise directional sign designating the route to an establishment not on the street to which the sign is oriented, may be erected and maintained on a free standing pole within the public right-of-way at any intersection if authorized with a sign permit from the Board of Selectmen, or on private property if granted a Special Permit by the Board of Appeals.

    a. Such signs shall be authorized only upon the authorizing agency's determination that such sign will promote the public interest, and will not endanger the public safety.
    b. At such locations where directions to more than one establishment are to be provided, all such directional information shall be incorporated into a single pole. Such pole shall be no more than eight (8) feet above the road surface and may be shared by a maximum of six (6) businesses.
    c. All such directional signs shall be unlighted and shall only bear the name of a business, distance and directional arrow.
    d. Each such sign shall be six (6) inches by twenty-four (24) inches and shall have a dark blue background with white lettering.
    e. Sign poles and locations will be subject to the approval of the Building Commissioner and the Highway Department Supervisor.

2. Temporary signs without commercial advertising that advertise local sales or special events of a public, charitable, or religious organization may be erected at town designated sign kiosks if authorized with a sign permit by the Board of Selectmen.

3.11.36 **Temporary Signs** - Temporary signs shall be allowed provided they comply with the following general requirements and the specific requirements for the zoning districts:

1. Unless otherwise specified in this bylaw, temporary signs must comply with all applicable requirements for permanent signs, including issuance of a sign permit.

2. Temporary signs not meeting requirements for permanent signs may advertise sales, special events, or changes in the nature of an operation if allowed by a sign permit from the Board of Selectmen. Such signs shall not be used to advertise a continuing or regularly recurring business operation, and shall be removed promptly when the information they display is out of date, no longer relevant, or within forty-five (45) days of the sign permit date whichever is the earliest.

3. Political signs shall be allowed only on private property.

3.11.37 **Fee Schedule** - All fees for all sign permits will be reviewed and assigned annually by the Board of Selectmen.

3.11.40 **Permitted Signs** - Unless otherwise stated, all signs require a sign permit from the Building Commissioner.

3.11.41 **Residential Districts** - The following signs are allowed in residential districts as well as in other districts. In a residential district, no part of any sign shall be more than fifteen (15) feet above the ground level or within ten (10) feet of any street line unless attached to a building.

1. One sign of not more than two (2) square feet, either attached or free standing, indicating only the name of the owner or occupant, and street number. No sign permit required.

2. One sign of not more than twelve (12) square feet oriented to the primary street on which the premises has access, either attached or free standing, pertaining to a permitted nonresidential principal use of the premises.

3. One off-premises directional sign as provided herein in 3.11.35.

4. Signs of not more than twelve (12) square feet attached to fences or walls of ball fields, arenas, or stadiums oriented to be viewed from the inside or playing portion of the field. Such signs shall be unlighted and shall be no more than fifty (50%) percent of the fence or wall area to which they are attached. Such signs require no sign permit with written notice to the Building Commissioner.

5. One temporary unlighted real estate sign of not more than six (6) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commissioner if such sign is to be removed within forty-five (45) days.

6. One temporary unlighted sign of not more than twenty-five (25) square feet, indicating the name and address of the parties involved in the construction on the premises. Such sign requires no sign permit with written notice to the Building Commissioner if not more than twelve (12) square feet and is to be removed within forty five (45) days.

7. One sign of not more than twelve (12) square feet oriented to the primary street on which the premises have access containing the name of a residential subdivision, apartments, condominiums, or similar residential use on the premises.

8. One sign of not more than two (2) square feet for a home occupation permitted under Section 2.11.50.

9. One "open" or holiday decorative flag of not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.42 **Business 1 (B-1) District - Neighborhood Business**. Signs are permitted as in residential district unless specifically classified in the Business 1 district. No part of any sign shall be within ten (10) feet of any street line unless attached to a building.

1. One attached sign of not more than twelve (12) square feet oriented to each street on which the premises have frontage. Such signs shall be either attached flat against the wall or fixed canopy of building, or projecting from it. The area of such sign erected for any occupant shall not exceed twenty percent (20%) of the portion of the wall area assigned to that occupant up to the maximum twelve (12) square feet. One projecting sign of not more than twelve (12) square feet may be used in lieu of an attached sign area. Individual unlighted window signs of not more than two (2) square feet and identifying the occupants therein, shall be excluded from the above limitations.

2. One freestanding sign for a single business on one lot. Such signs shall be not more than twelve (12) square feet and extend not more than eight (8) feet above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 1 District nor injurious to traffic and safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above ground level.

3. One sign for multiple businesses on one lot that identifies those businesses or occupants. Such sign shall be of no more than twenty percent (20%) of the wall area if attached, and if free standing no more than twenty-five (25) square feet and no more than eight (8) feet in height above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 1 District nor injurious to traffic and safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above ground level.
4. Temporary unlighted window signs occupying not more than thirty percent (30%) of the glass area of a window require no sign permit.

5. One temporary unlighted real estate sign of not more than twenty-five (25) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commissioner if such sign is to be removed within forty five (45) days.

6. One internally lit window sign per business or occupant. Such sign may be neon or otherwise and shall be not more than six (6) feet.

7. One "open" or holiday decorative flag of not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.43 **Business 2 (B-2) District - Office/Professional Business.** Signs are permitted as in residential district unless specifically classified in the Business 2 district. No part of any sign shall be within ten (10) feet of any street line unless attached to a building.

1. One attached sign of not more than twenty-five (25) square feet oriented to each street on which the premises have frontage. Such signs shall be either attached flat against the wall or fixed canopy of building, or projecting from it. The area of such sign erected for any occupant shall not be more than twenty percent (20%) of the portion of the wall area assigned to that occupant up to the maximum twenty-five (25) square feet. One projecting sign of not more than twelve (12) square feet may be used in lieu of an attached sign area. Individual unlighted window signs of not more than two (2) square feet and identifying the occupants therein, shall be excluded from the above limitations.

2. One freestanding sign for a single business on one lot. Such signs shall be of not more than twenty-five (25) square feet and extend not more than eight (8) feet above ground level.

3. One sign for multiple businesses on one lot that identifies those businesses or occupants. Such sign shall be of no more than twenty percent (20%) of the wall area if attached, and if free standing no more than twenty-five (25) square feet and no more than eight (8) feet in height above ground level.

4. Temporary unlighted window signs occupying not more than thirty percent (30%) of the glass area of a window require no sign permit.

5. One temporary unlighted real estate sign of not more than twelve (12) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commissioner if such sign is to be removed with forty five (45) days.

6. Internally lit window signs either neon or otherwise shall not be permitted in this district.

7. One sign for identifying subdivision of lots for office development oriented to the primary street on which the premises have access. Such sign shall be no more than twenty-five (25) square feet or eight feet above ground level.

8. One "open" or holiday decorative flag of not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.44 **Business 3 (B-3) District - General Shopping Business**. Signs are permitted as in the residential district unless specifically classified in the Business 3 district. No part of any sign shall be within ten (10) feet of any street line unless attached to a building.

1. One attached sign of not more than one hundred (100) square feet oriented to each street on which the premises have frontage. Such signs shall be either attached flat against the wall or fixed canopy of a building, or projecting from it. The area of such sign erected for an occupant shall not be more than twenty percent (20%) of the portion of the wall area assigned to that occupant up to the maximum one hundred (100) square feet. One projecting sign of not more than twelve (12) square feet may be used in lieu of an attached sign area. Individual unlighted window signs of not more than two (2) square feet and identifying the occupants therein, shall be excluded from the above limitations.

2. One freestanding sign for a single business on one lot. Such signs shall be no more than twenty-five (25) square feet and no more than eight (8) feet above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 3 District nor injurious to traffic and safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above the ground level.

3. One sign for multiple businesses on one lot that identifies those businesses or occupants. Such sign shall be no more than twenty percent (20%) of the wall area if attached, and if free standing no more than twenty-five (25) square feet and no more than eight (8) feet in height above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 3 District nor injurious to traffic and safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above the ground level.

4. Temporary unlighted window signs occupying not more than thirty percent (30%) of the glass area of a window require no sign permit.

5. One temporary unlighted real estate sign of not more than twenty-five (25) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commissioner if such sign is to be removed within forty-five (45) days.

6. One internally lit window sign per business or occupant. Such sign may be either neon or otherwise and shall not be more than six (6) square feet.

7. One freestanding sign for three (3) or more businesses in a retail complex of 50,000 square feet of floor area or more on a single lot oriented to each street on which the premises have frontage. Such signs shall be no more than one hundred (100) square feet and shall be no more than twenty-five feet above ground level. Such signs shall only contain the name of the complex and the names of the businesses or occupants within the complex.

8. One freestanding sign for a retail complex (shopping center or mall) of 150,000 square feet of floor area or more on a single lot oriented to each street on which the premises have frontage. Such signs shall be no more than three hundred (300) square feet and shall be no more than twenty-five feet above ground level. Such signs shall only contain the name of the complex and the businesses or occupants within the complex. In the case where one occupant is a multiplex movie theater such sign may include the theater's current billings.

9. One sign for identifying subdivision of lots for office development oriented to the primary street on which the premise have access. Such sign shall be no more than twenty-five (25) square feet or eight feet above ground level.

10. One "open" or holiday decorative flag or not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.45 **Business 4 (B-4) District - Adult Business.** Signs are permitted as in a residential district unless specifically classified in the Business 4 district. No part of any sign shall be within ten (10) feet of any street line unless attached to a building.

1. One attached sign of not more than one hundred (100) square feet oriented to each street on which the premises have frontage. Such signs shall be either attached flat against the wall or fixed canopy of the building, or projecting from it. The area of such sign erected for an occupant shall not be more than twenty percent (20%) of the portion of the wall area assigned to that occupant up to the maximum one hundred (100) square feet. One projecting sign of not more than twelve (12) square feet may be used in lieu of an attached sign area. Individual unlighted window signs of not more than two (2) square feet and identifying the occupants therein, shall be excluded from the above limitations.

2. One freestanding sign for a single business on one lot. Such signs shall be no more than twenty-five (25) square feet and no more than eight (8) feet above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 4 District nor injurious to traffic and

safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above the ground level.

3. One sign for multiple businesses on one lot that identifies those businesses or occupants. Such sign shall be no more than twenty percent (20%) of the wall area if attached, and if free standing no more than twenty-five (25) square feet and no more than eight (8) feet in height above ground level. Larger or taller signs may be allowed by a Special Permit from the Zoning Board of Appeals if said Board determines that the particular sign will not be incongruous with the Business 4 District nor injurious to traffic and safety conditions. In no case shall such a Special Permit allow a sign of more than fifty (50) square feet or twenty-five (25) feet above the ground level.

4. Temporary unlighted window signs occupying not more than thirty percent (30%) of the glass area of a window require no sign permit.

5. One temporary unlighted real estate sign of not more than twenty-five (25) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commission if such sign is to be removed within forty-five (45) days.

6. One internally lit window sign per business or occupant. Such sign may be either neon or otherwise and shall not be more than six (6) square feet.

7. One freestanding sign for three (3) or more businesses in a retail complex of 50,000 square feet of floor area or more on a single lot oriented to each street on which the premises have frontage. Such signs shall be no more than one hundred (100) square feet and shall be no more than twenty-five feet above ground level. Such signs shall only contain the name of the complex and the names of the businesses or occupants within the complex.
8. One freestanding sign for a retail complex (shopping center or mall) of 150,000 square feet of floor area or more on a single lot oriented to each street on which the premises have frontage. Such signs shall be no more than three hundred (300) square feet and shall be no more than twenty-five feet above ground level. Such signs shall only contain the name of the complex and the businesses or occupants within the complex. In the case where one occupant is a multiplex movie theater such sign may include the theater's current billings.

9. One sign for identifying subdivision of lots for office development oriented to the primary street on which the premises have access. Such sign shall be no more than twenty-five (25) square feet or eight feet above ground level.

10. One "open" holiday decorative flag of not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.46 **Industrial (I-1) District - Industrial Uses.** Signs are permitted as in a residential district unless specifically classified in the Industrial I-1 district. No part of any sign shall be within ten (10) feet of any street line unless attached to a building.

1. One attached sign of not more than two hundred (200) square feet oriented to each street on which the premises have access. Such signs shall only contain the name of the firms or goods or services available or produced on the premises. Such signs shall be either attached flat against the wall or fixed canopy of the building. The area of such sign erected for an occupant shall not be more than twenty percent (20%) of the portion of the wall area assigned to that occupant up to the maximum two hundred (200) square feet. Roof signs projecting no more than six (6) feet above such a wall may be used in lieu of attached sign area. Individual unlighted window signs of not more than two (2) square feet and identifying the occupants therein, shall be excluded from the above limitations.

2. One freestanding sign oriented to each street on which the premises have access. Such signs shall be no more than twenty-five (25) square feet and no more than eight (8) feet above ground level. Such signs shall only contain the name of the firms or goods or services available or produced on the premises.

3. One temporary unlighted real estate sign of not more than twenty-five (25) square feet advertising the sale, rental, or lease of the premises or subdivision on which it is erected. Such sign requires no sign permit with written notice to the Building Commissioner if such sign is to be removed within forty-five (45) days.

4. One sign for identifying subdivision of lots for office or industrial development oriented to the primary street on which the premises have access. Such sign shall be no more than twenty-five (25) square feet or no more than eight feet above ground level.

5. One "open" or holiday decorative flag of not more than twelve (12) square feet per residence or business. No sign permit shall be required unless such sign is an advertising flag as determined by the Building Commissioner.

3.11.50 **Signs for Property Abutting Limited Access, High Speed Highways** - The Board of Selectmen may grant a Special Permit for an additional attached sign on a building abutting a limited access, high speed highway, limited to the name of the principal tenant of the building.

3.11.51 **Submittals Generally** - The applicant for a special permit as required under this section shall submit appropriate materials as per the regulations adopted by the Board of Selectmen pursuant to section 1.16.00 of this By-law.

3.11.52 **Decision Criteria** - A special permit for a sign pursuant to this section shall be approved only upon determination of the Board of Selectmen that the requirements of Section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of Special Permit Granting Authority and the following additional criteria:

1. Efficient Communication

    a. Signs should not contain selling slogans or other advertising that is not an integral part of the name or other identification of the occupant.

    b. Sign letter size should be related to the reader's distance and speed.

    c. Signs should be simple and avoid distracting elements so that the contents can quickly and easily read.

2. Environmental Relationship

    a. Sign design should take into consideration the scale of the limited access highway to which the sign is oriented as well as the size, brightness, style, height, and colors of other signs in the vicinity and background lighting levels.

    b. Projecting signs shall be used only in such circumstances as on side streets where projecting position is necessary for visibility from the limited access highway.

3. Building Relationship

    a. Signs should be sized and located so as to not interrupt, obscure or hide the continuity of columns, cornices, roof eaves, sill lines or other elements of the building structural form.

    b. Sign materials, colors, and the lettering should be consistent with the character of the building to which the sign relates, just as the sign size should be related to the building size.

3.12.00 **Soil, Vegetation, Rock, and Gravel Removal.**

3.12.10 **Purpose**

The purpose of this section is to prevent the degradation of the town's natural resources including its soil, surface and groundwater and naturally occurring vegetation due to the improper or uncontrolled removal or redisposition of soils, vegetation and earth materials.

3.12.20 General Provisions

1. Excavation, removal, stripping, or mining of any earth material, soil and vegetation except as hereinafter permitted on any parcel of land, public or private, in Tyngsborough is prohibited.
2. Exclusive jurisdiction to issue Earth Removal Permits shall be with the Board of Selectmen, except where earth removal is incidental to building or roadway construction, in which case the Special Permit Granting Authority, for the uses as defined in 2.11.30, is authorized to issue the gravel permit.
3. The Building Inspector shall have the authority to enforce all conditions of any permit issued under this section of the Zoning By-law.
4. All earth removal operations in existence in Tyngsborough on the effective date of this section shall be subject to the requirements stated herein. However, in no case shall any existing earth removal operation continue for more than 6 months after passage of this Zoning By-law without obtaining a special permit as defined under the conditions of this section.
5. An annual fee shall be required for Earth Removal Permits as established by the Board of Selectmen.
6. Violation of this section of the Zoning By-law imposes a penalty of $300.00 for the first offense, $300.00 for the second and each subsequent offense. Each day of operation in violation of this section will be considered a separate offense.

3.12.30 Application for Soil, Vegetation, Rock and Gravel Removal

3.12.31 Materials for Submission

All applicants for a Soil, Vegetation, Rock and Gravel Removal Permit must, at a minimum, submit the following materials to the Board of Selectmen.

1. A plan or plans to scale, (1" = 40') prepared and stamped by a Registered Engineer, and subdivided into five acre lots showing the property lines of the parcel-of land under consideration along with all abutters to the property, existing and final contours in two foot (2) elevation increments, existing and proposed final drainage of the site, including all culverts, streams, ponds, swamps, and siltation basins, and all wetlands pursuant to MGL Ch. 131, sec. 40, means of entrance and egress from the property, locus map, and any other pertinent data deemed necessary by the Board of Selectmen.
2. A plan, study, or report showing the proposed ultimate use of the land conforming with the existing zoning By-law. Proper planning for future land use shall be a prime consideration affecting the issuance of a Soil, Vegetation, Rock and Gravel Removal Permit.

3. A complete list of the names and addresses of current abutters of the property where such removal is proposed.
4. An operating schedule showing the active area (not to exceed five (5) acres) where the removal will begin and also how the total parcel will be developed in progressive five (5) acre increments.
5. A log of soil borings taken to the depth of refusal of 8' below the proposed excavation with a minimum of five borings per five acre section. Additional borings may be requested by the Board of Selectmen if necessary.
6. A plan showing all refuse and debris burial sites on or off the property. (May be shown on plan as required in 1 above.)
7. The full legal name and address of the owner of record, the operator of the removal operation and of the applicant.
8. A plan showing the spring high water table and ground water contours at two foot intervals.

3.12.40 Permit for Soil, Vegetation, Rock and Gravel Removal.

3.12.41 General. The Board of Selectmen may issue Soil, Vegetation, Rock and Gravel Removal Permits for I-1 districts, complete with conditions imposed, for areas not to exceed twenty acres. All permits shall conform to the minimum restoration and operating standards contained herein and such other conditions as the Board of Selectmen may deem necessary. Said permit shall allow the working of only five (5) acres at any one time. Upon completion of the earth removal operation on a five (5) acre parcel, or a part thereof, and substantial restoration of said parcel as determined by the Board of Selectmen, according to the restoration standards and the permit conditions, application may then be made to the Board of Selectmen for a permit renewal. Such permit renewal shall allow the removal of earth on another five (5) acre section, as shown by the operating schedule submitted with the permit application. This procedure shall be followed until the operation is completed.

No soil being removed under Special Permit may take place within 300 feet of a street or way, nor within 100 feet of the high water mark of any natural water course, nor within 100 feet of a lot line. Soil may be disturbed within these established boundaries if it is considered part of the site restoration work and has received prior approval by the Board of Selectmen.

Removal of soil shall not take place below a level that would be considered an undesirable grade for the future development of the area, or to an elevation within eight (8) feet of the springtime high water table unless such elevation has been approved by the Board of Selectmen as a desirable improvement that will enhance the future development of the area.

3.12.42 **Accuracy of Information**. The permit shall be considered a non-transferable revocable permit to remove earth materials. If it is found that incorrect information was submitted in the application, or that conditions of the permit are being violated, or that the governing regulations are not being followed, the permit shall be suspended until all provisions have been met and promises made to conform. Failure of the permit holder to comply within the time specified by the Board of Selectmen for correction of violations shall cause the permit to be revoked, forfeiture of the security to the town, and the imposition of all fines as set forth in Paragraph 3.12.20 (7).

3.12.43 **Compliance Review.** The Board of Selectmen shall discuss and review the permit periodically, and at a minimum, annually. Written progress reports showing conformance with regulations and permit conditions shall be submitted to the Board of Selectmen by the building Inspector or his designated agent every three (3) months.

3.12.44 **Effective Date.** A Soil, Vegetation, Rock and Gravel Removal Permit shall not be in effect until the applicant has filed the proper security as required in Paragraph 3.12.80, paid the required fees as required by Paragraph 3.12.20.(6), and recorded the special permit at the Registry of Deeds.

3.12.45 Mechanical crushing and screening may be permitted by the Board of Selectmen after a public hearing with due notice given.

3.12.50 **Removal Incidental to Development, Construction or Improvement**

This regulation shall be deemed not to prohibit the removal of such sod, loam, soil, clay, sand, gravel, or stone as may be required to be excavated for the purpose of constructing ways in accordance with lines and grades approved by the Planning Board, or for the purpose of constructing underground utilities.

Where soil is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Building Inspector. Removal will be allowed only from the area for the building, driveways, parking areas, and from areas where removal is specifically required by the Board of Health in connection with disposal systems.

3.12.60 **Public Hearing.**

The Board of Selectmen shall hold a public hearing pursuant to Section 1.16.14 and 1.16.15 of this By-law and Section 1.16.00 et. seq. generally.

3.12.70 **Operational Standards for Removal and Restoration**

All soil, vegetation, rock and gravel removal activities controlled by this section shall be subject to the following standards:

3.12.71 Time of Operation.

1. Excavation and site maintenance may be carried on from 7:30 A.M. until 6:00 P.M., Monday through Friday, excluding State and Federal holidays.
2. Trucking from the site may be carried on from 7:30 A.M. through 6:00 P.M., Monday through Friday, excluding State and Federal holidays.

3.12.72 Site Preparation

1. Only the active area described in the permit application may be made ready for earth removal.

2. No standing trees are to be bulldozed over, or slashed and bulldozed into piles. All trees must be cut down. All wood and brush must be piled for removal or chipping. Wood chips may remain on the site. No trees are to be buried on the site.

3. Stumps shall be buried in pre-designated areas as shown on application plans.
4. Any change in stump burial must be submitted to the Board for approval.
5. All topsoil removed from the active removal area shall be piled and adequately protected from erosion for future site restoration.
6. No topsoil shall be removed from the site until all areas have been restored and permission has been granted by the Board of Selectmen.
7. Prior to any excavation, adequate siltation basins shall be constructed to prevent the run-off of silted water from the site.
8. All excavation shall be done so as to create contours to channel run-off waters into the siltation basins.
9. No siltation basin shall exceed seven (7) feet in depth.
10. Siltation basins must be cleaned when sediment deposits are within eighteen (18) inches of the outfall invert.

3.12.73 Site Maintenance.

1. No open face excavation shall exceed twenty-five (25) feet in height.
2. No excavation shall be closer than one hundred (100) feet to a property line unless approved by the Board of Selectmen.
3. No slope shall exceed a two (2) foot horizontal to a one (1) foot vertical (2:1) grade.
4. No earth removal operation shall create excessive amounts of dust or allow roads leading into or from a site to become excessively dust producing.

5. Proper dust control methods shall be employed and approved by the Board of Selectmen.

3.12.74 Screening and Access.

1. An immediate program of site screening shall start when site preparation begins.
2. All entrances shall be screened with existing vegetation, evergreens, or other suitable natural methods, so as to prevent a direct view into the earth removal area.
3. All areas within fifty (50) feet of a traveled way or abutting property lines shall be reforested immediately upon completion of the earth removal operation of that area. Said reforestation shall be done in accordance with the standards as stated in 3.12.77 of this section, paragraphs 2 through 7 inclusive.
4. A minimum of one, hundred-fifty (150) trees per acre shall be used for this reforestation.
5. All access roads shall be level with intersecting streets for a distance of sixty (60) feet.
6. A STOP sign shall be installed so as to warn any vehicle entering onto a town street.
7. All access roads shall be equipped with a suitable locking gate to prevent unauthorized entry.

3.12.75 Temporary Buildings.

1. All temporary structures shall be specified in the special permit application and shown on the plan.
2. Any structure erected on the premises for use by personnel or storage of equipment shall be located at least forty (40) feet from any existing roadway and at least thirty (30) feet from any lot line.
3. Any temporary structure will be removed no later than ninety (90) days after the expiration date of the permit.

3.12.76 Mechanical Crushing and Screening.

No permit shall authorize the crushing or processing of rock, or commercial blasting for quarrying operations.

3.12.77 **Restoration Standards**

1. All restoration must be completed within sixty (60) days after the termination of a Soil, Vegetation, Rock and Gravel Removal Permit or by the first of June if the permit terminates between December first through March thirty-first.
2. No slope shall be left with a grade steeper than a two (2) foot horizontal to a one (1) foot vertical (2:1).
3. All siltation basins shall be filled with earth, and a natural drainage pattern must be re-established. No area upon the site which will collect water shall remain unless approval is granted by the Board of Selectmen or unless the area was shown on the original application plans.
4. All topsoil which was on the site prior to earth removal operations shall be replaced to a minimum depth of six (6) inches on all disturbed areas. Sites that had less than six (6) inches of topsoil shall be restored with a minimum of four (4) inches over the entire area.
5. Seeding - The entire area shall be seeded with grass or legume which contains at least sixty percent (60%) perennials. The planted area shall be protected from erosion during the establishment period using good conservation practices.
   Areas which wash out are to be repaired immediately.
6. Reforestation - All areas which are disturbed in the earth removal operation shall be reforested with fifty percent (50%) coniferous and fifty percent (50%) deciduous trees planted at the rate of one hundred fifty (150) trees per acre. All trees used are to be a minimum of two (2) year transplants. Areas which are to be used for agricultural purposes after earth removal operations are completed may be reforested in the following manner:
   (a) Trees shall be planted twenty-five (25) feet deep from a public road or property line.
   (b) The remaining area shall immediately be planted with grass or other suitable agricultural planting material.
7. Within ninety (90) days of completion of operations, all equipment, accessory buildings, structures, and unsightly evidence of operation shall be removed from the premises.

3.12.80 **Security Requirements.** There must be filed with the Town Treasurer, a continuous bond or deposit of money in the minimum amount of two thousand dollars ($2,000) per acre to be excavated, and shall be of a sufficient amount to cover ten (10) acres, or the total parcel, whichever is smaller, as determined by and satisfactory to the Board of Select-men. After completion of the total project, and at the applicant's written request, the Board of Selectmen may grant a partial release of any security posted by the applicant. One (1) year after such a partial release is granted and if in the opinion of the

Board of Selectmen no damage or deterioration to the finished project has developed, the Board of Selectmen will issue a final release of the security. If, during the year following the date of a partial release, slumping, gullying, erosion, or any other unsatisfactory condition appears, the applicant shall be responsible for, and shall make any necessary repairs, before final release of security is granted.

The bonding agent shall be required to give the Board of Selectmen, by Registered or Certified mail, a sixty (60) day notice prior to any termination or cancellation of the bond.

3.13.00 Buffering, Screening and Grading

3.13.10 Purposes - The purpose of the provisions of this section is to protect against potential noxious, visual or descriptive effects of adjacent land uses of differing character and intensity; prevent the intrusion upon residential areas of such effects and limiting the deleterious effects of erosion. Use of existing natural wooded landscape is encouraged and is meant to be augmented with the following.

3.13.20 Buffering and Screening From Adjacent Residential Uses - Buffer areas shall be provided in all areas where any land use not of a residential nature, located in any commercial or industrial zone adjoins a residential district or an existing residential use within the same district along its side or rear lot line.

3.13.21 Buffering and Screening Requirements in B3, B4, and I1 Districts - Where a side or rear lot line of a development in a B3, B4, or Il district adjoins a residential district or an existing residential use within the same district the following buffer requirements shall apply:

1. A strip of land not less than fifty (50) feet from such side or rear lot lines shall be provided. This requirement may be reduced to twenty-five (25) feet by the Planning Board where alternative designs such as that required by section 3.13.21 paragraph 4 meet the intent of this section.

2. Such strip shall contain a continuous screen of planting of vertical habit in the center of the strip not less than three (3) feet in width and six (6) feet in height at the time of occupancy so as to maintain a dense screen year round

3. At least 50% of the plantings shall consist of evergreens and shall be evenly spaced along the length of the buffer strip.
4. In lieu of continuous planting, a solid brick, stone or wood fence of a design approved by the Planning Board, not less than six (6) feet nor more than eight (8) feet in height or a planted earthen berm of a design approved by the Planning Board may be established and maintained with plantings in an amount no less than 20 % of the amount required in 2 and 3 above.

3.13.22 **Buffering and Screening Requirements in B1 and B2 Districts** - The buffering requirements in B1 and B2 zones shall be as stated in 3.13.21 with the following exceptions:

1. The width of the buffer between residential and business related land uses in the B1 zone shall be twenty (20) feet.
2. The width of the buffer between residential and business related land uses in the B2 zone shall be ten (10) feet.

3.13.30 **Buffering and Screening Requirements Between Land Uses in Business and Industrial Zones** - In all cases business and commercial land uses shall have a buffer area between each commercial or industrial lot which extends from the front line to the rear lot line and a buffer extending inward from the side lot lines along the rear lot line.

3.13.31 **Buffering and Screening in B1 and B2 Districts** - In any B1 or B2 district the following requirements shall apply:

1. A buffer area of fifteen (15) feet shall be provided along the side lot lines extending to the rear lot line and along the rear lot line.
2. Said buffer area shall be landscaped and with the exception of town approved signs and access driveways, shall contain a mixture of shade trees, deciduous shrubs and evergreens with a minimum of one shade tree at least two (2) inch caliper at a point six (6) inches above the finished grade within each fifty (50) linear feet and well maintained grass, bark mulch or other ground cover to the depth of the developed portions of the lot. No more than 25 % of the coverage of the landscape area shall be mulch or non-living materials.

3.13.32 **Buffering and Screening in B3 and B4 Districts** - In any B3 or B4 district the following buffering and screening requirements shall apply:

1. A buffer area not less than fifteen (15) feet shall be provided along the side lot line extending to the rear lot line, and along the rear lot line.
2. A buffer area shall be landscaped according to the requirements of 3.13.31 paragraph 2.
3. Each principal and accessory building shall have landscaped strips on all sides (loading and access areas excepted) and within twenty-five (25) feet of each building.

4. Each landscaped strip shall be at least ten (10) feet in width if facing the front lot line and five (5) feet in width on the side and rear lot lines and shall contain some combination of shade trees, deciduous shrubs and evergreens and/or well maintained grass, bark mulch or other ground cover.
5. No landscaped strips are to be required on any side of a building where public or employee parking is not permitted and where there is no public access to or from the building.

3.13.33 **Buffering and Screening in Industrial District Il** - In any industrial district the following requirements shall apply:

1. A strip of land not less than fifteen (15) feet shall be provided as a buffer along the side lot lines extending to the rear lot line and along the rear lot line, twenty five (25) feet shall be provided in I2 districts.
2. Said buffer areas shall be landscaped according to 3.13.31 paragraph 2.
3. Each principal and accessory building shall have landscaped strips on all sides (loading and access areas excepted) and within twenty-five (25) feet of each building.
4. Each landscaped strip shall be as stated in 3.13.32 paragraphs 4 and 5.

3.13.40 **Grading**

3.13.41 **Grading General** - Any land use involving the regrading of more than one acre of land and the construction of a structure thereon, excluding single and two family structures held in separate ownership from adjoining lots at the time of permitting shall be subject to the requirements of this section.

3.13.42 **Slopes Over 15 %** - Slopes of 15 % or greater which will result from grading, construction, or other land alteration shall be stabilized either through a structural retaining wall or cribbing, or through vegetative slope stabilization, comprising not less than four inches of topsoil planted densely with plants having shallow fibrous roots sufficient to retain the soil, such as grasses, legumes, dogwood, amur privet, rugosa rose, and bayberry.

3.13.43 **Finish Grades** - Lots having average finish grades in excess of 10% shall either retain existing vegetation, or provide vegetative slope stabilization as above, on a percentage of lot area equal to not less than twice the average percentage slope.

3.14.00 **Environmental Protection Standards**

3.14.10 **Compliance** - No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert advice to the Inspector of Buildings shall

be made, or guaranteed by bond or other legally binding device, before further consideration of the application shall continue. After a permit is issued in accordance with this Section, continuing compliance is required. When the Building Inspector suspects a subsequent violation he may, as necessary, obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the Town.

3.14.20 **Water Quality -** No discharge at any point into any public sewer, private sewerage disposal system, stream, water body, or into the ground, of any materials of such nature or temperature as can contaminate such water body or water supply, or cause emission of dangerous or offensive elements in relation thereto, shall be permitted except in accordance with applicable Federal, State, and local health and water pollution control laws and regulations.

3.14.30 **Air Quality -** No building or occupancy permit shall be issued for any facility specified in Regulation 2.3 Regulations as Amended for The Control of Air Pollution in the Merrimack Valley Air Pollution District, Commonwealth of Massachusetts, Department of Public Health, Bureau of Air Quality Control, until written approval for the facility has been obtained from the Department of Public Health. The provisions of said Regulations shall apply to dust, flash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof in the ambient air space.

3.14.40 **Noise -** No use shall be permitted within the Town of Tyngsborough which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property. Exempt from the provisions of this subsection are (a) vehicles not controlled by an owner or occupant of a lot within the Town, (b) temporary construction activities occurring during the hours of 7 A.M. to 6 P.M. on weekdays, (c) occasionally used safety signals, warning devices, emergency pressure relief valves, or other such temporary activity, (d) use of power tools and equipment such as lawn mowers, snow-blowers, chain saws, tractors, and similar equipment for the maintenance of property. For the purposes of this By-law the standards in the following table shall apply:

3.14.41 **Noise Standards:**

	For Sounds Generated Continuously From Any Source Not Otherwise Exempted Above, and Measured:	Maximum Permitted Sound Levels (in dBA)*
(a)	At the lot line of an adjacent or nearby residence or institutional use, weekdays during the hours of 7 a.m. to 6 p.m.	60
(b)	At the lot line of an adjacent or nearby residence or institutional use, weekdays during the hours of 6 p.m. to 7 a.m. weekdays	50
(c)	At the lot line of an adjacent Business Use	65
(d)	At the lot line of an adjacent Industrial Use	70

* dBA shall mean the A-weighted sound pressure levels in decibels as measured by a General Purpose Sound Level Meter complying with the provision of "American National Standards Institute". The instrument shall be properly calibrated and set to the A-weighted response scale, and the meter set to the slow response. Reference pressure shall be 0.0002 microbars.

3.14.42 **Exceptions for Intermittent Noise**. The levels (dBA) specified in Table 1 may be exceeded by 10 dBA, weekdays during the hours of 7 A.M. to 6 P.M., but not at any other time, for a period not to exceed twenty minutes during any one day.

3.14.43 **Impact Noise**. Impact noise such as from a punch press, drop forge hammer, or similar equipment, shall be measured using the fast response of the Sound Level Meter, and shall not exceed the levels specified in Table 1 by more than 10 dBA.

3.14.50 **Solid Waste Storage.** Any accessory receptacle or structure with holding capacity of at least 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 located not less than ten feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible. Screening materials will not be attached to any structure.

3.14.60 **Other Requirements**

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

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

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

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

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

3.15.00 **Outdoor Lighting**

In the area of new construction in the B-1, B-2, B-3, and I-1 zones, outdoor lighting including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over the neighboring properties. Except for low level intensity pedestrian lighting shall be designed and located so that:

1. The luminaire has an angle of cutoff less than 76 degrees;
2. A line drawn from the height of the luminaire along the angle of cutoff inter-sects the ground at a point within the development site;
3. The bare light bulb, lamp or light source is completely shielded from direct view at any point five feet above the ground on neighboring properties or streets.

3.16.00 Tree Protection

3.16.01 Purpose

The purpose of this bylaw is to recognize that forests, regardless of size, are an important part of the ecological infrastructure of Tyngsborough, and as such, should be managed appropriately before and during construction.

3.16.02 Definitions

Activity Area - The portion of a property within which removal of vegetation (trees and shrubs) will occur.

Clearing - Removal or causing to be removed - through either direct or indirect actions - trees and/or shrubs from a site. Actions considered to be clearing include but are not limited to: causing irreversible damage to the roots or trunks; destroying the structural integrity of vegetation; and/or filling, excavating, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage.

Clear cutting - A technique that removes all the trees, regardless of size or species.

Hazardous Tree - A tree with a structural defect or disease, which impedes safe sight distance or traffic flow, or otherwise currently poses a threat to life or property as identified by a Certified Arborist or the Tree Warden.

Invasive Species - An introduced or exotic species that significantly modifies or disrupts the ecosystem in which it colonizes (e.g. Norway maple, black locust, tree of heaven).

Legacy Trees - A native, introduced or naturalized tree, as defined herein, which is 12" Diameter at Breast Height (DBH) or larger, or multi stemmed trees with a combined DBH equal to or greater than 18". Legacy Trees are provided special protection, including replacement.

Protected Tree - Any tree with a diameter at breast height of 10" of greater is considered a Protected Tree, unless it is an invasive species, as defined herein.

Replacement Tree - Native Trees identified in an approved Management Plan identified to replace trees that are: (a) approved for removal by the Conservation Commission and require replacement, or (b) any protected tree that is damaged as a result of site work in the Activity

Area, or (c) any trees that are removed but were not designated for removal on an approved Management Plan.

Tree Clearing Permit - A permit issued and monitored by the Conservation Commission authorizing land clearing activities in Tyngsborough.

Tree Clearing Plan - As defined in section 3.16.06 of this bylaw.

Understory Vegetation - Small trees, shrubs, and ground cover plants, growing beneath and shaded by the canopy of trees.

3.16.03 Applicability

The requirements of this by-law and all applicable rules and regulations apply to the following circumstances:

No person shall undertake any land clearing or clear cutting on an undeveloped lot nor commence construction activity of any scope on a lot that does not include a pre-existing structure on it without first obtaining a Tree Clearing Permit from the Conservation Commission.

3.16.04 Exemptions

The provisions of this by-law shall not apply to the following circumstances or activities:

1. Previously developed parcels with existing residential or non-residential buildings on it;
2. A residential parcel to be developed for a standalone single family dwelling, not part of a subdivision of more than 3 parcels.
3. Active, existing commercial operation of agricultural and horticultural uses, including (but not limited to), tree nurseries, orchards, and botanical gardens are exempt but new operations must apply for a waiver from the Conservation Commission before commencing clearing or removal of trees.
4. Routine maintenance of vegetation and removal of Hazardous Trees, dead or diseased limbs necessary to maintain health of cultivated plants, to contain noxious weeds and/or vines;
5. Normal maintenance and improvement of land in current agricultural use as defined in the Massachusetts Wetlands Protection Act regulations 310 CMR 10.04;
6. Maintenance to prevent or reduce the risk of fire per order of the Fire Department;
7. Any work of projects approved by the Planning Board and/or Conservation Commission for which necessary local approvals and permits have been issued prior to the effective date of this by-law;

8. Maintenance of public and private streets within town-approved roadway layouts and easements;

9. Maintenance of public utilities;

10. Removal of trees as part of a Habitat Restoration Plan approved by the Conservation Commission, The Department of Ecological Restoration and/or MA NHESP.

3.16.05 Review and Decision

The Conservation Commission shall be the permitting authority. A Tree Clearing Plan must also be submitted with any Special Permit application that requires a Site Plan Review from a Special Permit Granting Authority.

Upon receipt of a completed application and required plans as described in Section 3.16.06, the Conservation Commission shall transmit one copy of each to the Tree Warden and the Planning Board.

3.16.06 Application Requirements

Applicants must submit a Tree Clearing Permit application. This plan may be part of a landscape plan, site plan or a separate document, and include the stamp (if applicable), professional certification number, date and signature of all professionals involved in its preparation. All plans must be drawn to uniform scale and include the following elements:

1. Boundaries of the property, including all property lines, easements and the public and private rights-of-way.

2. The zoning district designation of the property and the location of applicable zoning setbacks per the Table of Standard Dimensional Requirements (Section 2.12.50).

3. The location of the Activity Area including all planned buildings, driveways, retaining walls and other improvements.

4. Proposed changes in grade.

5. Additional Materials: The Conservation Commission may request that the applicant submit additional materials or explanation for consideration before issuing a permit.

6. Revisions to the Plan During Construction: If it becomes necessary during the course of construction to remove trees not on the approved plan, the applicant may submit a revised Plan to the Conservation Commission to consider a modification. The revised plan shall clearly indicate any additional removals, and associated additional mitigation measures proposed.

3.16.07 Review Standards

The applicant shall demonstrate that the following measures are employed in development of the site:

No construction or site preparation work shall be done on any land including the removal of living trees of greater than ten (10) inch caliper at breast height or the removal of greater than ten percent (10%) of existing vegetation until all necessary permits and approvals have been obtained.

This section shall not prohibit site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval.

If, after obtaining all necessary permits and approvals, such work commences and is then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated in a manner sufficient to avoid erosion.

3.16.08 Additional Considerations

1. Slopes greater than 25% should be cleared last if possible and do not pose safety risk for the work site. Slopes that are cleared shall be stabilized to avoid erosion or safety risks during and after construction;

2. Minimize land clearing. No clearing of land shall take place until an approved Special Permit, approved subdivision plan, or a building permit for a by-right parcel has been issued;

3. Activity Area design shall reduce unnecessary tree clearing to the maximum extent feasible;

4. Preserve Connections of Existing Contiguous Open Space or Forested Areas.

a. In the design of a project, efforts shall be made to maintain connections of existing stands of trees, trees at the site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and Wildlife Corridors;

5. Protect Wildlife Habitat:

a. Site work shall be designated to avoid alterations of Critical Wildlife Habitat Areas and Significant Forest Communities;

b. Site work shall be designed in such a way as to maintain continuous forested areas and wildlife corridors;

c. All trees outside of the Activity Area shall be protected during site work and construction. Protected trees which die shall be replaced in accordance with Section 3.16.09 of the by-law.

d. Prevent Damage to Protected Trees and other trees not authorized for removal.

e. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cleanly cut rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized where feasible to protect root systems of trees.

f. Understory vegetation beneath the drip line of protected trees shall also be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected.

3.16.09 <u>Replacement of Trees</u>

1. Replacement trees shall be at least 2-3" caliper and planted in areas approved by the Conservation Commission;

2. Legacy Trees and Protected Trees that are not approved for removal, but are damaged, shall be replaced as follows:

    a. Three (3) native trees of similar species (as determined by the existing Forest Type), which will reach similar height at maturity and provide at least the same benefits and services shall be planted for each unauthorized Legacy Tree or Protected Tree that is damaged.

3. Removal of Invasive Tree Species

    a. At their sole discretion, the Conservation Commission may allow a reduction in the above requirements if the applicant completes removal of invasive tree species and replaces them with native tree species.

3.16.10 <u>Required Security</u>

The Conservation Commission may require a performance guarantee in a form acceptable to the Town to cover the costs associated with replacement of trees planted in accordance with section 3.16.09 of this bylaw.

1. The required performance guarantee in the amount of 150% of the estimated cost of required tree replacement shall be posted prior to the issuance of a Tree Clearing Permit for the proposed project.

2. The performance guarantee shall be held for the duration of any prescribed maintenance period required by the Conservation Commission to ensure establishment and rooting of all new plantings and may be reduced from time to time to reflect completed work. Plantings which die within the prescribed maintenance period shall be replaced with suitable native species. Securities shall not be fully released without a final inspection and approval of vegetation replacement by the Tree Warden.

3.16.11 Enforcement

The Town of Tyngsborough may take any or all of the enforcement actions prescribed in this by-law to ensure compliance with, and/or remedy a violation of this by-law; and/or when immediate danger exists to the public or adjacent property, as deterred by the Tyngsborough Conservation Director. Securities described in 3.16.10 above may be used by the Town in carrying out necessary enforcement actions.

The Tyngsborough Conservation Director may post the site with a Stop Work order directing that all vegetation clearing not authorized under a Tree Clearing Permit cease immediately. The issuance of a Stop Work order suspends any Tree Clearing Permit issued by the Town.

No person shall continue clearing in an area covered by a Stop Work order, or during the suspension or revocation of a Tree Clearing Permit, except work required to correct an imminent safety hazard as prescribed by the Town.

3.16.12 Severability

If any provision of this by-law is held invalid by a court of competent jurisdiction, the remainder of the by-law shall not be affected thereby. The invalidity or any section or sections or parts of any section or sections of this by-law shall not affect the validity of the remainder of the Town of Tyngsborough's by-laws.

4.00.00 SPECIAL REGULATIONS

4.10.00 Special Permits - Major Business Complex

4.10.10 Applicability and Objectives

Any premises having more than 5,000 square feet gross floor area used as retail stores, personal and general services (including motor vehicle), restaurant, fast food establishment,

bank, finance agency, indoor or outdoor commercial recreation, hotel, inn, motel or funeral home shall be considered a Major Business Complex. Unless explicitly listed above, all other uses are not considered a Major Business Complex. Construction or change of use resulting in such a complex is allowable only if granted a Special Permit by the Special Permit Granting Authority. The Special Permit Granting Authority shall be as designated for the particular use in Section 2.11.30 of this By-law or the Planning Board if the principal use does not require a special permit.

4.10.20 Submittals Generally

The applicant for a special permit required under this section shall submit appropriate materials as per the regulations adopted by the Special Permit Granting Authority pursuant to Section 1.16.00 of this By-law.

4.10.21 Specific Requirements - The application for a special permit under this section shall provide to the Special Permit Granting Authority:

1. The application shall include the information outlined in Section 1.16.22 Application Contents unless waived in accordance with Section 1.16.23 of this By-Law.

2. Analysis of the consequences of the proposed development, evaluation of the following impacts at a level of detail appropriate to the scale of development proposed.

    a. Natural environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees), and wildlife habitats.

    b. Public services: traffic safety and congestion, need for water system improvements, need for public sewage.

    c. Economics: anticipated market area, complimentary with or duplication of existing services, amount and types of employment, labor force area.

    d. Visual environment: visibility of buildings and parking, visual consistency with existing development in the area.

All applicants for a special permit under this are encouraged to consult with the Special Permit Granting Authority at a regularly convened meeting prior to formal application.

4.10.30 Decision Criteria

A special permit for a Major Business Complex shall be approved only upon determination of the Special Permit Granting Authority that the requirements of section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of Special Permit Granting Authority and the following additional criteria:

1. The proposed plan is consistent with any submittals made under section 4.10.20 and 4.10.21 or in the event of inconsistency, satisfactory explanation has been made submitted showing why the departure is necessitated by changed conditions or earlier error, and that the departure does not reduce compliance with the objectives for the Major Business Complexes specified in section 4.10.10.

2. The Complex shall be so designed and located such that annual average daily traffic is not increased more than 25% above current levels at any point more than 1,000 feet from the site, with current levels as determined by the Tyngsborough Planning Board; and shall be so located that resultant traffic is not above the capacity of roads and intersections at level of service "C" at any point within one mile of the premises, using definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later editions.

3. Site design and storm water facilities shall be so designed that in a twenty-five year storm the peak stormwater flows leaving the premises will not be increased more than 10% above current flows or cause design capacity of receiving structures or channel capacity of receiving streams to be exceeded.

4.11.00 Special Permits - Major Industrial Complex

4.11.10 Applicability and Objectives

Any premises having more than 15,000 square feet gross floor area used as industrial manufacturing or other uses as shown as encompassing industrial uses including research/office parks as per section 2.11.30 and further defined in section 2.11.45 shall be considered a Major Industrial Complex. Construction or change of use resulting in such a complex is allowable only if granted a Special Permit by the Special Permit Granting Authority. The Special Permit Granting Authority shall be as designated for the particular use in Section 2.11.30 of this By-law or the Planning Board if the principal use does not require a special permit.

The objectives for allowing Major Industrial Complexes are to provide entrepreneurial and employment opportunities for area residents, to focus development at locations able to support it with relatively small environmental or municipal cost, and to protect the town's natural environment, existing character and development, and ability to provide public services.

4.11.20 Submittals Generally

The applicant for a special permit required under this section shall submit appropriate materials as per the regulations adopted by the Special Permit Granting Authority pursuant to Section 1.16.00 of this By-law.

4.11.21 Specific Requirements - The application for a special permit under this section shall provide to the Special Permit Granting Authority:

1. A site plan as per section 1.16.20.

2. Analysis of the consequences of the proposed development, evaluation of the following impacts at a level of detail appropriate to the scale of development proposed.

   a. Natural environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees), and wildlife habitats.

   b. Public services: traffic safety and congestion, need for water system improvements, need for public sewage

   c. Economics: amount and types of employment, labor force area.

   d. Visual environment: visibility of buildings and parking, visual consistency with existing development in the area.

All applicants for a special permit under this are encouraged to consult with the appropriate Special Permit Granting Authority at a regularly convened meeting prior to formal application.

4.11.30 Decision Criteria

A special permit for a Major Industrial Complex shall be approved only upon determination by the Special Permit Granting Authority that the requirements of section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of Special Permit Granting Authority and the following additional criteria:

1. The proposed plan is consistent with any submittals made under section 4.20.20 and 4.20.21 or in the event of inconsistency, satisfactory explanation has been made submitted showing why the departure is necessitated by changed conditions or earlier error, and that the departure does not reduce compliance with the objectives for the Major Industrial Complexes specified in section 4.20.10.

2. The Complex shall be so designed and located that annual average daily traffic is not increased 25 %, or more, above current levels at any point more than 1,000 feet from the site, with current levels being as determined by the Tyngsborough Planning Board; and shall be so located that resultant traffic is not above the capacity of roads and intersections at level of service "C" at any point within one mile of the premises, using definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later editions.

3. Site design and storm water facilities shall be so designed that in a twenty-five year storm the peak storm water flows leaving the premises will not be increased more than 10% above current flows or cause design capacity of receiving structures or channel capacity of receiving streams to be exceeded.

4.12.00 Special Permits - Multifamily Development

4.12.10 Applicability and Objectives

A plan submitted under this section shall require Town Meeting approval. The issuance of a Special Permit can only be granted following Town Meeting approval.

The construction of any structure designed for the occupation and habitation of three or more families by virtue of separate and complete living quarters containing kitchen facilities, bathroom facilities and sleeping quarters shall be deemed a multi-family development for purposes of this section.

The objectives of this section are to allow controlled multifamily development in Tyngsborough so as to: promote and provide a greater variety and choice in housing types; to broaden the availability of housing for persons and families of limited income; to focus development at locations able to support such development with minimal environmental or municipal cost; and to protect the Town's natural environment, its existing character and its ability to provide public services.

4.12.20 Submittals Generally

The applicant for a special permit as required under this section shall submit appropriate materials as per the regulations adopted by the Special Permit Granting Authority pursuant to section 1.16.00 of this By-law and who shall be the Planning Board for the purpose of this section in its entirety.

4.12.21 Specific Requirements - The application for a special permit for multifamily development under this section shall provide to the Planning Board:

1. A site plan as per section 1.16.20.
2. Materials indicating; the number of proposed dwelling units; a development schedule for dwellings and improvements; proposed form of tenure, whether rental, condominium, cooperative, or other; means, if any, of providing for design control; and means, if any, of providing assurance of long term conformity to present proposal.
3. Analysis of the consequences of the proposed development, evaluating the following impacts at a level of detail appropriate to the number of units proposed:

   a. Natural Environment: groundwater and surface water quality, ground-water level, stream flows, erosion and siltation, vegetative removal (especially unusual species and mature trees), and wildlife habitats.

   b. Public Services: analysis of traffic conditions existing and post development including levels of service, analysis of water system capacity, analysis of public sewerage capacity, need for additional public recreation facilities, need for additional school facilities.

c. Economics: municipal costs and revenues, local business activity, local jobs.

d. Social Environment: effect of the proposal upon the general character of the town and how the proposed units enhance the range of housing choice and affordability in the town.

e. Visual Environment: visibility of buildings and parking, visual consistency with existing development in the area.

4. A development phasing schedule indicating the maximum number of dwelling units proposed to be erected in each calendar year, and the timing of construction of any proposed community facilities.

All applicants for a special permit under this section are encouraged to consult with the Planning Board at a regularly convened meeting prior to formal application.

4.12.30 <u>Decision Criteria</u>

A special permit for multifamily development shall be approved only upon determination of the Planning Board that the requirements of section 1.16.00 Special Permit including section 1.16.14 "Mandatory Finding of Special Permit Granting Authority" and the following additional criteria have been met:

1. The site contains a minimum of five acres pursuant to Section 2.12.00 Intensity of Use (Dimensional Requirements) through and including Section 2.12.50 of this By-law.
2. The proposed development makes use of public sewer and water and has demonstrated said public sewer and water systems to be of sufficient capacity to service the proposed development without added cost to the public or that the developer is willing to underwrite said cost or improvements/or on site systems can be proven adequate.
3. Project generated traffic does not increase the peak A.M. and P.M. hour traffic on the street through which access to and from the project site is provided in excess of 20% if said street is operating at a level of service of C or better or 10% if said street is operating below level of service C. (Said levels are to be determined using methods and definitions as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later edition.)
4. Site design and storm water facilities shall be so designed that in a twenty-five year storm the peak storm water flows leaving the site will not be increased above current flows or cause the design capacity of receiving structures or channel capacity of receiving streams to be exceeded.
5. Departure from the scale of single family development is minimized through including not more than 24 dwelling units in a single structure, serving not more than eight dwelling units from a single entrance, limiting building length to not more than 200 feet, having unbroken roof area of not more than 3,000 square feet, and having parking areas individually contain not more than 36 parking spaces and be separated from all other parking areas by at least 50 feet.

6. Visual separation from nearby premises is assured through providing yards of at least 4 times building height measured from each lot line which shall contain no parking areas, and through use of outdoor lighting fixtures not higher than 15 feet.
7. The total number of dwelling units is limited to the resultant of the total area of the parcel as measured pursuant to Section 2.12.20 and 2.12.30 of this By-law rounded to the nearest 1,000 square feet divided by 20,000.

4.12.40 **Additional Dwelling Units** - Upon petition to the Planning Board the number of dwelling units allowed pursuant to Section 4.12.30 paragraph 7 may be increased by 25 % provided the applicant meets the requirements of this section.

4.12.41 **Specific Requirements**

1. The applicant by means of a recordable instrument agrees to offer- for sale or rent at an acquisition price or rent level deemed "affordable" as hereinafter defined, not less than 50% of the additional units granted pursuant to this section or; not less than 20% of the additional units granted by virtue of this section the ownership of said unit to be transferred by deed-or by a recordable irrevocable instrument, to the Tyngsborough Housing Authority who shall thus maintain and use said units in accordance with Massachusetts General Laws Chapter 121B Section 11.
2. The applicant meets the conditions and terms concerning, but not limited to, resale restrictions, tenant-purchaser selection and eligibility, resident priority and other administrative rules and regulations as promulgated by the Planning Board which are designed to insure the goal of providing affordable housing is continued.
3. All units provided pursuant to this section shall not be less than the average size of all other units in the same development and shall be similar in terms of siting, style and quality of construction.

4.12.42 **Determination of Affordability** - The term "affordable" shall be defined as the maximum purchase price or less allowed by the Massachusetts Housing Finance Agency through said Agency's First Time Homebuyer Program for the Lowell, MA - NH Primary Metropolitan Statistical Area for newly constructed condominium units. The term "affordable" for rental units shall be defined to be the Fair Market Rent or less as established by the Department of Housing and Urban Development for the Lowell, MA - NH Primary Metropolitan Statistical Area for the purpose of determining eligibility in the Section 8 Housing Rental Program. In all cases the most recent published figures shall apply.

4.13.00 **Special Permits - Fairs, Carnivals and Similar Events**

4.13.10 **Purpose** - The purpose for regulating by special permit the conduct, location and operation of fairs, carnivals and other similar events is to ensure that such activities do not cause disruption, annoyance and cause a general nuisance in the Town of Tyngsborough.

4.13.20 **Applicability** - All fairs, carnivals and other similar events to be held in the Town of Tyngsborough require a special permit by the Board of Selectmen and shall conform to the requirements of this By-law.

4.13.30 **Sponsorship** - The sponsorship of all events covered by this section shall be a religious, charitable, social or public organization.

4.13.40 **Duration** - Any event held in accordance with these requirements shall continue no longer than one week at any one time and not more than two such events shall be authorized within any twelve months for any one sponsor.

4.13.50 **Other Requirements** - All applicants for a special permit under this section must meet the requirements of Section 1.16.00 generally as well as all other sections of the By-law including Section 3.16.00 Environmental Protection Standards.

4.14.00 **Special Permit - Open Space Residential Development**

The Planning Board may grant a special permit for Open Space Residential Development in the R1 District for single family detached dwellings and accessory structures subject to the provisions of this section.

Town Meeting approval of an Open Space Residential Plan is required prior to the granting of a Special Permit.

4.14.10 **Objectives** - The objective of this section is to allow an optional scheme of development so as to encourage the preservation of common land for conservation, acquisition, open space and recreational use; to preserve historical or archeological resources; to protect existing or potential municipal and private water supplies; to promote more sensitive siting of buildings and better overall site planning; to promote better utilization of land in harmony with its natural features and with the general intent of the Zoning By-law through a greater flexibility in design; and to allow for the more efficient provision of municipal services.

4.14.20 **Open Space Residential Regulations** - The following regulations shall apply to all developments submitted under this section.

4.14.21 **Minimum Parcel Size** - Open space residential developments shall be located upon a parcel of land having a minimum of nine acres in the R1 District.

4.14.22 **Number of Building Lots Permitted** - The total number of building lots in an Open Space Residential Development shall be no greater than the number of building lots that would otherwise be permitted in the district within which the land is located. The Planning Board shall require that the applicant provide satisfactory evidence that the number of lots shown on the Open Space Residential Plan is no greater than the number of lots that could otherwise be developed. All determinations of area for the purpose of determining the number of lots shall be based upon the criteria included in sections 2.12.20 and 2.12.30, and 2.12.40 through 2.12.49 of this By-law.

4.14.23 **Dimensional Requirements** - Where the requirements of this section differ from or conflict with the requirements of section 2.12.00 of this By-law, this section shall prevail. The following minimum dimensional requirements shall be met for all Open Space Residential Developments pursuant to this section.

1. Minimum lot area. The minimum lot area shall be 35,000 square feet.
2. Frontage. The minimum frontage shall be 100 feet.
3. Side and Rear Yards. The minimum side and rear yards shall be not less than 30 feet.
4. Front Yard. The minimum front yard shall be 50 feet.
5. Lot Width. The minimum lot width shall not be less than 75 feet.
6. Buffer Zone. The minimum distance from any structure in the Open Space. Residential Development to the Open Space Residential Development boundary shall be 100 feet.

4.14.24 **Common Land**. Any development submitted pursuant to this section shall provide common land in area not less than the sum of the areas by which the building lots are reduced below the minimum lot area required for conventional development of the tract as per section 2.12.00 of this By-law. All common land must have access to a roadway within the subdivision.

4.14.30 **Legal Requirements for Common Land Ownership and Maintenance.** The common land and other facilities which may be held in common shall be conveyed to a mandatory homes association, whose membership includes the owners of all lots or units contained in the tract or if the development is a cooperative, then the owners of the shares in the cooperative association. The developer shall include in the deed to the owners of individual lots beneficial rights in said common land and shall grant a conservation restriction to the Town of Tyngsborough over such land pursuant to Massachusetts General Laws Chapter 184 Sections 31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by Massachusetts General Laws Chapter 184, Section 33. In addition, the developer shall be responsible for the maintenance of the common land until such time as the homes association is capable of assuming said responsibility or in the case of a trust, for the benefit of the tenant upon the execution of the trust.

In order to ensure that the homes association will properly maintain the land deeded to it under this section, the developer shall prepare a Declaration of Covenants and Restrictions, which shall at a minimum provide for the following:

1. Mandatory membership in an established homes association as a requirement of residence or ownership of any lot in the tract.

2. Provisions for maintenance and tax assessment of all lots in order to insure that the common land is maintained in a condition suitable for the uses approved by the homes association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homes association of the owner of any lot.
3. Provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the common land will not terminate by operation of law.

This Declaration of Covenants and Restrictions shall be reviewed and approved by the Planning Board and then shall be recorded with the Middlesex Registry of Deeds. A copy of said Declaration or trust shall also be filed with the Town Clerk. Prior to the Building Inspector's issuance of a building permit for any lot, the developer shall provide satisfactory assurance of the conveyance and recording as required above in the form of copies of the recorded instruments bearing the recording stamps.

4.14.40 **Submissions Generally** - The applicant for a Special Permit pursuant to this section shall submit appropriate materials as per the regulations adopted by the Planning Board pursuant to Section 1.16.00 of this By-law.

4.14.41 **Specific Regulations** - All submission made pursuant to this section shall include materials as per 4.14.40 as well as the following:

1. All applications and accompanying plans shall be in a form consistent with the requirements for a preliminary subdivision plan-in the- rules and regulations of the Planning Board governing subdivision of land and shall include proposed location, and bulk and height of all proposed buildings.
2. The number of dwellings which could be constructed under this By-law by means of a conventional development plan, considering the whole tract, and excluding from the lot and roadway layout those portions of the site which are not buildable due to flood plains, wetlands, and soils which are unsuitable for on-site sewage disposal systems, and slopes in excess of 20% gradient.
3. An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100 year flood, trees over six inches and such other natural features as the Planning Board may request.
4. A summary of the environmental concerns relating to the proposed plan.
5. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.
6. Evaluation of the open land proposed within the cluster, with respect to the size, shape, location, natural resource value, and accessibility by residents of the Town or of the cluster.

4.14.50 **Decision Criteria** - A special permit for open space residential development shall be approved only upon determination of the Planning Board that the requirements of Section 1.16.00 "Special Permit" including Section 1.16.14 Mandatory Findings of the Special Permit Granting Authority and the following additional criteria have been met.

1. The plan meets all requirements of this section.
2. The plan is in harmony with the general purpose of this By-law and the requirements of Massachusetts General Laws Chapter 40A and the long range plan of the Town.
3. The approval of the plan will not have a detrimental impact on the neighbor-hood, will be designed with due consideration for health and safety and is superior to a conventional plan in preserving open space, minimizing environ-mental disruption, allowing for more efficient provision of services, and or allowing for greater variety in prices and types of housing.

4.14.60 **Relation to Subdivision Control Act** - Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for board- consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, accept regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Act.

4.15.00 **Special Permit - Temporary Independent Living Quarters**

4.15.10 **Applicability and Objectives** - The purpose of this section is to allow for the creation of certain temporary independent living quarters in residentially zoned districts in the Town of Tyngsborough. The provision to permit said uses is predicated upon the need to provide consistency in the said use in terms of size, consistency with the neighborhood character, and the avoidance of inappropriate or extreme densities which may pose a burden to the community in respect to the provision of necessary physical support systems, public safety and diminishment of the overall quality of life.

The objective of allowing and regulating the subject use is primarily to allow residents to help house and care for other members of their extended families and preservation of neighborhoods, and to reduce the incidence of illegal conversions and to make it possible to document the number of inhabitants who are residents of the Town of Tyngsborough.

4.15.20 **Submittals Generally.** The applicant for a special permit as required pursuant to this and other sections of this By-law shall submit appropriate materials as per the rules and regulations adopted by the Special Permit Granting Authority pursuant to Section 1.16.00 et. seq. of this By-law and comply with the additional requirements, terms and conditions as specified further under this section.

4.15.21 **Specific Requirements** - The application for a special permit for temporary independent living quarters shall provide the Special Permit Granting Authority the following:

1. A properly completed and filed application form as approved by the Special Permit Granting Authority.

2. A plan, as appropriate, showing all property lines, setbacks, zoning district boundaries including areas subject to flooding, wetlands, and wetlands buffer

zones. Additionally the plan should show all existing buildings and structures including accessory uses and structures; parking, both existing and proposed; and on a separate plan the existing and proposed interior layout of the residence including walls, location of entrances and exits, locations of proposed and existing bath and dining facilities. Unless waived by the Special Permit Granting Authority said plan(s) as prepared and stamped by a registered architect or engineer. If the lot lines and boundaries are not based upon the original or subsequent plan of land as prepared by and stamped by a 'registered land surveyor said plan(s) as required by this section must be so certified.

3. A building elevation plan shall also be required showing the proposed alterations to the building exterior if any and the proposed locations and design of any separate entrances to serve the proposed living quarters.

4. Evidence that the subject property and primary residence is owned and occupied by the applicant.

4.15.30 **Decision Criteria** - A special permit for temporary independent living quarters shall be approved only upon a determination by the Special Permit Granting Authority that the requirements of Section 1.16.00 Special Permits including 1.16.14 Mandatory Finding of Special Permit Granting Authority and the following additional criteria have been met:

1. The proposed exterior changes to the principal residential unit are such that the appearance does not deviate to any substantial extent from the appearance of the residential dwelling prior to the change and conforms to the established residential character of the neighborhood.
2. That the total square foot areas of the proposed temporary independent living quarters shall not exceed 1,200 square feet of living space.
3. That the design incorporates the provision for additional off street parking areas as required.
4. That the proposed design and plan shows the provision for not more than one temporary independent living quarters per existing residential unit and that not more than one additional bedroom be constructed.
5. That the design and plan does not provide for separate metered utilities serving the proposed temporary independent living quarters.
6. A restriction including all the conditions must be recorded at the Middlesex North District Registry of Deeds together with a subordination agreement by any bank or lease holders.
7. The proposed temporary independent living quarter must be within or have a common wall with the single family dwelling unit and not be separated by a hall, stairwell or foyer. For the purpose of this section, the definition for a common wall is one that is connected, usable, and heated on both sides of the existing dwelling unit.

8. That the proposed temporary independent living quarters includes at least one direct independent egress to the outside of the building and meets standard building codes. Access to the temporary living quarters may be from the front or side of the exterior of the building and shall be directly connected to the interior area of the main dwelling unit.
9. Notwithstanding any condition(s) of approval to the contrary, any TILQ previously permitted may, as-of-right and without amendment of such permit, add or replace one (or more) direct independent egress(es) at the front or sides of the building with approval from the Building Commissioner.

4.15.40 **Special Permit Conditions** - The Planning Board, acting as the Special Permit Granting Authority may impose special conditions, terms, and other limitations or restrictions regarding the use of temporary independent living quarters pursuant to this Section as follows, but are not regulations or requirements by default:

1. A time limit on the validity of the Special Permit be imposed.
2. That the Special Permit becomes invalid upon the sale or transfer of the property.
3. That the primary dwelling be the principal residence of the property owner of record.
4. That the temporary independent living quarters be assimilated, reincorporated or otherwise returned to its former residential use if vacant for a specified period of time.

4.15.41 **Transferability** **-** Unless explicitly prohibited by a condition from the Special Permit Granting Authority, the TILQ Special Permit is transferable and may be exercised by a subsequent owner upon transfer of ownership of the property. All conditions of the Special Permit and restrictions prohibiting rental still apply.

4.15.50 **Enforcement of Non-compliance** **-** The Special Permit shall become immediately null and void upon the advertisement, listing, or other actions of which the intent is to market or solicit the living quarters as a rental unit and the unit shall be reincorporated into the main dwelling unit.

4.16.00 **Special Permit - Telecommunications Tower (TC-1)**

A. Purpose: The purpose of these regulations include: minimizing adverse impacts of wireless communications facilities, satellite dishes and antennas; minimizing the overall number and height of such facilities to only what is essential, and promoting shared use of existing facilities to reduce the need for new facilities.

B. General Requirements:

1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter or antenna, shall be erected or installed except in compliance with the provisions of this Section. In all cases, a Special Use

Permit (SUP) is required from the Planning Board (the "Board"). Any proposed extension in the height, addition of cells, antenna or panels, or construction of a new or replacement of a facility shall be subject to a new application for a Special Use Permit.

2. Only free-standing monopoles, with associated antenna and/or panels are allowed as specified in Paragraph D below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed unless the Board determines that based on specific findings of fact that a monopole is not suitable for the location and that the best interest of the Town will be served by the construction of a lattice style tower. Any lattice style tower previously constructed on premises of the Tyngsborough Water District or the Town of Tyngsborough prior to the enactment of this by-law will be allowed.

3. Wireless communications facilities shall be located in telecommunication zoning districts and shall be suitably screened from abutters and residential neighbor-hoods.

4. Structures shall be removed within one (1) year of cessation of use. Certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Commissioner by the Special Use Permit holder if requested by the Building Commissioner.

5. The Board shall require the applicant to post a bond acceptable to the Town in an amount sufficient to pay the cost for the removal of the facility.

C. Application Process: All applications for wireless communications facilities, antenna or satellite dishes shall be made and filed on the applicable application form in compliance with the Planning Board Application Instructions. For an application to be considered complete, ten (10) copies of the following information must be submitted:

1. A locus plan at a scale of 1" = 1000' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five hundred (500) feet of the facility.

2. A color photograph or rendition of the proposed monopole or tower with its antenna and/or panels. A rendition shall also-be prepared illustrating a view of the monopole, tower, dish and antenna from the nearest street or streets with a visual impact analysis statement.

3. The following information prepared by one or more professional engineers:
   - a description of the monopole and the technical, economic and other reasons for the proposed location, height and design;

- confirmation that the monopole complies with all applicable Federal and State standards;
- a description of the capacity of the monopole including the number and type of panels, antenna, and/or transmitter receivers that it can accommodate and the basis for these calculations.

4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

5. The applicable review and advertising fees as noted in the application guidelines.

D. Design Guidelines: The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities.

1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a monopole from the property line of the lot on which it is located shall be at least one fourth to the height of the monopole.

   a. No monopole, or attached accessory antenna on a monopole, shall exceed 200 feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings unless the Board makes a determination with specific findings of fact that such location on a building is in the best interest of the Town.

2. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighborhoods and other areas of Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.

3. Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and or installed to blend into the structure and/or the landscape.

4. Wireless communications facilities shall be designated to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities, which will be required to be located within the community. Require co-use.

5. An applicant proposing a wireless communications facilities Telecommunications District shall prove to the satisfaction of the board that the visual, economic and aesthetic impacts of the facility on abutters will be minimal. And, that the facility must be located at the proposed site due to technical, topographical or other unique circumstances. Further, the monopole shall be located at a minimum of 500 feet from the nearest residential structure unless waived by the owner(s) of said residential structure.
6. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be razor wire.
7. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with the Town Zoning Sign By-Law.
8. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
9. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

E. Special Use Permit Review:

1. Application for Special Use Permits shall be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
2. Applications for Special Use Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.
3. When considering an application for a wireless communication facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed user(s). The Board may require for new facilities an agreement and/or condition for co-use by the other users of such facilities.
4. When considering an application for an antenna or dish proposed to be placed on a structure, the Board shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and street(s).

4.17.00 <u>Special Permits - Outdoor Sales of Holiday Trees, Wreaths, or Similar Products</u>

4.17.10 **Purpose** - The purpose for regulating by special permit the conduct, location and operation of outdoor sales of holiday trees, wreaths, or similar horticultural products is to ensure that such activities do not cause disruption, annoyance and a general nuisance in the Town of Tyngsborough.

4.17.20 **Applicability** - All outdoor sales of holiday trees, wreaths, or similar products require a special permit by the Board of Selectmen. All such sales shall conform to the requirements of this bylaw; except that a garden center, florist, or commercial greenhouse as allowed under bylaw section 2.11.44 "Retail Store" shall be exempt. In addition, this section shall not apply to properties or facilities exempt under M.G.L. Chapter 40A Section 3.

4.17.30 **Duration** - Any outdoor sales of holiday trees, wreaths, or similar products shall be allowed only during the period between October 1st and December 31st of any calendar year and no more than one such permit shall be authorized within that period for any one applicant.

4.17.40 **Submittals Generally** - The applicant for a special permit as required under this section shall submit appropriate materials as per the regulations adopted by the Board of Selectmen pursuant to section 1.16.00 of this bylaw.

4.17.50 **Decision Criteria** - A special permit for Outdoor Sales of Holiday Trees, Wreaths, or Similar Products shall be approved only upon determination of the Board of Selectmen that the requirements of section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of the Special Permit Granting Authority have been met.

4.18.00 **Special Permits - Farmer's Markets, Farm Stands, or Similar Facilities**

4.18.10 **Purpose** - The purpose for regulating by special permit the conduct, location and operation of outdoor farmer's markets; farm stands, and similar facilities is to ensure that such activities do not cause disruption, annoyance and a general nuisance in the Town of Tyngsborough.

4.18.20 **Applicability** - All outdoor farmer's markets, farm stands, and similar facilities involves in the sales of primarily locally grown produce and agricultural products, not located on the property where the produce and agricultural products are grown or raised, shall require a special permit by the Board of Selectmen. All such properties or facilities shall conform to the requirements of this bylaw, except that this section shall not apply to properties or facilities exempt under M.G.L. Chapter 40A Section 3.

4.18.30 **Duration** - All farmer's markets, farm stands, or similar facilities shall be allowed only during the period between June 1st and October 15th of any calendar year and no more than one such permit shall be authorized within that period for any one applicant.

4.18.40 **Submittals Generally** - The applicant for a special permit as required under this section shall submit appropriate materials as per the regulations adopted by the Board of Selectmen pursuant to section 1.16.00 of this bylaw.

4.18.50 **Decision Criteria** - A special permit for farmer's markets, farm stands, and similar facilities shall be approved only upon determination of the Board of Selectmen that the requirements of section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of the Special Permit Granting Authority have been met.

4.19.00 **Special Permit – Assisted Living and Continuing Care Campus Development**

4.19.10 **Purpose** - The purpose of this article is to provide residential services that meet the needs of people as they age and people that require assistance with activities of daily living.

4.19.20 **Applicability**

A. The Planning Board may grant a Special Permit for an Assisted Living or Continuing Care Campus Development in accordance with this Article on any tract of land in the B-3 Zoning District that meets the following requirements:
    1. Four or more acres of land;
    2. Minimum of 200 feet of frontage; and
    3. Public water and sewer available at the street frontage.
B. An Assisted Living Facility or Continuing Care Community Campus is intended to be friendly to people who are facing challenges of aging and those that require assistance. As such, buildings and site improvements proposed for these uses shall accommodate by including visitability and universal design in accordance with the provisions of this article.

4.19.30 **Uses**

A. In the B-3 Zoning District, the Planning Board may grant a special permit for an Assisted Living or Continuing Care Campus. This article does not permit development of Independent Living units without being accompanied by Assisted Living facilities. Assisted Living and Continuing Care Campuses may include one or more of the following:
    1. Memory care units.
    2. Skilled nursing facility or physical rehabilitation facility with no more than 100 beds.
B. An Assisted Living Facility or Continuing Care Campus may include the following non-residential uses primarily for the benefit of residents and their guests, provided that aggregate floor area for the nonresidential uses shall not exceed 10% of the total gross floor area of the buildings in the development. These uses shall be incidental and subordinate to the principal residential uses in the Assisted Living Facility or Continuing Care Campus.

1. Personal services.
2. Medical office or clinic.
3. Accessory uses for residents, employees, and guests, such as central or common dining facilities or laundry facilities, or indoor or outdoor recreation facilities.

4.19.40 Basic Requirements

A. Assisted Living Facilities and Continuing Care Campuses shall be limited to 18 units per acre.

B. Maximum building coverage shall not exceed 35% of the lot area for new construction or expansion of existing structures. Maximum impervious area shall not exceed 60%.

C. Assisted Living and Continuing Care Campus dwelling units are subject to the Town of Tyngsborough's Inclusionary Zoning Bylaw as set forth in section 1.20.00.

D. Buildings constructed as part of an Assisted Living Facility or Continuing Care Campus must be set back a minimum of 20 feet from an internal roadway or the distance stipulated in section 2.12.50 (Table of Standard Dimensional Requirements) from a public way. Buildings shall be separated from each other and from lot lines by a minimum of 30 feet at the sides and include a rear setback of 40 feet, except that the minimum setback shall be 100 feet from the side or rear lot line, as applicable, abutting an existing single-family dwelling. The building heights shall be determined by the Table of Standard Dimensional Requirements.

E. No dwelling unit in An Assisted Living Residence or Continuing Care Campus shall have more than two bedrooms.

F. The minimum common open space in the development shall be 30% of the lot area, and not more than 25% of the required minimum common open space shall consist of wetlands. The upland open space shall be contiguous and usable by residents of the development.

G. ADA compliant sidewalks shall be installed to connect parking areas and buildings throughout the site.

H. Minimum off-street parking requirements shall be as follows:
   1. Independent living units: one space per bedroom.
   2. Assisted living residence: one space per two units.
   3. Skilled nursing facility or physical rehabilitation center, if included in a Continuing Care Campus: one space per two beds.
   4. Guest parking: one space per three units or three beds, as applicable.

4.19.50 Age Appropriate Design

A. An Assisted Living Facility or Continuing Care Community Campus is intended to serve people who are facing challenges of aging and those that require assistance. While units are not required to be age restricted, they must be designed for "visitability" and for people

to age in place. At minimum, these terms mean that an Assisted Living Facility or Continuing Care Community Campus shall have the following features:

B. Independent living units and assisted living facilities shall comply with the accessibility requirements of the Massachusetts Architectural Access Board in accordance with Group 1 requirements of 521 CMR.

C. Residential and community buildings shall provide for:

    1. At least one zero-step entrance;
    2. Doorways with a thirty-six-inch clear passage space;

D. Independent Living units may be in a multi-story building, but shall be one level and include master bedroom and an accessible en suite bathroom designed and equipped for seniors and people with mobility impairments

E. Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access.

4.19.60 Development Standards

As part of the Planning Board's special permit review process, the Board shall evaluate the proposed Assisted Living or Continuing Care Campus Development for conformance to the following minimum design standards.

A. Structures shall be clustered to reduce site disturbance and protect open spaces, natural and environmentally sensitive areas.

B. Building design shall avoid use of long, unbroken facades, and shall include use of balconies, offset walls, trellises and other design elements to provide visual interest.

C. Building design, colors, and materials shall generally correspond to the natural setting of the project site, and to any prevalent design styles that may occur in neighborhoods within the general project area.

D. Structures located near the project property lines shall be designed and located in a manner that reflects consistency and compatibility with neighboring areas, and shall include appropriate use of building density, heights and design to minimize any intrusion on neighbors.

E. Outdoor recreation or gathering areas, particularly those that may generate significant noise and/or light and glare, shall be located to minimize intrusion on neighboring properties.

4.19.70 Procedures

A. All Assisted Living and Continuing Care Campus uses and structures are subject to a Special Permit and Site Plan Review from the Town of Tyngsborough Planning Board in accordance with Sections 1.16.00 through 1.16.23 of this Bylaw. In addition to the requirements of sections 1.16.00 through 1.16.23, all approval criteria set forth in this Section shall apply. The Planning Board shall be the Special Permit Granting Authority for any Special Permits under this Section.

B. The Applicant shall submit a special permit application together with the size, form, number, and contents of the required plans and any supplemental information as required in the Planning Board's Rules and Regulations.

4.19.80 Mandatory Findings

A. A Special Permit and Site Plan Special Permit with any conditions, safeguards, and limitations deemed necessary to mitigate the project's impact on the surrounding area and to ensure compliance with this article may be granted for an Assisted Living or Continuing Care Campus application based upon a determination by the Planning Board that the requirements of 1.16.00 have been met and that the proposed plan is consistent with the purpose and specific requirements of this section. In evaluating a proposed development, in addition to the Special Permit Requirements set forth in Sections 1.16.00 through 1.16.23, the Planning Board shall grant a Special Permit if it finds that the proposed development:
    1. Serves the social, economic, or community needs ;
    2. Does not have adverse effects that outweigh its benefits on the neighborhood or Town;
    3. Meets the Open Space requirements set forth in this bylaw;
    4. Provides for safe vehicular movements, and for the safety and convenience of pedestrians in a manner that is compatible with Tyngsborough's public safety requirements and the needs of those who will live there;
    5. Is consistent with the Tyngsborough Master Plan as amended;
    6. Will not be substantially detrimental to the neighborhood in which it is to take place;
    7. Is appropriate for the site in question; and
    8. Complies with the applicable requirements of the bylaw.

B. The Planning Board may require changes to Assisted Living and Continuing Care Campus site plans and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this bylaw.

4.20.00 Special Permit - Mini-Warehouse / Self-Storage

4.20.10 Purpose – The purpose for regulating by special permit the location and site conditions for mini-warehouse, self-storage is to ensure adequate spacing between facilities to maintain the diverse mix of business and industrial uses throughout Tyngsborough.

4.20.20 Submissions Generally – The applicant for a Special Permit pursuant to this section shall submit appropriate materials as per the regulations adopted by the Planning Board pursuant to Section 1.16.00 of these By-laws.

4.20.30 **Decision Criteria** - In addition to the requirements of section 1.16.00 "Special Permit" including section 1.16.14 Mandatory Findings of the Special Permit Granting Authority, the Planning Board shall approve a new or expanded self-storage facility only upon additionally finding that:

1. That there is not already sufficient self-storage already existing within 1.5 drivable miles of the desired location.
2. That conditions make the site poorly suited for other permitted uses.
3. That adequate access can be provided without adversely affecting neighboring uses or the public realm.

5.00.00 Special Requirements for Licensed Marijuana Establishments

5.10.00 Purpose

5.10.01 To provide for the establishment of Licensed Marijuana Establishments for both adult use and medical marijuana, in appropriate places and under reasonable conditions, in accordance with the applicable state laws and regulations. Specifically, Chapter 369 of the Acts of 2012 (An Act for the Humanitarian Medical Use of Marijuana), M.G.L. c. 94I ("Medical Use of Marijuana), 105 CMR 725.00 (Implementation of an Act for the Humanitarian Medical Use of Marijuana), M.G.L. c. 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and 935 CMR 500.00 (Adult-Use of Marijuana).

5.10.02 To minimize the adverse impacts of Licensed Marijuana Establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with such Establishments.

5.10.03 To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Licensed Marijuana Establishments.

5.20.00 Applicability

5.20.01 The indoor cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, transportation, distribution or dispensing of marijuana is prohibited unless permitted as a Licensed Marijuana Establishment under this Section 5.00.00.

5.20.02 No Licensed Marijuana Establishment shall be established except in compliance with the provisions of this Section 5.00.00.

5.30.00 Definitions

Active Recreation Area for Children – Recreational activities, such as organized sports, that require extensive facilities or that have a considerable environmental impact on the recreational site.

Adult Use Marijuana Retailer – An entity licensed to purchase and transport marijuana and marijuana products for adult use from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers as defined in 935 CMR 500.02.

Licensed Marijuana Establishment – A facility for the indoor cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana and marijuana products for both medical and adult use.

Marijuana – The same substance defined as "marijuana" under 935 CMR 500.00 for Adult Use Marijuana, and 105 CMR 725.004 for Medical Use Marijuana.

Marijuana Cultivator – An entity licensed to cultivate, process and package marijuana for both medical and adult use, to deliver marijuana to marijuana establishments, but not to consumers.

Medical Marijuana Retailer – An entity licensed to acquire, sell, distribute, dispense Medical Use Marijuana and marijuana products that are designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions or the symptoms thereof as set forth in Chapter 369 of the Acts of 2012 or M.G.L. c. 94I as it may supersede said Act.

Marijuana Product Manufacturer – An entity licensed to obtain, manufacture, process and package marijuana and marijuana products for medical and adult use, to deliver marijuana and marijuana products to marijuana establishments, but not to consumers.

Marijuana Products – Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana Research Facility – A facility that may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. This may be an academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts.

Marijuana Social Consumption Operator – A marijuana retailer licensed to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises.

Marijuana Transportation or Distribution Facility – An entity with a fixed location that delivers marijuana and marijuana products to marijuana establishments and transfers marijuana and marijuana products to other marijuana establishments, but not to consumers. This shall include the temporary storage of marijuana products on premises associated with transportation and distribution.

Marijuana Testing Facility – An entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.

Micro-Business – A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Special Permit Granting Authority – The local board assigned to review and administer the special permit for a given project or activity. The Planning Board is assigned as the Special Permit Granting Authority for Adult Use and Medical Marijuana special permit applications.

5.40.00 <u>Eligible Locations</u>

5.40.01 Licensed Marijuana Establishments, may be allowed by special permit of the Tyngsborough Planning Board, and provided the Licensed Marijuana Establishment meets the requirements of this Section 5.00.00.

a) No marijuana establishment shall be located within 500 feet of any pre-existing public or private school, licensed day-care center, church, library, playground, or indoor and outdoor active recreation area for children.

b) Adult use and Medical Marijuana Retail Establishments shall not be located within 500 feet of each other. This does not include legally co-located facilities. Non-retail marijuana establishments are allowed within 500 feet o~~r~~f each other

c) No Licensed Marijuana Establishment shall be located on a lot which directly abuts a residential district unless the 500-foot buffer requirements are met as described in section 5.40.02 of this Bylaw.

d) Licensed Marijuana Establishments shall be permitted in the following zones:

	R-1	**R-2**	**R-3**	**B-1**	**B-2**	**B-3**	**B-4**	**I-1**
Medical Marijuana Retailer	O	O	O	O	O	SPB-R	O	O
Adult Use (Recreational) Marijuana Retailer	O	O	O	O	O	SPB-R	O	O
Marijuana Cultivator	O	O	O	O	O	O	O	SPB-R
Marijuana Product Manufacturer	O	O	O	O	O	O	O	SPB-R
Marijuana Testing Facility	O	O	O	O	O	SPB-R	O	SPB-R
Marijuana Research Facility	O	O	O	O	O	SPB-R	O	SPB-R

Marijuana Transportation or Distribution Facility	O	O	O	O	O	O	O	SPB-R
Microbusiness	O	O	O	O	O	O	O	SPB-R
Marijuana Social Consumption Operator	O	O	O	O	O	O	O	O

5.40.02 The 500-feet distance shall be measured in a straight line from the pre-existing building or facility in question to the nearest point of the proposed Marijuana Establishment's building.

5.50.00 <u>General Requirements and Conditions for all Licensed Marijuana Establishments</u>

5.50.01 All Licensed Marijuana Establishments, except for transportation or distribution shall be contained within a building or structure and shall not be located inside a movable structure or mobile vehicle such as a trailer, van or truck. Outdoor cultivation is prohibited.

5.50.02 A Licensed Marijuana Establishment may not be located in a building that contains medical doctor's office or the offices of any other professional practitioner authorized to prescribe medical marijuana.

5.50.03 The hours of operation of Licensed Marijuana Establishments shall be set by the Special Permit Granting Authority, as a condition of the special permit.

5.50.04 No smoking, burning, or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Licensed Marijuana Establishment, except as legally permitted within a licensed research or testing facility.

5.50.05 No Registered Marijuana Dispensary shall be located inside a building containing residential units, including transient housing such as motels, hotels, or dormitories.

5.50.06 Licensed Marijuana Establishments shall provide the Tyngsborough Police Department, Tyngsborough Fire Department, Building Commissioner, Board of Health and the Special Permit Granting Authority with the names, telephone numbers and email addresses of all management staff and key holders, to whom one can provide notice if there are operating problems associated with the Licensed Marijuana Establishment.

5.50.07 The Licensed Marijuana Establishment shall allow law enforcement personnel, local public health, inspectional services, and other permit-granting agents, acting within their lawful jurisdiction, to enter and inspect the Licensed Marijuana Establishment for compliance with local and State regulations.

5.50.08 Prior to the issuance of a certificate of occupancy, all Licensed Marijuana Establishments shall file a security plan, operation and management plan and emergency plan to demonstrate there is limited undue burden on the Town public safety officials as a result of the proposed business.

a) The **security plan** shall include the details of all security measures for the site, and transportation of marijuana and marijuana products to and from off-site premise to ensure the safety of employees and the public and protect the property from theft or other criminal activity. The security plan shall be submitted to the Tyngsborough Fire Department and Tyngsborough Police Department, with notice of such deliveries to the Special Permit Granting Authority. This plan shall remain confidential. The security plan shall be resubmitted on an annual basis on January 31st, or within 7 days of any change in management or ownership, building security, or any other operational aspect that may affect employee or public security.

b) **The Operation and Management Plan:** Prior to issuance of the building permit, the Operation and Management Plan shall be submitted to the Building Department, Board of Health and Special Permit Granting Authority, with notice of such deliveries to the Special Permit Granting Authority. The plan shall include the following elements, as applicable: organizational structure, location, property description, hours of operation and staffing, indoor cultivation practices, processing practices, distribution practices, employee safety, general compliance, fire prevention, sanitation requirements, electrical system overview, ventilation system and air quality and waste refuse chemical remediation plan.

c) **The Emergency Response Plan: Prior** to issuance of a Certificate of Occupancy, all Licensed Marijuana Establishments shall meet with Tyngsborough Police Department and Fire Department to discuss and identify emergency plans/contingency plans for the site. A written Emergency Response Plan shall be filed with the Tyngsborough Fire Department and Tyngsborough Police Department pursuant to M.G.L. c. 94G §12, with notice of such deliveries to the Special Permit Granting Authority.

5.50.09 The number of Adult Use Marijuana Retail Establishments shall be limited to no more than 20% of the All-Alcohol Package Store Liquor Licenses for the Town.

5.60.00 <u>Special Permit Requirements</u>

5.60.01 A Licensed Marijuana Establishment shall only be allowed by special permit with site plan review by the Special Permit Granting Authority, in accordance with M.G.L. c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.

5.60.02 A special permit for a Licensed Marijuana Establishment shall be limited to one or more of the following uses but no more than three as specified in 935 CMR 500.000 that shall be prescribed by the Special Permit Granting Authority:

a) Indoor Cultivation of marijuana for adult or medical use.

b) Processing and packaging of marijuana for adult or medical use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;

c) Independent Marijuana Testing;

d) Research Laboratory;

e) Retail sale or distribution of either adult or medical use Marijuana;

f) Wholesale sale of Marijuana to other Licensed Marijuana Establishments located in the Town or another municipality in Massachusetts; and/or

g) Marijuana transportation or distribution.

5.60.03 In addition to the application requirements set forth in Sections 5.50.00 and 5.60.00 of this Bylaw, a special permit application for a Licensed Marijuana Establishment shall include the following:

a) The name and address of each owner of the Licensed Marijuana Establishment;

b) Copies of all required licenses and permits issued to the Applicant by the Commonwealth and any of its agencies for the Licensed Marijuana Establishments, such as a deed or lease;

c) Evidence of the applicant's right to use the site for a Licensed Marijuana Establishment, such as a deed or lease;

d) If the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities unless the disclosure contains the names of individuals;

e) A certified list of all "parties in interest" as defined in M.G.L. c. 40A § 11 taken from the most recent tax list of the Town and certified by the Town Assessor;

f) Proposed security measures for the Licensed Marijuana Establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. These security measures shall be reviewed by the Police Chief and Fire Chief or their designees, and a recommendation shall be made to the Special Permit Granting Authority.

g) Fully executed Community Host Agreement.

5.60.04 **<u>Mandatory Findings</u>** - The Special Permit Granting Authority shall not issue a special permit for a Licensed Marijuana Establishment unless it finds that:

a) The Licensed Marijuana Establishment is designed to minimize any adverse visual or economic impacts on abutters and other "parties in interest", as defined in M.G.L. c. 40A, § 11;

b) The Licensed Marijuana Establishment is fully permitted by all applicable agencies of the Commonwealth and is in compliance with all applicable state laws and regulations; and

c) The Applicant has satisfied all of the conditions and requirements of Sections 5.40.00, and 5.60.00 of this Bylaw.

5.60.05 **Annual Reporting** - A Licensed Marijuana Establishment permitted under this Bylaw shall, as a condition of its special permit, file an annual report no later than January 31st, providing a copy of all current applicable state licenses required under 935 CMR 500.000 and 105 CMR 725.000 for the Licensed Marijuana Establishment and/or its owners and demonstrate continued compliance with the conditions of the special permit as well as local and state regulations. A copy of the annual report shall also be filed with the Board of Health. Notice of delivery shall be made to the Special Permit Granting Authority.

5.60.06 Within 30 days of receiving a Compliance Inspection Report from the Commonwealth, the Licensed Marijuana Establishment shall forward the Compliance Inspection Report to the Board of Health and the Special Permit Granting Authority.

5.60.07 A special permit granted under this Bylaw shall have a term limited to the duration of the applicant's ownership of the Licensed Marijuana Establishment at the premises. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 5.00.00.

5.60.08 Any violation of this Section 5.00.00 or any other state regulations or state laws shall be grounds for revocation of a special permit issued under this Bylaw.

5.70.00 Abandonment or Discontinuance of Use

5.70.01 A special permit shall lapse if not exercised within one year of grant of special permit.

5.70.02 A Licensed Marijuana Establishment shall be required to remove all material, plants, equipment and other paraphernalia:

a) Prior to surrendering its state-issued licenses or permits; or

b) Within 6 months of ceasing operations, whichever comes first.

5.70.03 In the event the premises cease to be actively used as a Licensed Marijuana Establishment and/or any other allowed use under this Bylaw, any and all signs identifying or promoting the premises for such uses shall be immediately removed. This shall include exterior

and interior signs visible to the public. Should such signage fail to be removed within 30 calendar days, the Town, or its designee, shall have the right to enter upon the premises with an appropriate court order/warrant and take such actions as are necessary to remove, cover, or otherwise render any such signage non-visible to the public. The Town shall not be responsible for any damage caused to the property in association with carrying out such actions. Any costs incurred by the Town for such actions shall be the responsibility of the Licensed Marijuana Establishment.

5.80.00 Severability

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

TABLE OF REVISIONS (6/26/21)

SECTION	REFERENCE	DATE ADOPTED	COMMENTS
4.15.30	Temporary Independent Living Quarters (TILQ) Decision Criteria	6/26/2021	Removed item [3]; Renumbered section; Added "breezeway" to item [7]; Replaced item [8] with new wording; Added new item [9]
4.15.40	TILQ Special Permit Conditions	6/26/2021	Added language
4.15.40(4)	TILQ Special Permit Conditions	6/26/2021	Revised language
4.15.40(5)	TILQ Special Permit Conditions	6/26/2021	Removed section
4.15.41	TILQ Transferability	6/26/2021	Added section
4.15.50	TILQ Enforcement of Non-Compliance	6/26/2021	Added Section
2.11.45	Industrial Use Definitions	6/26/2021	Revised definitions for Warehouse and Mini-Warehouse
3.10.24	Table of Off-Street Parking Requirements	6/26/2021	Added Mini-Warehouse/Self Storage
4.20.00	Special Permits – Warehouse and Mini-Warehouse	6/26/2021	Added section
4.20.10	Special Permits – Warehouse and Mini-Warehouse: Purpose	6/26/2021	Added section
4.20.20	Special Permits – Warehouse and Mini-Warehouse: Submissions Generally	6/26/2021	Added section
4.20.30	Special Permits – Warehouse and Mini-Warehouse: Decision Criteria	6/26/2021	Added section
2.11.44	Business Uses: Business and Dwelling	6/26/2021	Replace section with new language
3.16.00	Tree Protection	6/26/2021	Added section
2.13.00	Flood Plain and Floodway Districts	6/26/2021	Revised language
2.13.10	Purpose	6/26/2021	Replace section with new language
2.13.11	Flood Plan and Floodway Districts: Abrogation and Greater Restriction	6/26/2021	Added section

2.13.12	Flood Plan and Floodway Districts: Disclaimer of Liability	6/26/2021	Added section
2.13.13	Flood Plan and Floodway Districts: Severability	6/26/2021	Added section
2.13.14	Flood Plan and Floodway Districts: Designation of Community Floodplain Administrator	6/26/2021	Added section
2.13.15	Flood Plan and Floodway Districts: Requirement to Submit New Technical Data	6/26/2021	Added section
2.13.16	Flood Plan and Floodway Districts: Floodplain Standards	6/26/2021	Added section
2.13.17	Flood Plan and Floodway Districts: Variances to Local Zoning Bylaws Related to Community Compliance with the National Flood Insurance Program (NFIP)	6/26/2021	Added section
2.13.21	FEMA Maps	6/26/2021	Added section
2.13.22	The Base Flood Elevations	6/26/2021	Replaced section with new language
2.13.50	Permits are Required for all Proposed Development in the Floodplain Overlay District	6/26/2021	Renamed section from "Uses Allowed by Special Permit in the Flood Plain District (Excluding the Floodway)"; Added new language to section
2.13.51	Uses Allowed by Special Permit in the Flood Plain District (Excluding the Floodway)	6/26/2021	Added section number
2.13.60	Procedures for Applying for a Special Permit Pursuant to Section 2.13.50	6/26/21	Removed section
2.13.60	Procedures for Applying for a Special Permit Pursuant to Section 2.13.51	6/26/2021	Added section
2.13.61	Other Conditions	6/26/2021	Removed section
2.13.61	Watercourse Alterations or Relocations in Riverine Areas	6/26/2021	Added section
2.13.62	Filing and Distribution	6/26/2021	Removed section

	Procedures		
2.13.62	AO and AH Zones Drainage Requirements	6/26/2021	Added section
2.13.63	Recreational Vehicles and Protection of Sand Dunes	6/26/2021	Added section
2.13.64	Other Conditions	6/26/2021	Added section
2.13.65	Filing and Distribution Procedures	6/26/2021	Added section
2.13.70	Local Enforcement	6/26/2021	Added section
2.13.80	Definitions Not Found in the State Building Code	6/26/2021	Added section
2.13.81	Definitions of Flood Zones	6/26/2021	Added section
2.11.30	Table of Uses	9/26/2020	Added Assisted Living, Independent Living, and Continuing Care Campus
2.11.43	Governmental, Institutional and Public Service Uses	9/26/2020	Added definitions for: Assisted Living Facility, Independent Living Facility, and Continuing Care Campus
4.19.00	Assisted Living and Continuing Care Campus Development	9/26/2020	Added section
1.20.41	Methods of Providing Affordable Housing Units (On Site Units)	9/26/2020	Revised section to add Assisted Living or Continuing Care Campus development
2.11.30	Table of uses	11/13/2018	Added Solar Energy Systems
2.11.41	General	11/13/2018	Added Solar Energy Systems definitions
2.11.50	Accessory use Regulations	11/13/2018	Added Solar Energy Systems
2.12.00	Intensity of Use (Dimensional Requirements)	11/13/2018	Added Solar Energy Systems
2.12.48	Building Coverage	11/13/2018	Added solar energy system language
2.12.49	Height in Feet, Buildings	11/13/2018	Added solar energy system language
3.10.41	General Standards	11/13/2018	Added solar energy systems language
3.10.49	Landscaping	11/13/2018	Added solar energy systems language
5.00.00	Special Requirements for Registered Marijuana Dispensaries	5/15/2018	Replaced entire section with a new section titled “Special

			Requirements for Licensed Marijuana Establishments"
2.12.30	Lot Perimeter	5/15/2018	Replaced entire section with a new section
1.20.00	Inclusionary Zoning	5/15/2018	Added section
6.00.00	Interim Restrictions/Moratorium for Recreational marijuana Establishments	11/8/2016	Added section
2.16.20	Mixed Use Overlay District Boundaries	12/8/2015	Added 1 new parcel
5.00.00	Special Requirements for Registered Marijuana Dispensaries	5/2014	Replaced entire section with a new section
2.11.44	Personal Service Facility	5/21/13	Added pet grooming to definition
2.11.50	Accessory Use Regulations	5/21/13	Changed & added wording to paragraph 3(setbacks for sheds & pools)
2.15.23	Restoration	5/21/13	Changed phrase
4.11.30	Decision Criteria	5/21/13	Changed & deleted phrases
4.15.30	Decision Criteria	5/21/13	Changed sq. footage
5.00.00	Interim Restriction/Moratorium for Medical Marijuana Treatment Centers	5/21/13	Added section
1.16.15	Special Permit Conditions	10/2012	Added paragraph 9
2.12.41	Lot Area	10/2012	Added wording
2.12.42	Frontage	10/2012	Added wording
3.10.42	Parking Dimensions	10/2012	Changed dimensions
4.10.30	Decision Criteria	10/2012	Deleted phrase
4.15.30	Specific Requirements	10/2012	Deleted and changed phrases in paragraph 2 & 9
2.11.43	Commercial Recreation	6/7/11	Added a number of sports to definition
2.13.00	Flood plain	5/18/10	Deleted existing section and substituted new wording
2.13.20	FIRM maps	5/18/10	
2.13.21		5/18/10	Deleted section
2.13.23	Floodways	5/18/10	Deleted existing section and substituted new wording
2.13.41	Floodway Data	5/18/10	
2.14.50	Notifications & compliance	5/18/10	New section

2.11.43	Public/private utilities definition	3/2/10	Deleted existing section and substituted new wording
2.16.00 et seq.	Mixed Use Overlay District	3/2/10	Added new section
2.15.11.3	Non-conforming structures	10/9/07	Deleted last sentence
2.15.11 et seq.	Non-conforming lots	5/15/07	Changed wording
2.00.00 et seq.	Delete all I-2 & GI zoning and references	10/10/06	
1.16.20	MBC applicability, objectives and application requirements	10/10/06	Clarify application requirements for site plans
2.11.43	Change definition of Education	5/23/06	
1.19.00	Update to Growth Management	6/24/03	