

# Southborough Zoning Bylaw (Draft)

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Third Reading (Rev.)

August 2011

This is the third reading draft of proposed amendments to the Southborough Zoning Bylaw. It is under review by the Planning Board and Zoning Advisory Committee and has not been formally adopted by the Town.

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This draft is currently under review and may contain errors and/or omissions. Contact the Southborough Town Planner for a current copy of the Zoning Bylaw.

Note:

For § 174-19, see "Table 1" Schedule of Use Regulations; and for § 174-24, see "Table 2" Dimensional and Density Regulations.

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Contact the Southborough Town Planner for a current copy of the Zoning Bylaw.

## ARTICLE I. GENERAL PROVISIONS

### ~174-1. Purposes.

- A. This Zoning Bylaw (“Bylaw”) of the Town of Southborough, Massachusetts (“Town”) is enacted in order to promote the general welfare of the Town; to protect the health and safety of its inhabitants; to encourage the most appropriate use of land; to conserve the Town's natural resources and preserve its natural, historical, scenic and aesthetic qualities; to increase the amenities of the Town; to facilitate the adequate provision of transportation, water, drainage, sewerage, schools, parks, open space, and other public requirements; to further the goals and policies of the Southborough Master Plan; and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.
- B. For these purposes, the construction, repair, alteration, reconstruction, height, number of stories and size of buildings and structures; the size and width of lots; the percentage of lot area that may be occupied; the size of yards, courts and other open spaces; the density of population; and the location and use of buildings, structures and land in the Town are regulated as hereinafter provided.

### ~174-2. Authority.

This Bylaw is enacted in accordance with the provisions of G.L. c.40A and any and all amendments thereto.

### ~174-3. Applicability.

Except as otherwise permitted by law, all buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the town, shall be in conformity with the provisions of this Bylaw. No building, structure or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which such building, structure, or land is located. Where the application of this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

## ARTICLE II. DEFINITIONS

In this Bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the Bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The abbreviation “sq. ft.” shall include square foot or square feet. The word “shall” is mandatory and “may” is permissive or discretionary. The word “and” includes “or” unless the contrary is evident from the text. The word “includes” or “including” shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word “lot” includes “plot”; the word “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.” The words “building,” “structure,” “lot,” or “parcel” shall be construed as being followed by the words “or any portion thereof.” The word “person” includes a firm, association, organization, partnership, company, or corporation, as well as an individual.

Terms not defined herein but defined in the State Building Code shall have the meaning given therein unless a contrary intention is clearly evident in this Bylaw. See § 174-18 for further clarification of uses regulated under this Bylaw.

**ABUTTER:** The owner of an abutting property.

**ABUTTING:** Having a common property line with, contiguous to, fronting upon, or within three hundred (300) feet of any property line thereof.

**ACCESSORY USE OR STRUCTURE:** Either a subordinate use of a building, or other structure or tract of land, or a subordinate building or other structure: (1) whose use is customary in connection with the principal building or other structure or use of land, and (2) whose use is clearly incidental to the use of the principal building, other structure or use of land, and (3) which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment, and (4) which does not constitute, in effect, conversion of the principal use of the premises to one not permitted.

**ADULT USE:** An adult bookstore, an adult motion picture theater, an adult dance club, an adult paraphernalia store, an adult video store and such other uses as provided by G.L. c. 40A, § 9A.

**ADULT BOOKSTORE:** An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, computer compact disks, computer disks or diskettes, or coin-operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “sexual conduct” as that term is defined in G.L. c. 272, § 31, “sexual devices” or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina, or anus or other device primarily designed promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including dildos, penisators,

vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

**ADULT LIVE ENTERTAINMENT ESTABLISHMENT:** any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

**ADULT MOTION PICTURE THEATER:** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating 'sexual conduct" as defined in G.L. c. 272, § 31, for observation by patrons therein.

**ADULT MINI MOTION PICTURE THEATER:** An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to 'sexual conduct" as defined in G.L. c. 272, § 31, for observation by patrons therein.

**SUBSTANTIAL OR SIGNIFICANT PORTION** shall mean at least that portion of:

- (a) Retail sales accounting for at least twenty-five percent of gross sales; or
- (b) Shelf space and display space which when combined is in excess of eighty (80) sq. ft., or
- (c) Merchandise accounting for at least twenty-five percent of total merchandise available for sales.

**AFFORDABLE HOUSING:** A dwelling unit that is affordable for purchase or rent by a qualified household. Except as may be provided elsewhere in this Zoning Bylaw, each affordable housing unit shall be eligible for the Chapter 40B Subsidized Housing Inventory, in accordance with the regulations and policies of the Massachusetts Department of Housing and Community Development (DHCD) in effect on the date of the applicant's submission to the Planning Board. "Affordable housing unit" and "affordable unit" shall have the same meaning. (See also, QUALIFIED HOUSEHOLD and MARKET-RATE HOUSING UNIT.)

**AFFORDABLE HOUSING RESTRICTION:** A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Southborough, 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 enforceable under the provisions of G.L. c. 184, §§ 31-32 or other applicable state law. The Southborough Board of Selectmen may accept, hold, and enforce affordable housing restrictions.

**AGE RESTRICTION:** A legally enforceable restriction on the minimum age of one or more of the occupants of a dwelling unit, not inconsistent with the federal Fair Housing Act, 42 USC 3601 et seq.

**AGRICULTURAL PRESERVATION RESTRICTION:** As defined and enforceable under G.L. c. 184, §§ 31-32.

**ALTERATION:** A partial replacement, addition, modification, or rearrangement in the structural parts of a building.

**APPLICANT:** The applicant for a building permit or other permit or approval required under this Bylaw.

**BASEMENT:** That part of a building story which is partly below and partly above grade, and having at least one-half of its height above grade.

**BEST MANAGEMENT PRACTICE (BMP):** Structural, nonstructural, vegetative and managerial techniques that are recognized by the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Handbook to be the most effective and practical means to reduce erosion and sediment, prevent or reduce increases in stormwater volumes and flows, reduce point source and nonpoint source pollution, and promote stormwater quality and protection of the environment. Structural BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. Nonstructural BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and promote pollutant reduction by eliminating the pollutant source.

**BUILDING:** A structure having a roof and designed, intended, or used as a shelter for occupancy by persons, animals or things, provided that any other building, structure, or part thereof sharing a wall with, touching, or having a permanent above-ground structural connection to a building shall be considered to be part of such building.

**BUILDING INSPECTOR:** The Building Inspector of the Town of Southborough.

**BUILDING PERMIT:** A permit required for any construction or use which provides the Town with a means of assuring that all plans for work are in accordance with this Zoning Bylaw, issued by the Building Inspector.

**CELLAR:** A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building.

**CERTIFICATE OF OCCUPANCY:** The final permit required from the Town before any use or structure may be occupied, issued by the Building Inspector; a means of assuring that all work has been completed in accordance with plans approved for zoning permits and building permits and that all work conforms to the requirements of all building, zoning, and health regulations of the Town and the Commonwealth of Massachusetts.

**COMMENCE CONSTRUCTION:** For purposes of determining whether a special permit, site plan decision, or variance has lapsed, commence construction shall mean that work has begun under a valid building permit issued by the Southborough Building Department.

**COMMERCIAL VEHICLE:** A vehicle meeting any of the following thresholds:

- (a) A motor vehicle with a gross vehicle weight rating or gross combination weight rating of 10,001 pounds or more used for the transportation of property, or
- (b) A motor vehicle designed to transport more than 15 passengers, including the driver, or
- (c) A motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under the Federal Hazardous Materials Transportation Act.

**COMMON DRIVEWAY:** A driveway serving two or more dwelling units, subject to § 174-50 of this Bylaw.

**CONSERVATION RESTRICTION:** As defined in and enforceable under G.L. c. 184, §§ 31-32.

**DEVELOPMENT COORDINATING GROUP:** The Building Inspector, the Director of Public Works, the Board of Health Agent, the Police Chief and Fire Chief or their designees, and the Town Planner, who shall be the chair, and a member of the Board of Selectmen.

**DRIVE-THROUGH SERVICE:** An accessory business use that allows customers to access sales or services without leaving their motor vehicles in so-called drive-through or drive-up facilities, including but not limited to banking, dry cleaning, pharmacies, photo processing, or similar customer services. Drive-through service for a restaurant or other food service establishment is expressly prohibited.

**DWELLING:** As defined in the State Building Code.

**DETACHED SINGLE-FAMILY DWELLING:** A detached residential dwelling unit designed or intended or used exclusively as a single housekeeping unit for one family, with common cooking and living facilities. As used in this Bylaw, single-family dwelling shall not include a mobile home or trailer.

**TWO-FAMILY DWELLING:** A detached residential building designed or intended or used exclusively as the home or residence of two families. A detached single-family dwelling with an accessory apartment does not constitute a two-family dwelling.

**TOWNHOUSE:** A dwelling unit in a multi-unit building with units separated by party walls, with separate at-grade entrances and stairways serving each unit exclusively.

**MULTI-FAMILY DWELLING:** A building designed or intended or used as the home or residence of three (3) or more families, each occupying a separate dwelling unit, living independently of each other and which may have a common right in halls and stairways;

with the number of families in residence not exceeding the number of dwelling units provided.

**LIVE/WORK UNIT:** A dwelling unit combined with a studio, typically in an open floor plan offering large, flexible space for use and occupancy by artists. "Artist" means a person professionally employed in the visual, performing, literary, design, or media arts.

**DWELLING UNIT:** A building or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EARTH REMOVAL:** as defined in Chapter 85 of the Town of Southborough Code.

**EDUCATIONAL USE:** An educational facility operated by a public or non-profit organization, subject to the provisions of G.L. c. 40A, § 3.

**FAMILY:** Any number of persons living together on the premises as a single and separate housekeeping unit.

**FRONTAGE:** The distance along a continuous portion of a street line between intersections with side lot lines, provided that for lots abutting more than one (1) street, frontage shall be required and measured along one (1) street only, but the yard required under § 174-24 shall be provided along each street the lot abuts; and that for corner lots, frontage shall be measured to the intersection of street lines or to the middle of the corner rounding curve connecting such street lines, and provided that a lot shall only be deemed to have frontage along any way to which it has legal access and which way presently provides practical, safe, and efficient access for vehicular traffic.

**GRADE:** The level at which the surface of the ground meets the foundation of a building or structure.

**GRADE PLANE:** A reference plane representing the average of finished ground level adjoining a building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

**GREEN BUILDING:** A building designed, constructed, and operated and maintained throughout its life cycle to conserve energy and water, reduce environmental impacts, and protect the health of the general public and occupants of the building.

**GROSS FLOOR AREA:** The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. The computation of gross floor area shall include garages and other accessory structures on the lot, and basements with ceiling heights of six (6) feet or more.

**GROSS FLOOR AREA RATIO:** The ratio of the aggregate gross floor area as defined herein to the total lot area.

**HAZARDOUS WASTE:** As defined in G.L. c. 21D, § 2.

**HEIGHT (Building or Structure):** The vertical difference between the average of the mean finished ground elevations of all sides of the building or structure and the elevation of the highest point of the roof for flat roofs, to the deckline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. This definition shall not include signs and the structural features exempt under § 174-25 of this Bylaw and extending not more than twenty (20) feet above the permitted height. For buildings subject to site plan approval under § 174-7, the average finished ground elevation shall not be raised above the original natural ground through fill or regrading to more than (2) two feet above the center-line grade of the frontage street opposite the proposed building, unless the approved site plan provides for such buildup.

**IMPERVIOUS:** Any area impenetrable by surface water.

**INSTITUTIONAL USE:** A use that provides a public service and is operated by a federal, state or local government, public or private school or college, or tax-exempt organization. Examples include, but are not limited to, a public agency, public safety and emergency services, cultural, educational, service, and religious facilities, inpatient health care facilities or other similar uses.

**JUNK YARD:** Premises used for the collecting, storage, and sale of wastepaper, rags, scrap metal, or discarded materials or for collecting, dismantling, storage, salvage, and sale of used machinery, vehicles, or parts thereof or outdoor storage of more than three (3) unregistered vehicles except where expressly authorized in a Class I or Class II Auto License issued by the Board of Selectmen.

**LOT:** An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose.

**CORNER LOT:** A lot abutting on two (2) or more streets at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°. The minimum front setback shall apply on all streets.

**INTERIOR LOT:** A lot other than a corner lot with only one frontage on a street.

**THROUGH LOT:** A lot other than a corner lot with frontage on more than one street.

**LOT AREA:** The horizontal area of a lot, exclusive of any area in a street or recorded way open to public use.

**LOT LINE:** A division line between adjoining properties, including a division line between individual lots established by a plan recorded with the Registry of Deeds.

**LOT LINE, REAR:** The lot line opposite to the street line. In case of a corner lot, the owner may designate which line will be the rear lot line, provided the owner's choice does not involve a violation of any of the provisions of this Bylaw.

**LOT WIDTH:** The straight-line distance between lot lines parallel to a line connecting lot corners at the frontage street and applicable for the entire front yard or setback depth.

**LOWER-IMPACT DEVELOPMENT (LID):** An ecosystem-based approach to land development and stormwater management that ensures that each development site is designed to protect or restore the natural hydrology of the site. Where the following terms appear in § 174-38 of this Bylaw, they shall have the following meanings:

**ALTER:** Any activity which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as "alteration of drainage characteristics" and "conducting land disturbance activities."

**BIORETENTION AREAS:** Shallow depressions filled with engineered soils, topped with a thick layer of mulch, and planted with dense vegetation that reduce the overall amount of runoff to be treated by infiltrating stormwater to the ground.

**DISTURBED AREA:** An area, man-made or natural, where the existing condition has been or is proposed to be altered.

**HOT SPOT:** An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**INFILTRATION:** The act of conveying surface water into the ground to recharge groundwater and to reduce stormwater runoff from a project site.

**LIMITED IMPACT DEVELOPMENT PERMIT (LID Permit):** A permit issued by the Planning Board (LID Authority) after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

**LID AUTHORITY:** The Southborough Planning Board. (See also, REVIEWING BOARD.)

**LID MANAGEMENT:** The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

**LID TECHNIQUES:** Engineering measures that compensate for the reduced infiltration and storage characteristics of developed sites.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The policy issued by DEP, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 and the Massachusetts Clean Waters Act G.L. c. 21, §§ 23-56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MULTIFUNCTIONAL LANDSCAPE FEATURES:** Bioretention areas, swales, and conservation areas that mimic or replicate hydrologic functions and maintain the ecological/biological integrity of receiving streams and water bodies.

**MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Southborough.

**NEW DEVELOPMENT:** Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain significant alterations by man-made activities.

**NONPOINT SOURCE POLLUTION:** Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

**OPERATION AND MAINTENANCE PLAN:** A plan that defines the functional, financial, and organizational mechanisms for the ongoing operation.

**PRE-DEVELOPMENT:** The conditions that exist at the time that plans for the development of a tract of land are submitted to the special permit granting authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

**POINT SOURCE:** Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**POST-DEVELOPMENT:** The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion and does not refer to the construction phase of a project.

**RECHARGE:** The replenishment of underground water reserves.

**REDEVELOPMENT:** Any construction, alteration, or improvement where the existing land use is commercial, industrial, institutional, or multifamily residential.

**RESOURCE AREA:** Any area protected under federal, state, or local law or regulation, including, without limitation: the Massachusetts Wetlands Protection Act and the Southborough Wetlands Protection Bylaw. (See also Chapter 170 of the Southborough Town Code, Wetlands Protection).

**REVIEWING BOARD:** The Southborough Conservation Commission, Board of Health, or other board authorized by the LID Authority (Planning Board) to review all LID submittals and issuing LID permits for any project within the Reviewing Board's jurisdiction.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENTATION:** A process of depositing material that has been suspended and transported in water.

**SITE:** The parcel of land being developed or a designated planning area in which the land development project is located.

**MARKET-RATE UNIT:** A housing unit that does not meet the definition of affordable housing.

**MASTER PLAN:** A plan for the growth and development of the Town prepared by the Planning Board in accordance with G.L. c. 41, § 81D and incorporating goals, policies, and recommendations for the physical and economic development of the Town and for the protection of natural resources in the Town; land use; public services and facilities; utilities; population, density and housing; conservation; redevelopment and rehabilitation; and such other matters as may affect the growth and development of the Town. Such plan shall provide the basis for zoning and land use regulations of the Town.

**MOBILE HOME:** Any vehicle or object designed and constructed or reconstructed or added to by means of accessories or facilities to permit the use and occupancy thereof for human habitation; whether resting on wheels, jacks or other foundations and shall include the type of vehicle commonly known as a mobile home, which shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities and designed to be installed on a temporary foundation for living quarters. (See also, TRAILER.)

**NONCONFORMING USE OR STRUCTURE:** An existing, legally established or erected building, structure, lot, or use which predates and does not conform to the current requirements of the district in which it is situated with regard to the size, dimensions, location, or use of building or land.

**OPEN SPACE:** Land that is open to the sky, i.e., not covered by structures or impervious surfaces, and which serves conservation, watershed protection, scenic, aesthetic, or recreational purposes.

**PARKING, OFF-STREET:** The portion of a lot set aside for purposes of parking, including aisle space, but not including access roads or driveways connecting off-street parking spaces or the lot with a street.

**PASSIVE RECREATION:** Use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state or water resource or wildlife management.

**PERSON:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Southborough, and any other legal entity, its legal representatives, agents, or assigns.

**PREMISES:** A lot, together with all buildings, structures, improvements, and uses thereon.

**QUALIFIED HOUSEHOLD:** A household with income at or below eighty (80) percent of the area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD), and which meets all other affordable housing eligibility requirements established by DHCD. (See also, AFFORDABLE HOUSING.)

**REGISTRY OF DEEDS:** The Worcester District Registry of Deeds and no other, or the Land Court, as applicable.

**REVIEWING PARTY:** Any town board, committee, officer, or employee requested to review a special permit or site plan application and provide comments to the approval authority.

**SHARED PARKING:** Off-street parking serving multiple uses on a lot or uses on more than one lot

**SHARED SEPTIC SYSTEM:** A wastewater disposal system approved by the Southborough Board of Health to serve two (2) or more uses or structures on a single lot or contiguous lots.

**SIDE LINE (LOT):** A lot boundary separating it from other lots and is not a frontage or a rear lot line.

**SIGN:** Any words, lettering, parts of letters, emblems, devices, designs, figures, phrases, sentences, trade names or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public street or right-of-way and used to attract attention. The following terms used in § 174-37 shall have the following meanings:

**AGRICULTURAL SIGN:** A sign with wording that may be changed periodically to advertise products raised or grown principally on the premises.

**AWNING SIGN:** Any and every sign displayed on an awning or canopy. An “awning” or “canopy” is any device, fixed or retractable, of any material, which extends over or

otherwise covers a sidewalk, courtyard, walkway, eating area, driveway or other area or space, whether that area or space is intended for pedestrians, vehicles, or other purposes.

**BANNER:** Any and every sign, whatever the nature of the material or manner of composition, message or design, typically displayed on a pole or staff which may be freestanding or attached to the front of a building or structure and temporary or removable in nature. Official flags of governmental jurisdictions properly displayed shall not be considered as banners or otherwise considered as signs for the purposes of this Bylaw.

**BUSINESS ESTABLISHMENT:** Each separate place of business whether or not consisting of one or more buildings. (See also, TENANT.)

**FACADE OF THE BUSINESS ESTABLISHMENT:** That portion of the building wall facing a street or containing a public entrance, which corresponds to the height and width of the interior space rented or owned by the tenant of the business establishment.

**HEIGHT (SIGN):** The maximum vertical distance measured from the finished grade to the highest point of the sign or its supporting structure, whichever is higher.

**INTERNALLY ILLUMINATED SIGN:** Each and every sign which utilizes translucent panels, canvas or other fabric, letters, devices including gas-filled luminous tubes or other similar components to create an image by allowing light to pass through.

**LEGAL NONCONFORMING SIGN:** Any nonconforming sign legally erected prior to the adoption of this section, or any amendment thereof.

**MOVING SIGNS:** Any and every sign any part of which moves or is designed to move or to be moved, by any means, including but not limited to signs with moving text or messages.

**ROOF SIGN:** Any and every sign located above, or projecting above, the apex of the roof or the top of a parapet wall of any building, or which is painted or otherwise attached or affixed to a roof.

**STANDING SIGN:** Any and every freestanding sign erected on or affixed to the land and includes any and every sign that is not attached to a building.

**TEMPORARY SIGNS:** Any and every sign which by its design and/or use is temporary in nature, frequently composed of paper, posterboard and/or cardboard or other material attached so as to be visible through windows and glass doors or otherwise displayed on a property, typically containing messages relative to sale, lease, rental or construction of property, garage or yard sales and similar occasional uses, special sales, bazaars, dinners or other events, or political signs.

**TRAFFIC SIGNS:** Any sign limited solely to directing traffic within or setting out restrictions on the use of parking areas.

**TRAILER OR VEHICLE SIGNS:** For the purposes of this sign Bylaw, a vehicle, motor vehicle or self-propelled vehicle shall be considered and regulated as a sign when or under such circumstances any such vehicle is not engaged in the usual business or work of the owner or lessee but is used for advertising purposes. This includes vehicles with advertising messages on them, which vehicles are parked on property not owned by the owner of the vehicle with the apparent intent, in the reasonable judgment of the Building Inspector, to display the advertising message to passers-by.

**WALL SIGN:** Any and every sign attached to a building and not considered to be a projecting sign, roof sign, window sign.

**WINDOW SIGN:** Any and every sign consisting of individual letters or graphics painted or otherwise similarly affixed directly to, or hanging behind, the glass surface of a window or door and designed to be visible from the outside of any building.

**SITE:** One or more parcels of land proposed for development or redevelopment, or the locus of a development.

**SITE PLAN:** A technical plan submitted for approval by the Planning Board, showing the proposed location of buildings, access and off-street parking, landscaping, lighting, utilities, and other improvements associated with a use other than single-family and two-family dwellings.

**SPECIAL PERMIT:** A permit that may be issued by the special permit granting authority to authorize a use which would not be allowed generally or without restriction throughout any particular district but which, if controlled as to number, area, location, relation to the neighborhood and other characteristics, would not be injurious to the public health, safety, welfare, order, appearance, prosperity, or general welfare. A special permit is not a variance, but it may include a waiver of dimensional and similar requirements incidental to the special permit.

**SPECIAL PERMIT GRANTING AUTHORITY:** the Town board designated to issue special permits under this Bylaw.

**STORY:** That part of the building above the basement or cellar and between the top of any tier of floor beams and the top of the tier of floor or roof beams next above.

**HALF-STORY:** A half story is that part of a building under a sloping roof, the cubic contents of which is not more than seventy (70) percent of the cubic contents of the story below.

**STREET (or WAY):** A town way, a way laid out by county or state, a way shown on a definitive subdivision plan approved in accordance with the Subdivision Control Law and constructed or with construction secured as provided in said Law, or a way in existence when the Subdivision Control Law became effective in the Town of Southborough, which has in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction for the needs of vehicular traffic in relation to the proposed use of land and for the installation of municipal services to serve such land and the buildings erected or to be

erected thereon. The naming of a private right-of-way, easement or driveway serving one or more lots for the purpose of facilitating emergency access or for any other purpose shall not confer upon it the legal status of a street or way for frontage and zoning purposes.

**STREET LINE:** The common boundary between the right-of-way line of a street, whether public or private, and an abutting lot.

**STRUCTURE:** A combination of materials assembled in a fixed location to give support or shelter or for any other purpose, including buildings, frameworks, platforms, sheds and the like, provided that signs, utility poles and small decorative or accessory structures not over three feet in height or six feet in any dimension, such as sculptures, mailboxes, birdbaths, benches, and the like shall not be subject to the yard requirements of this Bylaw if located at least five feet from side or rear lot lines. Fences that are not over six feet in height shall not be considered structures. As used in this Bylaw, structure shall not include an on-site or shared wastewater disposal system meeting the requirements of the Southborough Board of Health.

**TENANT (COMMERCIAL):** As used in this Bylaw, tenant means a business or other establishment occupying space within a nonresidential or mixed-use building under an agreement with the owner; or the owner-occupant of the building.

**TOWN PLANNER:** The Town Planner of the Town of Southborough.

**TRAILER:** A wheeled vehicle designed to be towed and having no own motive power, including, without limitations, camping or travel trailers equipped to be used for business, for transportation of goods, or for living or sleeping purposes, but not as a dwelling in a permanent location. See also, **MOBILE HOME**.

**TRIP (VEHICLE):** A single or one-direction vehicle movement with either the origin or the destination inside a given study area.

**TRIP END (VEHICLE):** One trip end is equal to one trip.

**VEHICULAR USE AREA:** All areas used for the circulation, parking, or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary uses. For purposes of this Bylaw, vehicular use area shall not include driveways and parking spaces serving single-family or two-family dwellings.

**WAY:** see **STREET**.

**WETLAND:** Any wetland or wetland resource area as defined in G.L. c. 131, § 40 or the Southborough Wetlands Bylaw.

**WIRELESS COMMUNICATIONS FACILITY:** A facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the

Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components. A wireless communications facility shall be a transmission and reception substation, not a principal facility for conducting a communications business.

**WIRELESS COMMUNICATIONS FACILITY:** See § 174-51.

**ABOVE GROUND LEVEL:** A measure of vertical distance from the average existing natural grade of a site at the base of a wireless service structure to a point of a structure.

**ANTENNA:** The surface from which wireless radio signals are sent and received by a wireless communications facility.

**CO-LOCATION:** The use of a single mount on the ground by more than one carrier (vertical co-location) or several mounts on an existing building or structure by more than one carrier.

**COMMUNICATION BUILDING:** Any building utilized primarily for the installation and operation of equipment for generating or receiving electromagnetic radiation and which is accessory to a communication structure.

**COMMUNICATION STRUCTURE:** Any structure intended to support equipment used for the transmission and/or reception of electromagnetic radiation, including communication monopoles, antennas, wiring or other devices attached thereto. Such a structure shall not include a lattice tower.

**COMMUNICATION MONOPOLE:** Any cylindrical pole intended to support equipment used for the transmission and reception of electromagnetic radiation including antennas, wiring or other devices attached thereto.

**MONOPOLE:** The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

**MOUNT:** The structure or surface, upon which antennas are mounted, including the following four (4) types of mounts.

- (a) Roof-mounted: Mounted on the roof of a building.
- (b) Side-mounted: Mounted on the side of a building.
- (c) Ground-mounted: Mounted on the ground.
- (d) Structure-mounted: Mounted on a structure other than a building.

**OMNIDIRECTIONAL (WHIP) ANTENNA:** A thin rod that transmits or receives a signal in all directions.

**RADIOFREQUENCY (Rf) ENGINEER:** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**RADIOFREQUENCY RADIATION (RFR):** The emissions from wireless communications facilities.

**TOWER:** A structure that is intended to support equipment used to receive or transmit electromagnetic waves. Design examples include: lattice tower (self-supporting with multiple legs and cross-bracing structural steel) and monopole (self-supporting with a single shaft).

**WIRELESS COMMUNICATIONS SERVICES:** All forms of wireless communication included in the definition in the Federal Telecommunications Act of 1996, as amended, including commercial mobile radio services, licensed wireless services, common carrier wireless exchange services, and other forms of wireless communication of a similar nature. Common carrier wireless exchange services include cellular telephone services, communications systems and paging services, wireless computer networking, wireless internet access and wireless communication services of a similar nature. Wireless telecommunications services shall not be construed to include a telephone exchange.

**YARD:** A space open to the sky and of uniform depth specified by this Bylaw along and contiguous to lot frontage, side, and rear lines, measured at right angles or radially to said lines. Within the required minimum yards there shall be no buildings or structures, except for building projections and minor structures allowed by this Bylaw, including buildings accessory to residences in side and rear yards and subject to yard requirements for such accessory buildings. The minimum required yard may also be referred to as the minimum required setback.

**FRONT YARD:** A yard on the same lot with a building, between the extreme front line of the building and the street line across the entire front of lot, and unoccupied above ground level except by steps, projecting eaves, or uncovered or covered entrance porches on the first floor which do not exceed a total area of fifty (50) square feet.

**SIDE YARD:** A yard on the same lot with a building, between the building and the side line of the lot, extending the full width or depth of the building and unoccupied above the ground level except by uncovered steps and projecting eaves.

**REAR YARD:** A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building.

**ARTICLE III. ADMINISTRATION AND ENFORCEMENT****~174-4. Building permit.**

- A. This Bylaw shall be administered by the Building Inspector. Pursuant to the State Building Code and this Bylaw, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures, or signs may not be erected, substantially altered, moved or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning and after all necessary permits have been received under federal, state, and local law. No building shall be occupied unless a certificate of occupancy signed by the Building Inspector has been granted to the owner or occupant of such building, nor shall any use be made of such building except that which is explicitly stated by such certificate of occupancy and permitted under this Bylaw.
- B. Where a special permit is required under this Bylaw, the Building Inspector shall not issue a permit except in accordance with the written decision of the applicable special permit granting authority.

**~174-5. Board of appeals.**

- A. Establishment. There is hereby established a Board of Appeals of five (5) members and two (2) associate members, appointed by the Board of Selectmen.
- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by G.L. c. 40A, c. 40B, and c. 41, and this Bylaw. The Board's powers are as follows:
- (1) To hear and decide applications for special permits in accordance with G.L. c. 40A, § 9;
  - (2) To hear and decide appeals or petitions for variances, including use variances, in accordance with G.L. c. 40A, § 10;
  - (3) To hear and decide appeals in accordance with G.L. c. 40A, §§ 8 and 15;
  - (4) To hear and decide requests with regard to nonconforming uses and structures in accordance with G.L. c. 40A, § 6 and Article VII of this Bylaw;
  - (5) To hear and decide comprehensive permits for the construction of low or moderate income housing in accordance with G.L. c. 40B, §§ 20-23.
- C. Regulations. In accordance with G.L. c. 40A, § 12, the Board of Appeals shall adopt rules for the administration of its powers, including reasonable administrative fees and technical review fees, consistent with this Bylaw and the laws of the Commonwealth. Such rules shall be filed with the Town Clerk.

**~174-6. Special permits.**

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Procedures. Application for a special permit shall be filed with the special permit granting authority, which shall conduct a public hearing, act on the application, and file its decision with the Town Clerk in accordance with its rules and regulations and the requirements of G.L. c. 40A, § 9.
- C. Decision criteria.
- (1) The special permit granting authority may grant a special permit only upon its written determination that the adverse effects of the proposal will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific criteria that may be set forth elsewhere in this Bylaw, the determination shall consider the following:
    - (a) The general purposes and intent of this Bylaw and the applicable goals and policies of the Southborough Master Plan;
    - (b) Social, economic, or community needs which are served by the proposal;
    - (c) Compatibility of the proposed use with uses in the vicinity of the site and uses allowed in the applicable district; and
    - (d) Uses of the site which would be displaced by or preempted by the proposed use.
  - (2) For a special permit with site plan review administered by the Planning Board under § 174-7.6, the special permit decision criteria shall include those listed under subsection (C)(1) above and the following additional criteria:
    - (a) Impacts upon natural resources, cultural resources, and open space;
    - (b) Effectiveness of stormwater management systems;
    - (c) Maintenance of neighborhood character and aesthetics, including but not limited to the degree to which the applicant has addressed any applicable design guidelines as may be adopted and amended from time to time by the Planning Board;
    - (d) Adequacy of traffic management for capacity and public safety;
    - (e) Functionality of on-site vehicular circulation and external roadway access;

- (f) Visual impact on the vicinity emanating from building placement and site development;
- (g) Adequacy of the proposed landscaping and screening, and the adequacy of the applicant's landscaping and screening maintenance plan;
- (h) Public benefits, including but not limited to:
  - (i) The provision of affordable housing or housing for the elderly;
  - (j) Use of one or more renewable energy sources in the operation of the project;
  - (k) Shared access or shared parking with an adjoining property;
  - (l) For office or industrial facilities with 50,000 square feet or more of gross floor area, a transportation demand management (TDM) plan and a written agreement for post-construction traffic monitoring; and/or
  - (m) The provision of open space with ecological, agricultural, historic, or scenic significance to be protected in perpetuity; and
  - (n) Design of parking and loading areas.
- D. Conditions. Special permits may be granted with such conditions, safeguards, and limitations on time and use, including performance guarantees, as the special permit granting authority deems necessary and appropriate to serve the purposes of this Bylaw.
- E. Validity. Special permits are not valid until they have been recorded with the Registry of Deeds, as applicable, as provided in G.L. c. 40A, § 11. Proof of recording shall be presented to the Building Inspector.
- F. Lapse. Special permits shall lapse within two years if a substantial use thereof has not commenced sooner except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause, excluding such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, § 17. Upon receipt of a written request from the applicant, the special permit granting authority may grant one or more extensions of the special permit for a fixed time limit.
- G. Regulations. The special permit granting authority may establish rules for the administration of its powers, including reasonable administrative fees and technical review fees, consistent with this Bylaw and the laws of the Commonwealth.
- H. Appeals. Any appeals of a decision of the special permit granting authority shall be made in accordance with G.L. c. 40A, § 17.

**~174-7. Site plan review.****~174-7.1. Purpose.**

The purpose of site plan review is to provide adequate review of development plans that may have significant impacts on traffic, stormwater, community services, environmental quality, and the character of the Town; to regulate development so as to protect public health and safety; and to promote logic, imagination, and innovation in the design process while protecting properties in the vicinity of the site.

**~174-7.2. Applicability.**

The requirements of this section shall apply to the following:

- A. Any construction or alteration, expansion, or reconstruction on a site used for purposes other than a single-family or two-family dwelling;
- B. Any change in use or reactivation of a structure that has not been in use for two or more years;
- C. Any construction, expansion, or alteration of any off-street parking with five (5) or more parking spaces serving a nonresidential or multi-family use; or
- D. Any removal, fill, or change of grade of earth materials undertaken in order to construct or locate buildings, structures, and such features accessory thereto as ways, driveways, areaways, walks, or parking areas when such removal, fill, or change of grade of earth materials precedes construction by three months or more.

**~174-7.3. General requirements.**

- A. No building permit shall be issued for any use or activity requiring site plan review unless a site plan has been reviewed and approved therefor under the provisions of this § 174-7; and no building permit shall be issued for any use or activity requiring major plan review with a special permit until a special permit has been granted therefor; and no certificate of occupancy or certificate of zoning compliance shall be issued unless the site is constructed in accordance with the approved site plan.
- B. Any work done in deviation from an approved site plan shall be a violation of this Bylaw unless such deviation is approved in writing by the applicable site plan review authority or determined by the Building Inspector to be an insubstantial change.

**~174-7.4. Minor plan review.**

- A. Thresholds. Any proposal under § 174-7.2(A) through (D) involving less than 2,000 square feet of gross floor area or which would require at least five (5) but fewer than twenty (20) parking spaces regardless of the number of parking spaces existing on the premises shall be subject to minor plan review by the Development Coordinating Group.

**B. Procedures.**

- (1) An application for minor plan review shall be in accordance with the Planning Board's rules and regulations.
- (2) The Development Coordinating Group shall meet at a regularly scheduled time and place to review the site plan.
- (3) The Development Coordinating Group's decision to approve, approve with conditions, or refer the plan to the Planning Board shall be in writing, and shall be made within thirty (30) days of receipt of a complete application for minor plan review.
- (4) Any dispute arising from the minor plan review process or any plan not receiving unanimous approval from the Development Coordinating Group shall be referred to the Planning Board for review and decision. The Development Coordinating Group may also refer any application for minor plan review to the Planning Board for review and decision if it determines that, due to unusual circumstances or a unique situation, the plan warrants review by the Planning Board. In the event that the Development Coordinating Group refers a minor plan review application to the Planning Board, the Planning Board shall issue a written decision to approve, approve with conditions, or deny the site plan within thirty (30) days of receipt.

**~174-7.5. Major plan review.**

- A. Thresholds. Any proposal under § 174-7.2(A) through (D) involving 3,500 square feet or more of gross floor area, or which would require twenty (20) or more parking spaces regardless of the number of parking spaces existing on the premises; or which involves the removal, fill, or change of grade of earth materials on a site when such activity precedes construction by three months or more; or any Open Space Residential Development proposed under § 174-48, shall be subject to major plan review by the Planning Board.

**B. Procedures.**

- (1) An application for major plan review shall be submitted in accordance with the Planning Board's rules and regulations.
- (2) Following receipt of an application, the Planning Board or its designee shall review the plan for completeness within three (3) business days. A determination of completeness shall be based on the submission requirements set forth in the Planning Board's rules and regulations. If the submission is determined incomplete by the Planning Board or its agent, notice will be mailed to the applicant by certified mail within three (3) business days of the submission, specifying the deficiencies.
- (3) The Planning Board shall hold a public hearing on an application for major plan review and shall give written notice of the time and place of said hearing to the

applicant and the Board of Selectmen. The applicant shall be responsible for sending the notice to all abutters certified by the Board of Assessors by certified mail, return receipt requested, at least ten (10) days before the hearing date.

- (4) At the applicant's expense and in accordance with the Planning Board's rules and regulations, copies of the major site plan application shall be provided to the Board of Selectmen and any other reviewing parties as determined by the Planning Board. The failure of any such board or other reviewing party to provide the Planning Board with comments on the application within thirty (30) days of receipt by such board or reviewing party shall be deemed a lack of opposition thereto. All responses received from any reviewing party shall be entered into the minutes of Planning Board meetings at which action is taken on the major plan review application.
- (5) The Planning Board shall act on an application for major plan review and send written notice of its decision to the applicant, the Board of Selectmen, and the Building Inspector within sixty (60) days of the receipt of the application. Failure of the Planning Board to so act and to notify the applicant within said sixty (60) days shall constitute approval of the site plan unless the required time limit is extended by written agreement between the Planning Board and the applicant. A copy of any such written agreement shall be filed with the town clerk. For an OSRD, the decision period shall be ninety (90) days.
- (6) The Planning Board may, in its approval of a site plan, impose appropriate conditions at the expense of the applicant, including performance guarantees, to promote the purposes of this section. Such conditions, if any, shall become binding zoning requirements of the project.
- (7) The Planning Board may deny a site plan application only if the application does not include the information required for the Planning Board to make a decision based on the criteria in subsection (C) below.
- (8) The Planning Board's major site plan decision shall lapse within two (2) years following the date thereof. The Planning Board may grant one or more one-year extensions if the applicant petitions for the same prior to the date of expiration. If the actions permitted in the site plan decision are not exercised within two (2) years or the extension period, if any, authorized by the Planning Board, a new site plan application, notice, hearing, and approval will be required prior to the issuance of a building permit.

C. Decision criteria. In acting upon a major plan review application, the Planning Board shall base its decision on the following criteria:

- (1) The site plan meets all applicable requirements of this Bylaw;
- (2) The degree to which the proposed project:

- (a) Minimizes clearing and grading on the site, and reduces the volume of cut and fill, the number of removed trees, the length of removed or altered stone walls, soil erosion, threat of air pollution, or contamination of groundwater and surface water resources,
  - (b) Incorporates as many green building standards as practical, given the type of building(s) and proposed uses,
  - (c) Provides for pedestrian, bicycle, and vehicular safety, and adequate access to each structure on the site for fire and other emergency service equipment,
  - (d) Reduces the visibility of parking, storage, or other outdoor service areas viewed from public ways or abutting residential properties,
  - (e) Reduces glare from headlights, reduces light trespass onto adjacent lots or the street and light overspill into the night sky,
  - (f) Avoids the removal or disruption of historic, traditional, or significant structures or architectural elements,
  - (g) Reduces obstruction of scenic views from publicly accessible locations, and
  - (h) Is compatible with the surrounding area as to building design or scale or overall site design; and
- (3) Any variances required from the Board of Appeals have been granted.
- D. Appeals. Any decision of the Building Inspector based on failure to obtain approval of a site plan from the Planning Board or failure to comply with conditions of a site plan approved under this section may be appealed to the Board of Appeals in accordance with G.L. c. 40A §§ 8 and 15.
- E. Site plan modifications.
- (1) Insubstantial changes to an approved site plan may be authorized by the Building Inspector with unanimous consent of the Development Coordinating Group if required by physical, natural, economic or other factors not foreseen at the time of plan review.
  - (2) The following changes shall be deemed substantial and shall be made only through review by the Planning Board, following the same procedures as the original major plan submission:
    - (a) Any increase in the size of a building or structure,
    - (b) Any change in the location of any building by more than (six) 6 feet,

- (c) Any expansion of the capacity of a parking facility by more than three (3) spaces,
  - (d) Any change in the location or width of an interior access road by more than ten (10) feet;
  - (e) Any reduction in landscaping or screening; or
  - (f) Any changes to the plan due to requirements imposed by a state agency.
- (3) Any change shall be requested in writing, with the basis for the change explained, following which approved changes shall be recorded on the file copy of the site plan with the Building Inspector's signature and the date.

**~174-7.6. Special permit with major plan review.**

A. Applicability. When the Planning Board acts as the special permit granting authority for a proposed use that is subject to major plan review, as determined by the Schedule of Use Regulations and the thresholds under §174-7.5(A), the Planning Board shall address major site plan review and the special permit through a unified application, review, and decision process consistent with this section and § 174-6.

B. Procedures.

- (1) An application for a special permit with major plan review shall be submitted in accordance with the Planning Board's rules and regulations and filed with the Town Clerk and the Planning Board.
- (2) The Planning Board shall hold a public hearing and render its decision in accordance with the special permit procedures under § 174-6.
- (3) Decision criteria. In acting on an application for a special permit with major plan review, the Planning Board shall consider both the special permit granting criteria under § 174-6 and the major site plan review criteria under § 174-7.5(C).
- (4) Appeals. An appeal of the Planning Board's decision on a special permit with major plan review shall be made in accordance with G.L. c. 40A, § 17.

**~174-8. Enforcement.**

A. Pursuant to G.L. c. 40A, § 7, the Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Bylaw and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to Town Counsel.

- B. The penalty for violation of any provision of this Bylaw, or of any of the conditions under which a permit is issued or of any decision rendered by the Board of Appeals, shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**~174-9. Amendment.**

This Bylaw may from time to time be changed by amendment, addition or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, § 5, and any amendment(s) thereto.

**~174-10. Severability.**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

This draft is currently under review and may contain errors and/or omissions.  
Contact the Southborough Town Planner for a current copy of the Zoning Bylaw.

**ARTICLE IV. ESTABLISHMENT OF DISTRICTS**

**~174-11. Districts enumerated.**

For the purpose of this Bylaw, the Town is divided into the following zoning districts:

- A. Conservation (C)
- B. Residential districts
  - (1) Residence A (RA)
  - (2) Residence B (RB)
- C. Village business districts
  - (1) Downtown Village Business (DVB)
  - (2) Fayville Village Business (FVB)
  - (3) Cordaville Village Business (CVB)
- D. Business districts
  - (1) Fayville Village Business/Route 9 (FVB/9)
  - (2) Boston Road Business (BRB)
  - (3) Highway Business (HB)
- E. Industrial districts
  - (1) Industrial (I)
  - (2) Industrial Park (IP)

**~174-12. Overlay districts.**

The following overlay districts are established in Article VIII of these Bylaws:

- A. Flood Plain Overlay District (FPOD)

**~174-13. Zoning Map.**

The location and boundaries of said zoning and overlay districts are shown on a map called "Zoning Map of the Town of Southborough, updated through [date] and as amended

thereafter, which map together with all the boundary lines and designations thereon, is hereby declared a part of this Bylaw.

**~174-13.1. Interpretation of boundaries.**

- A. Where a right-of-way, street, railroad or watercourse is shown on the Zoning Map as a district boundary, the center line thereof shall be the boundary line.
- B. Where a district boundary is shown approximately parallel to a street, it shall be deemed parallel to the exterior street line and at such distance therefrom as indicated on the Zoning Map.
- C. Where district boundary lines specifically follow property lines as indicated on the Zoning Map, the location of said lines shall be deemed to be established to coincide with those property lines as they existed at the time said boundary lines were adopted.

**~174-14. Lots divided by district boundaries.**

Where the boundary line of any zoning district divides a lot that was held in one ownership on the date that said boundary was established, the use regulations that apply in the less restrictive district shall apply in the more restrictive district for a distance of thirty (30) feet, provided that the dimensional regulations of the district in which more than fifty (50) percent of the lot is located shall apply throughout. For lots in the HB or I District, the use regulations of the less restrictive district may apply in the more restrictive district for an additional twenty (20) feet (or a total of fifty (50) feet) subject to a special permit from Planning Board in accordance with § 174-6.

**~174-15. Lots in two towns.**

When a lot in one ownership is situated so that part of it is in the Town and part is in an adjacent city or town, the provisions of this Bylaw shall be applied to that portion of the lot which lies in the Town in the same manner as if the entire lot were situated in the Town, i.e., the entire lot area and frontage shall be considered in determining compliance with the dimensional requirements of this Bylaw. The use of the portion of the lot in the Town shall conform to the provisions herein.

**ARTICLE V. USE REGULATIONS****~174-16. General provisions.**

- A. Except as provided by law or in this Bylaw, no building or structure shall be constructed, reconstructed, altered, used or occupied, nor shall land be used or occupied, except for the purposes permitted as set forth hereunder.
- B. Not more than one principal use shall be located on any lot, except that a multiple occupancy building used for the same class of use, such as retail and professional offices in a business district, or a mixed-use building where specifically allowed, shall be deemed to constitute a single principal use. The Planning Board may, by special permit with site plan review, allow more than one principal use if otherwise permitted in the district or more than one building on the same lot if such uses or buildings are deemed to be compatible, meet the requirements of §§ 174-6 and 174-7, and result in improved circulation and land use patterns.

**~174-17. Prohibited uses.**

- A. Any use not listed in § 174-19, Schedule of Uses, or otherwise allowable under the provisions of this Bylaw is prohibited.
- B. Except where lawfully in existence on the effective date of this Bylaw, the following uses are expressly prohibited in all districts:
  - C. Mobile homes, except that in accordance with G.L. c. 40A § 3, a mobile home or temporary manufactured home may be placed on the site of a residence destroyed by fire or natural disaster, for a period not to exceed twelve months while the residence is being rebuilt.
  - D. Drive-through service for a restaurant or other food service establishment.
  - E. Billboards, which include any sign which is over one hundred (100) square feet in area.
  - F. Hazardous waste or storage facilities, except in accordance with G.L. c. 21D and G.L. c. 40A, § 9.
  - G. In all districts, no use shall be permitted which would be offensive because of injurious or noxious noise, vibration, smoke, gas, fumes, odors, dust, debris, glare, radiation, or electrical interference, or other objectionable features, or be hazardous due to fire or explosions or any other cause.

**~174-18. Classification of uses.****~174-18.1. Extensive uses.**

- A. Agriculture: as defined in G.L. c. 128, §1A includes commercial agriculture, horticulture, floriculture, and viticulture when conducted on five (5) or more acres of land, or two (2) or more acres subject to the conditions set forth in G.L. c. 40A, § 3; and including a farm stand for the sale of products grown primarily on the premises. All other commercial agriculture may include raising crops or animals, floriculture and horticulture, and storage of farm equipment as an accessory use, but shall not include fur farms and piggeries. No structure or facility designed, intended, or used for the raising and keeping of livestock shall be constructed within twenty-five (25) feet of any side or rear lot line or within the minimum front setback in any district.
- B. Conservation: Wildlife management, passive recreation, boating, fishing, and where legally permitted, hunting; including temporary nonresidential structures accessory to farming, fishing, or similar permitted use of the land.
- C. Day camp: Facility for outdoor recreation, education, and related activities for children, but not including overnight accommodations.
- D. Forestry: cultivating and harvesting of forest products.
- E. Greenhouse: commercial greenhouse or stand for the sale of farm, garden, or nursery products.
- F. Public recreation: park, playground, tennis, skating, swimming, playing field, and similar facility for organized athletic activities.

**~174-18.2. Residential uses; principal.**

- A. Detached single-family dwelling: Not more than one detached single-family dwelling shall be located on a lot except where specifically allowed by special permit.
- B. Two-family dwelling: In any district where conversion of an existing single-family dwelling to a two-family dwelling is allowed by special permit, the Board of Appeals may grant a special permit subject to the decision criteria in § 174-6(C)(1), provided that all of the following conditions are met.
  - (1) The single-family dwelling shall have been in existence for at least two years as of the date of the special permit application.
  - (2) No conversion shall be approved unless the Board of Health certifies that adequate provisions have been made for the disposal of sewage and waste generated by the occupancy of the two-family dwelling.
  - (3) The Planning Board shall provide a written report describing the lot on which the dwelling is located, the neighborhood where it is located and the effects of the

proposed two-family dwelling thereon, the adequacy of ingress and egress provisions, and any recommendations from the Planning Board as to the advisability of granting the special permit and any restrictions that should be imposed as conditions thereof and the provisions for off-street parking in a manner consistent with the character of the premises. Failure of the Planning Board to provide such report within thirty-five (35) days of receiving a copy of the special permit application shall be deemed a lack of opposition thereto. If the decision of the Board of Appeals differs from the recommendations of the Planning Board, the reasons therefor shall be stated in the decision.

- (4) The lot on which a one-family residence is to be converted to a two-family dwelling must be a minimum of 10,000 square feet.
  - (5) There shall be no other dwelling unit, accessory or principal, on the lot on which the two-family residence is proposed.
  - (6) Not more than the minimum required exterior alterations have been or will be made to the one-family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon must be filed with the Building Inspector prior to the application to the Board of Appeals.
- C. Townhouse: By special permit in an Open Space-Residential Development under § 174-48.
- D. Multi-family dwelling: By special permit in an Open Space-Residential Development under § 175-48.
- E. Live/work unit: Subject to a recorded use restriction or other legally enforceable mechanism acceptable to the Planning Board.
- F. Upper-story dwelling unit: Located above the ground floor of a building with business uses on the first floor facing the street.

**~174-18.3. Residential uses; accessory.**

- A. Residential accessory structures: an attached or free-standing garage or an accessory structure for not more than three (3) vehicles, one of which may be a commercial vehicle as defined in Article II; or a barn, greenhouse, swimming pool, tennis court, shed, or similar structures, provided that such structures are clearly incidental and subordinate to the principal residential use on the lot. A garage for more than three (3) vehicles may be allowed by special permit from the Board of Appeals.
- B. Accessory apartment: The Board of Appeals may grant a special permit for an accessory apartment provided that all of the following requirements are met:
- (1) An accessory apartment may be constructed inside a detached single-family dwelling or within an existing accessory structure on the same lot as a detached single-family dwelling;

- (2) There shall be not more than one accessory apartment on a lot, and no accessory apartment shall be permitted on a lot with an accessory cottage;
- (3) The single-family dwelling or the accessory apartment shall be occupied by the owners of the property as their principal residence;
- (4) The Board of Health shall determine whether adequate provisions have been made for the disposal of wastewater generated by the occupancy of the apartment, and provide certification of the same to the Building Inspector and, as applicable, to the Board of Appeals;
- (5) The habitable floor area of the accessory apartment shall not exceed twenty-five (25) percent of the habitable floor area of the existing dwelling or that of any accessory building used for the purpose of an accessory apartment;
- (6) The accessory apartment shall be designed so as to preserve the appearance of the existing single-family dwelling on the lot; and
- (7) There shall be provided at least one off-street parking space for the accessory apartment in addition to parking for the principal dwelling. The off-street parking shall be located in a garage or carport, or in the driveway, and shall not be permitted within any required yard area or setback.

C. Accessory cottage: The Board of Appeals may grant a special permit for an accessory cottage provided that all of the following requirements are met:

- (1) An accessory cottage may be located only on a lot with a detached single-family dwelling unit;
- (2) There shall be not more than one accessory cottage on a lot, and no accessory cottage shall be permitted on a lot with an accessory apartment;
- (3) The single-family dwelling or the accessory cottage shall be occupied by the owners of the property as their principal residence;
- (4) The Board of Health shall determine whether adequate provisions have been made for the disposal of wastewater generated by the occupancy of the cottage, and provide certification of the same to the Board of Appeals;
- (5) The Town Engineer shall determine whether adequate provisions have been made for drainage on the site and provide recommendations, as necessary, to the Board of Appeals;
- (6) The accessory cottage shall not exceed 1,100 square feet of gross floor area;
- (7) The accessory cottage shall be located no closer to the front of the lot than the rear building line of the single-family dwelling, and shall comply with the minimum side and rear setbacks for principal buildings in the applicable district;

- (8) There shall be provided at least one off-street parking space for the accessory cottage in addition to parking for the principal dwelling. The off-street parking shall be located in a garage or carport, or in the driveway, and shall not be permitted within any required yard area or setback.
- D. Room and board: The renting of rooms or furnishing of board to not more than four (4) persons in an owner-occupied detached single-family dwelling
- E. Home occupation: A room or rooms in a single-family dwelling or building accessory thereto may be used for an office, studio, or other lawful customary home occupation by a person resident on the premises. More than one home occupation may be established on the premises, but all of the home occupations combined shall not exceed the standards set forth in this section:
- (1) Not more than two (2) non-residents shall be employed on the premises except by special permit from the Board of Appeals;
  - (2) The home occupation shall not require alterations to the exterior of the dwelling or accessory building in which it is located;
  - (3) Not more than twenty percent (20%) of the existing gross floor area of the dwelling shall be devoted to the home occupation, including storage of any stock in trade, commodities, or products associated with said use;
  - (4) Except for one sign in accordance with § 174-37, there shall be no advertising visible from off the lot or display of goods, wares, tools, or equipment visible from the street, and no parking for more than one commercial vehicle as defined in this Bylaw;
  - (5) No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard;
  - (6) Vehicles used to deliver goods to the home occupation shall be limited to passenger vehicles, mail carriers, and panel trucks or small vans such as used by express package carriers and office supply companies; and
  - (7) No equipment or process shall be used in the home occupation which creates noise, vibration, odor, fumes, gas, smoke, dust, glare, or electrical disturbance detectable to the normal senses off the lot; or create unsightliness or other effects not normally produced by a residence; or that requires the approval of the Board of Health for disposal of any waste generated by such occupation that differs in quantity or composition from household solid waste or sanitary waste.
- F. Family day care home: child care provided for compensation in an owner-occupied, detached single-family dwelling for compensation during all or a portion of the day on a

regular basis, for not more than six children including children living in the residence, and licensed by the Commonwealth of Massachusetts under G.L. c. 28A.

- G. Bed and breakfast: Accommodations for up to four (4) paying guests in an owner-occupied detached single-family dwelling, with guest meals typically included in the room charge and limited to breakfast prepared in a central kitchen. Bed and breakfasts are intended for guests on intermittent visits and shall not be used as long-term rental units or apartments. For purposes of this Bylaw, "intermittent visit" shall mean a stay of not more than thirty (30) days by any one guest during any twelve (12) month period.
- H. Accessory antique or craft sales: The sale of antiques or custom crafts produced by a resident family member in an owner-occupied, detached single-family dwelling, subject to the same standards that apply to a home occupation.

**~174-18.4. Mixed-use building.**

A mixed-use building shall comply with the following requirements:

- A. The building shall have at least two (2) stories of habitable floor space;
- B. The ground floor facing the street shall be used only for retail, restaurant, other food services, or personal or business services;
- C. Other ground-floor space and upper-story space may be used for professional or business offices, and upper-story space may also be used for dwelling units; and
- D. Access to upper-story uses shall be from the side or rear of the building, not from any side facing the street, or access may be from a first-floor lobby serving other uses in the building.

**~174-18.5. Business uses; principal.**

- A. Goods and services.
- (1) Retail store: An establishment selling goods at retail to the general public.
  - (2) Convenience store or food mart: A retail store not exceeding three thousand (3,000) square feet of floor area, typically with extended hours of operation, selling a limited variety of food products, including processed, ready-to-eat, and heat-and-serve foods, and non-food products such as but not limited to lottery tickets, newspapers, magazines, or, when associated with a gasoline station, automotive products.
  - (3) Retail sale of custom goods: Shop for the manufacture of custom crafts or hand-crafted goods such as ceramics, pottery, candles, fabrics, rugs, woodworking, and similar products to be sold at retail primarily on the premises.
  - (4) Bank, other financial institution.

- (5) Personal service: An establishment such as a barber shop, beauty or tanning salon, self-service laundry or collection station for laundry or dry cleaning not done on the premises, photographic studio, shoe or hat repair shop, shop for custom work by a dress maker or tailor, news dealer, or similar establishment.
- (6) Repair shop: A building used for the repair of appliances, office equipment, bicycles, lawn mowers, or similar household or small-business equipment, but not including repair of automobiles, motorcycles, or large vehicles or equipment.
- (7) Professional or business office: Office use for activities such as accounting, architecture, design, data processing, editing, engineering, law, landscape architecture, research and science, administrative offices, or similar enterprises.
- (8) Medical or dental office: Office of a doctor or dentist not located in the home of the resident professional.
- (9) Business service: An establishment that provides services principally to a clientele of small businesses, such as but not limited to a personnel agency, a photocopy center, an accountant, payroll services, website design and support, market research, graphic design, or an advertising agency.
- (10) Child care center: A day care center or school-age child care program as defined in G.L. c. 28A, § 9, permitted in all districts in accordance with G.L. c. 40A, § 3. In a residential district, no child care center shall exceed two thousand five hundred (2,500) sq. ft.
- (11) Educational use, commercial: A for-profit educational facility not subject to G.L. c. 40A, § 3.
- (12) Veterinarian, animal clinic, or animal hospital: A facility for veterinary care and medical or surgical treatment of animals or pets, and the boarding of animals is limited to short term care incidental to the clinic or hospital use.
- (13) Kennel: A commercial establishment in which more than three (3) dogs or other domesticated animals are housed, groomed, bred, boarded, trained, or sold, located on at least three (3) acres of land.
- (14) Club, private or membership: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required for the membership and purposes of such organization.

B. Food service, hospitality, recreation, and entertainment uses.

- (1) Restaurant: A building, or portion thereof, containing tables or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended, and used for

indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjacent and accessory to the indoor restaurant facility. A restaurant with drive-through service is expressly prohibited.

- (2) Take-out food service establishment: A food service establishment in which food prepared and sold at retail may be consumed on the premises or purchased from a counter or a walk-up service window and consumed off the premises, but shall not include drive-through service. Such establishments may include, but are not limited to, a deli, sandwich shop, pizza shop, or an ice cream shop.
- (3) Inn: A lodging facility for transient occupancy for not less than five (5) nor more than twenty (20) paying guests. An inn may include a guest dining room as an accessory use or a restaurant. No cooking facilities shall be located in individual guest rooms or suites. The maximum length of stay for any guest shall be thirty (30) days during any twelve (12) month period, and no occupant may claim residency at such location.
- (4) Hotel or motel: A lodging facility for transient occupancy by paying guests, divided into separate guest rooms or guest suites within the same building with or without a public dining facility. The maximum length of stay for any guest shall be thirty (30) days during any twelve (12) month period. No occupant of a hotel or motel may claim residency at such location.
- (5) Extended stay hotel: A lodging facility for transient occupancy by paying guests, in which (a) 25 percent or more of the guest rooms have a kitchen that includes a sink, a full-size stove, and a full-size refrigerator (a cooking area limited to a microwave, mini-refrigerator, or cook-top does not constitute a “kitchen” for purposes of this definition); and 10 percent or more of the guest rooms contain a sleeping area that is separated from a sitting area by a wall or partition. Amenities such as maids, laundry, concierge, meeting rooms, exercise rooms, pool, and business services (fax, internet, voice mail, courier, etc.) may be provided only to guests. No occupant of an extended stay hotel may claim residency at such location.
- (6) Conference center: A facility for formal meetings, training, or education of business employees and associates, or for short-term use by government agencies or non-profit or for-profit enterprises providing training and educational services, and which may provide for attendees and staff overnight accommodations, food service, and recreational facilities contained within the same building or on the same lot. As used in this Bylaw, a conference center shall not mean an inn, a hotel or motel, or other facility intended for use or used for transient occupancy.
- (7) Theatre: facility for live performance of plays, concerts, and similar cultural activities, but not including a cinema.

- (8) Commercial amusement: A building or any portion thereof used for entertainment or amusement activities, such as a pool hall, bowling alley, video arcade, or cinema or movie theatre, but not including adult uses.
- (9) Commercial recreation, indoor: A facility conducted for-profit or not-for-profit, open to the public for a per-visit or membership fee for indoor recreation purposes such as tennis, racquetball, bowling, swimming, ice skating, roller skating or similar activities, and indoor soccer, lacrosse, and other traditional field sports; may include including a health club or athletic club, or a dance studio.
- (10) Commercial recreation, outdoor: A country club, golf course, driving range, bathing beach, sports club, boathouse, marina or other commercial recreation carried on in whole or in part outdoors, conducted for-profit or not-for profit, excluding activities specifically prohibited in this Bylaw. Outdoor commercial recreation shall not include motorsports, motor vehicle or similar tracks.

C. Auto-related uses.

- (1) Auto repair shop: A business building or part thereof in which repairs are made to motor vehicles of any type, but not including a body shop.
- (2) Auto sales: Salesroom and related dealership facilities for motor vehicles, including open-air display for automobiles, boats, motorcycles, farm implements or similar light motor vehicles (maximum 10,000 pound gross vehicle weight and 135-inch wheel base), with a Class I or Class II Auto License issued by the Board of Selectmen.
- (3) Commercial parking: Parking lot or parking garage open to the public for automobiles and similar light motor vehicles. As used in this Bylaw, commercial parking shall not include municipal parking, which is classified herein as a municipal facility.
- (4) Gasoline station: A building or part of a building and the land thereof used in connection with tanks, pumps and other appliances to supply motor vehicles with gas, air, oil, water, and similar supplies, and which may include routine vehicle maintenance services or a car wash as an accessory use. All maintenance and service, other than minor service and emergency repairs, shall be conducted entirely within a building. For purposes of this Bylaw, a gasoline station shall not mean an auto repair shop.

**~174-18.6. Industrial uses; principal.**

A. Research and development, manufacturing, and related uses:

- (1) Research and development: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, green technology, or engineering and development as an extension of investigation with the objective of creating end products employing only electric or other substantially noiseless

and inoffensive motor power and free from neighborhood disturbing agents such as odors, gas, fumes, smoke, glare, cinders, refuse matter, electromagnetic radiation, heat, vibration, noise, or glare; provided that all operations are located entirely within an enclosed building and there is no outside storage of materials or finished goods.

- (2) Bioscience uses: Research, testing, development and manufacturing in any branch of natural science dealing with the structure or behavior of living organisms, including but not limited to the following subsectors of the bioscience industry: drugs and pharmaceuticals; medical devices or equipment; research and testing; and academic medical centers and teaching or research hospitals. The Planning Board may grant a special permit with site plan review only if the applicant provides all of the following information and the Planning Board determines, based upon the applicant's submission and the recommendations of technical review consultants, that the project has been designed with sufficient safeguards to protect the health, safety, and welfare of the Town:
- (a) A description of the proposed bioscience activity(ies), a listing of all biotechnology materials to be used, stored or developed on the site and the applicable containment level assigned by the National Institute of Health;
  - (b) A description of the proposed user's management capacity, qualifications, and experience in establishing and maintaining environmental controls and monitoring measures and internal research or production controls to protect employees and the public from risks and potential risks associated with bioscience uses;
  - (c) A description of the provisions that shall be made to:
    - (i) Protect against discharge or loss of biotechnology materials through corrosion, accidental damage, spillage, or vandalism through measures such as spill control in the vicinity of delivery points, secure storage areas, and indoor storage protocols;
    - (ii) Prevent infectious biomedical waste products or byproducts from being discharged through the on-site wastewater treatment system serving the facility;
    - (iii) Assure that biotechnology materials are rendered noninfectious on-site and disposed in accordance with federal and state laws, regulations, and policies; and
    - (iv) Assure systematic pest control management in laboratories, contiguous facilities, and food service establishments located in the same building.
- (3) Light industry: Fabrication, processing, or assembly, including but not limited to manufacturing of green technology, employing only electric or other substantially noiseless and inoffensive motor power, utilizing hand labor or quiet machinery

and processes, and free from agents disruptive to neighborhoods. Such agents include, but are not limited to air or water pollution, odors, gas fumes, smoke, glare, cinders, flashing or excessively bright lights, discharge or accumulation of refuse, electromagnetic radiation, heat, or vibration.

B. Other office, industrial, and related uses:

- (1) Clinical or medical testing laboratory.
- (2) Data processing and storage: An establishment providing business services such as but not limited to payroll processing, financial transactions processing, document preparation, management and operation of computer facilities, or internet service providers.
- (3) Newspaper, job printing, or publishing.
- (4) Warehouse: Facility for the sorting, storage, or wholesale trade of materials, merchandise, products or equipment.

C. Contractor's yard: Premises used by a building or trade contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

D. Agricultural and construction sales: grain, lumber, garden supplies, building materials or equipment.

E. Aviation facility: Facility for take-off and landing of helicopter and small aircraft, not including storage or maintenance facilities.

**~174-18.7. Public services.**

A. Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

B. Municipal facility: Any building, facility, or infrastructure owned and operated by the Town of Southborough or the Northborough-Southborough Regional Schools.

C. Public transportation facility: A structure that serves passengers of a public transportation service upon departure and arrival, including waiting areas, drop-off/pick-up zones, and on-site parking facilities as accessory uses.

D. Sheltered bus stop: A structure intended to be used or used as an assembly and waiting area for passengers of common carrier bus, shuttle, or regional transit services.

- E. Wireless communications facility: A facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication buildings, communication structures and accessory structures in their entirety or as separate components. A wireless communications facility shall be a transmission and reception substation, not a principal facility for conducting a communications business.

**~174-18.8. Institutional, charitable, philanthropic uses.**

- A. Public or non-profit educational use, or religious use: permitted as of right in all districts in accordance with G.L. c. 40A, § 3, including related dormitories, athletic facilities, administrative offices, and similar facilities.
- B. Public or non-profit library, museum, or art gallery: a facility housing a collection of books and other print and electronic resources for reading and research, or a collection of artifacts, visual arts, and other historical, cultural, or scientific resources, open to the public and owned and managed by a public entity or private non-profit organization.
- C. Hospital: An acute or chronic care facility with an original license from the Massachusetts Department of Public Health, pursuant to G.L. c. 111, § 51, to provide medical, surgical, skilled nursing, or rehabilitation services to in-patients or institutionalized persons, or an ambulatory surgery center. Such facility may include ambulatory care and emergency services, specialty medical diagnostic or treatment services, and accessory facilities and integral functions such as laboratories, out-patient departments, training, staff offices, and similar adjunct facilities and functions.
- D. Assisted living residence: Any residential development owned and operated by an entity, whether conducted for profit or not for profit, which meets all of the following criteria: (1) provides room and board; and (2) provides directly by employees of the entity or through arrangements with another organization, which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents 62 years of age or older or with a disability, who are not related by consanguinity or affinity to the care provider, and (3) collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same, and (4) is eligible for certification as an Assisted Living Residence by the Executive Office of Elder Affairs pursuant to G.L. c. 19D and all of applicable requirements. This definition shall not include any other forms of group living quarters such as group foster care, group homes, single room occupancy residences, rooming or lodging houses, and other facilities as listed in applicable regulations of the Commonwealth of Massachusetts (651 CMR 12.01).
- E. Adult day care: A social day care or adult day health facility as those terms are defined by the Massachusetts Department of Elder Affairs. Adult day care may be a principal use

or an accessory use to a nursing home, assisted living residence, or continuing care retirement community.

- F. Continuing care retirement community: A managed development that provides housing, social and personal services, and nursing care primarily to persons 62 years of age and over; which includes two or more of the following uses: assisted living residence; independent or semi-independent elderly housing; nursing home or chronic care facility; adult day care facility; or medical offices, and for which there is a legal agreement that assures life care to residents and services appropriate to each type of housing.
- G. Nursing home: An extended or intermediate care facility licensed by the Department of Public Health under G.L. c. 111, § 71 to provide full-time convalescent or chronic care.

**~174-18.9. Unclassified uses.**

Adult use: The Board of Appeals may grant a special permit in accordance with G.L. c. 40A, § 9A for an adult bookstore, an adult motion picture theater, an adult dance club, an adult paraphernalia store, an adult video store and such other uses as defined in Article II.

**~174-18.10. Nonresidential accessory uses.**

A. General.

- (1) Any use permitted as a principal use also shall be permitted as an accessory use, provided such use is customarily incidental to the principal use of the land, as determined by the Building Inspector. However, in no event shall an aviation facility be deemed an accessory use.
- (2) Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the principal use of the land.

B. Outdoor display of merchandise is a permitted accessory use for a retail store, provided that:

- (1) Such use shall be limited to normal hours of operation and no merchandise shall remain outdoors when the business is closed;
- (2) Such use is clearly related to the retail use conducted inside the principal building;
- (3) All merchandise displayed outdoors shall be located within the confines of the retailer's owned or leased property;
- (4) A minimum width of forty-two (42) inches shall be continuously maintained and unobstructed on the sidewalk, the entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the approved site plan;

- (5) Outdoor storage or display of merchandise is prohibited in designated or required landscaped areas, parking lots, or parking aisles;
- (6) Such use does not obstruct or otherwise interfere with visibility at intersections; and
- (7) Outdoor display is not intended to be, and shall not be interpreted to include, outdoor storage.
- (8) Any other outdoor display sales or storage requires a special permit from the Planning Board.

C. Nonresidential accessory uses also include any of the following:

- (1) Structured parking, i.e., a parking garage;
- (2) Facilities for training employees of the principal use;
- (3) Restaurant or cafeteria for employees of the principal use, not to exceed fifteen percent (15%) of total gross floor area of principal building;
- (4) Retail outlet accessory to a light industrial use;
- (5) One dwelling unit per industrial establishment, on the same lot as and incidental to a permitted industrial use, occupied by the owner or an employee, such as a watchman's or caretaker's quarters; or
- (6) Commercial vehicles. Except in the HB, I, and IP districts, parking or storage of commercial vehicles accessory to a nonresidential use shall be limited to commercial vehicles as defined in Article II of this Bylaw.

**~174-19. Schedule of Uses.**

- A. Uses of land, buildings, or structures shall be in accordance with the Schedule of Uses, Table 1. Each use shown in Table I shall be defined by reference to the use classifications in § 174-18, and each such use shall be subject to any conditions or limitations that are set forth in Table 1, in any notes to Table 1, or in § 174-18 as applicable.
- B. A use listed in Table 1 is permitted in any district under which it is denoted by the letter "Y." If denoted by the letters "BA" or "PB," the use is allowed only if the Board of Appeals or Planning Board, respectively, grants a special permit in accordance with § 174-6 of this Bylaw.
- C. A use annotated as (1), (2), (3), or (4) in Table 1 is subject to a maximum gross floor area regulation. The gross floor area regulation determine whether a use is permitted or requires a special permit from the Planning Board, and shall apply to the space within the

building to be occupied by a tenant or individual business establishment, not to the building as a whole. The notes shall have the following meanings, by district:

- (1) DVB: permitted up to a maximum of 1,800 square feet per establishment, and allowed by special permit if over 1,800 square feet.
- (2) FVB, FVB/9, and CVB: permitted up to a maximum of 2,500 square feet per establishment, and allowed by special permit if over 2,500 square feet.
- (3) BRB: permitted up to a maximum of 10,000 square feet per establishment, and allowed by special permit if over 10,000 square feet.
- (4) HB, I, and IP Districts: permitted up to a maximum of 80,000 square feet per establishment, and allowed by special permit if over 80,000 square feet.

**~174-20. Reserved.**

**~174-21. Reserved.**

**~174-22. Reserved.**

**ARTICLE VI. DENSITY AND DIMENSIONAL REGULATIONS****~174-23. General provisions.**

No building or structure in any district shall be built, located, or enlarged which does not conform to the requirements of this Bylaw.

**~174-24. Table of density and dimensional regulations.**

Density and dimensional regulations shall be in accordance with Table 2, Table of Density and Dimensional Regulations, and the supplemental requirements in § 174-25.

**~174-25. Supplemental requirements.****~174-25.1. Residential districts.****A. Additional requirements for building lots.**

- (1) In the RA District, no lot shall be considered a building lot unless the center of a seventy-five (75) foot diameter circle can be passed along a continuous line from the lot frontage to the rear yard setback without the circumference intersecting any lot lines and unless the center of the seventy-five-foot diameter circle can be passed along a minimum of forty (40) percent of the required frontage without the circumference intersecting any side or rear lot line. This subsection (A)(1) shall not apply to an existing lot or existing dwelling for which a building permit has been issued as of April 10, 1995, or to any alteration, extension or structural change thereto.
- (2) In the RB District, no lot shall be considered a building lot unless the center of a 62.5 foot diameter circle can be passed along a continuous line from the lot frontage to the rear yard setback without the circumference intersecting any lot lines and unless the center of the 62.5 foot diameter circle can be passed along a minimum of forty (40) percent of the required frontage without the circumference intersecting any side or rear lot line. This subsection (A)(2) shall not apply to an existing lot or existing dwelling for which a building permit has been issued as of April 10, 1995, or to any alteration, extension or structural change thereto.
- (3) On a corner lot in the RA or RB District, the side yard abutting a side street shall be the same as the minimum front setback.
- (4) Residence C District. The Residence C District was discontinued in 1966; however, lots laid out and recorded in the Residence C District prior to the discontinuance may be built onto the following dimensions for single-family dwellings:

- (a) Minimum lot area: 15,000 square feet.
- (b) Minimum frontage: 100 feet.
- (c) Minimum setbacks:
  - (i) Front: 25 feet.
  - (ii) Rear: 30 feet; 10 feet for accessory structures and swimming pools.
  - (iii) Side: 10 feet.
- (d) Maximum height: 35 feet, 2 1/2 stories [17 feet, one story for accessory structures].
- (e) Maximum floor area ratio: 0.45.

B. Additional setback and yard requirements.

- (1) When a new detached single-family dwelling is proposed on a lot that abuts existing single-family dwellings, the minimum front yard setback for the new dwelling shall be the average front setback of existing dwellings within three hundred (300) feet on the same side of the street.
- (2) For accessory structures and swimming pools, the minimum side or rear setback shall be ten (10) feet.
- (3) No accessory structure shall be constructed within ten (10) feet of any principal building.

C. Maximum height; accessory structures. In a residential district, the maximum height of an accessory structure shall not exceed one story and seventeen (17) feet.

**~174-25.2. Nonresidential districts.**

A. Village business districts.

- (1) Unless otherwise provided in this Bylaw, the dimensional and density requirements of the RB district shall apply to single-family dwellings in a village business district.
- (2) Setback and yard requirements.
  - (a) The maximum front setback shall apply to new construction only.
  - (b) On a corner lot, the side yard abutting a side street shall be the same as the maximum front setback.

- (c) On a lot abutting a residential use, the minimum side setback shall be ten (10) feet and the minimum rear setback, twenty (20) feet.

B. Business and industrial districts.

- (1) Setback and yard requirements. For a corner lot, the side yard abutting any side street shall be at least one-half of the minimum front setback shown in the Table of Dimensional and Density Regulations except in the FVB/9 and BRB Districts, where the side yard abutting a side street shall be the same as the minimum front setback.
- (2) In the FVB/9 District, the minimum side setback on a lot abutting a residential use shall be twenty-five (25) feet and the minimum rear setback, fifty (50) feet.
- (3) Lots divided by district boundary; HB and I districts. For a lot divided by the boundary line of the HB or I district, § 174-15 shall apply except as follows. The Planning Board may grant a special permit to extend the use regulations of the HB or I district, as applicable, into the adjacent district by not more than fifty (50) feet, provided that:
- (a) The lot was held in one ownership on the date that the zoning boundary dividing the lot was established;
- (b) The Planning Board determines that the proposed extension is substantially consistent with the special permit granting criteria set forth in § 174-6;
- (c) The dimensional regulations of the district in which more than fifty (50) percent of the lot is located shall apply throughout, except that for a lot with frontage on Route 9, the minimum front setback shall be that which applies to the portion of the lot abutting Route 9, and for corner lots bordering Route 9 but with frontage on another street, the minimum setback from Route 9 shall be one-half of the minimum front setback; and
- (d) If a portion of the lot is located in a residential district, no use in the less restrictive district shall be located within fifty (50) feet of a side or rear lot line abutting an existing residential use.
- (4) Maximum building height and floor area ratio; HB and I districts.
- (a) For lots with frontage on Route 9, the Planning Board may grant a special permit with site plan review, together with any conditions it deems appropriate, to increase the maximum building height to five (5) stories and sixty-five (65) feet and the maximum floor area ratio to 0.70, subject to the provisions of this section.
- (b) A special permit for an increase in maximum building height shall be conditional upon an increase in the minimum rear setback from fifty (50) to seventy (70) feet unless the applicant demonstrates to the Planning Board's

satisfaction that the proposed building design minimizes visual impacts on abutting residential properties, e.g., by stepping back the facade. At the applicant's request, the Planning Board may authorize a decrease in the minimum side setback from fifty (50) to forty (40) feet to offset, in part, requirements for additional rear yard area.

- (c) The Planning Board's decision shall be based upon the decision criteria in §§ 174-6 and 174-7 and the additional considerations set forth below.
- (i) Whether the proposed project involves new construction on a vacant site or redevelopment of an existing facility. Special permit applications to increase the height of an existing facility through redevelopment are more likely to be viewed favorably than applications for new construction.
  - (ii) The degree to which the proposed project incorporates energy and environmental performance standards in the design, construction, and operation of the building(s) and site.
  - (iii) The effectiveness of the applicant's proposed methods to mitigate visual and operational impacts, if any, upon residential abutters, such as but not limited to landscape plantings and features, retention of vegetation, and use of natural features and topography.
  - (iv) The effectiveness of the applicant's proposed methods to minimize shadow or other visual impacts from the increased building height, including but not limited to the use of stepped-back upper stories or adjustments to the siting of a new building or the expansion of an existing building.
  - (v) The desirability and effectiveness of the applicant's proposed methods to offset the bulk and massing of the building(s), including but not limited to additional tree plantings, retention of mature trees, other landscape plantings and features, aesthetically pleasing signs, and other techniques employed in front of the building facing the frontage along Route 9.
  - (vi) Whether the applicant demonstrates to the Planning Board's satisfaction that the proposed stormwater management system has been designed to accommodate the anticipated increase in surface runoff.
  - (vii) The design of any new or expanded off-street parking facility, including landscaping and screening, and the provision of structured or underground parking.
  - (viii) The appropriateness and effectiveness of proposed methods to minimize additional parking needs and to reduce traffic impacts from

the facility, such as but not limited to shared parking, reserve parking area designations, transportation demand management (TDM), or trip reduction incentives, or transit links, and an enforceable post-construction traffic monitoring plan, such as a development agreement.

- (ix) Any other potential impacts which the Planning Board deems to be of significance in its review.
- (5) Maximum density; mixed-use buildings. In a mixed-use building that includes dwelling units, the maximum residential density shall be one dwelling unit per five thousand (5,000) square feet of lot area.

**~174-26. Reserved.**

**~174-27. Reserved.**

**~174-28. Reserved.**

**ARTICLE VII. NONCONFORMING USES AND STRUCTURES****~174-29. Existing uses and structures.**

Any lawful structure or any lawful use of land or structure existing on the effective date of this Bylaw or any amendment thereto, subject to the limitations in G.L. c. 40A, § 6, or any construction or operation for which a building permit has been issued prior to the effective date of this Bylaw or any amendment thereto may be continued, although not in conformity with the provisions thereof, unless or until abandoned or not used for a period of two (2) years or more. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

**~174-30. Alteration, reconstruction, extension, or structural change; single-family and two-family dwellings.**

- A. The Building Inspector may permit the repair, alteration, reconstruction, extension, or structural change of a lawful, dimensionally nonconforming single-family or two-family dwelling, or a portion thereof, or accessory structures thereto, provided the proposed repair, alteration, reconstruction, extension, or structural change meets the following conditions:
- (1) Alteration to a structure which complies with all current setbacks, floor area ratio, and building height requirements but is located on a lot with insufficient area where the alteration will also comply with all of said current requirements.
  - (2) Alteration to a structure which complies with all current setbacks, floor area ratio, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.
  - (3) Alteration to a structure which encroaches upon or more required setbacks, where the alteration will comply with all current setbacks, floor area ratio, and building height requirements. The provisions of this subsection A(3) shall apply regardless of whether the lot complies with current area and frontage requirements.
- B. In all other instances of alteration, reconstruction, extension, or structural change to a single- or two-family dwelling, the applicant may petition the Board of Appeals for a finding under G.L. c. 40A, §6 to allow the proposed repair, alteration, reconstruction, extension or structural change.

**~174-31. Nonconforming structures other than single-family or two-family dwellings.**

- A. The Board of Appeals may allow the repair, alteration, reconstruction, extension, or structural change of a nonconforming structure other than a single-family or two-family dwelling (or structures accessory thereto) if the Board makes a finding that such repair,

alteration, reconstruction, extension or structural change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The repair, alteration, reconstruction, extension, or structural change of such nonconforming structure so as to increase an existing nonconformity or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard setback, shall require the issuance of a variance from the board of appeals.

- B. No special permits under this § 174-31 shall be granted for nonconforming signs subject to G.L. c. 93 or c. 93D.

**~174-32. Change of non-conforming use.**

- A. The Board of Appeals may by a finding under G.L. c. 40A, § 6 authorize a nonconforming use to be changed to a specified use not substantially different in character or not substantially more detrimental or injurious to the neighborhood than the existing nonconforming use.
- B. Pre-existing nonconforming uses may be extended or altered provided that there is a finding by the Board of Appeals that the extension or alteration shall not be substantially more detrimental to the neighborhood.

**~174-33. Repair and restoration of nonconforming uses and structures.**

- A. Structures damaged by fire or other accident or natural catastrophe to an extent of less than seventy-five percent (75%) of the assessed valuation preceding such damage may be rebuilt or restored to the same dimensions and in the same location as before the damage, but shall not be enlarged, altered, or relocated except upon the issuance of a special permit from the Board of Appeals.
- B. No structure damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its assessed valuation shall be repaired or rebuilt except in conformity with this Bylaw; provided, however, that the provisions of this section shall not apply to a dwelling or to a garage or other accessory structure incidental to the use of such dwelling for human habitation which was in conformity with the existing law at the time said structure was erected.

**ARTICLE VIII. SITE DEVELOPMENT REGULATIONS****~174-34. Off-street parking and loading.****~174-34.1. General provisions.**

## A. Purposes. The purposes of this section are to:

- (1) Ensure the provision of adequate off-street parking to meet the needs of residents, businesses, and other establishments with employees, customers, or clientele;
- (2) Provide off-street loading space for all structures requiring the delivery of goods;
- (3) Minimize adverse environmental, public health, and aesthetic effects in the design, maintenance, and operation of parking facilities; and
- (4) Reduce traffic congestion and contribute to traffic safety by encouraging efficient use of land for access and parking and encouraging transportation alternatives that reduce parking demand.

## B. Applicability.

- (1) Off-street parking and loading facilities shall be provided in all districts in accordance with the requirements of this section. No building or structure constructed after the effective date of this section shall be used or changed to a category of use with greater parking demand, determined in accordance with § 174-34.3(C), except in conformance with this section.
- (2) This section shall not apply to:
  - (a) Any building, structure or use of land that was existing or lawfully begun or for which a permit was issued prior to the effective date of this Bylaw, except that any change in use to a use with greater parking demand shall be subject to this section.
  - (b) Any existing building or structure that has been damaged or destroyed by fire or other disaster and reconstructed to the same size or lesser size as previously existed, except that any change in use of the reconstructed building to a use with greater parking demand shall be subject to this section.
- (3) No existing off-street parking spaces shall be eliminated if their removal would cause the total number of spaces provided on a site to be less than the minimum number required by this section.

**~174-34.2. Basic requirements.**

- A. The Building Inspector shall interpret and apply the requirements for parking and loading spaces set forth in § 174-34.3. For any use subject to site plan review under § 174-7, off-

street parking and loading facilities meeting the requirements of this section shall be shown on the site plan approved by the Planning Board.

B. Dimensional requirements.

- (1) Parking spaces. Each parking space shall be at least nine (9) feet wide and eighteen (18) feet long, exclusive of aisles and maneuvering space. For parking at right angles to a central aisle, the width of the aisle shall not be less than twenty-two (22) feet, and an equal width shall be provided at each end of a row of parking spaces. For angle or herringbone parking at 45° or 60° and one-way circulation, the width of aisles shall be consistent with the dimensions recommended by the Institute of Transportation Engineers (ITE). Unobstructed access to and from a street shall be provided and shall not require backing out into a street.
- (2) Compact car spaces. Parking spaces for compact cars shall be not less than eight (8) feet in width nor less than seventeen (17) feet in length. Up to twenty-five (25) percent of parking spaces reserved for use by employees or occupants and not by the general public and up to fifteen (15) percent of parking spaces for use by customers, visitors, or general public may be designed and reserved for use by compact cars. Spaces designed for compact cars shall be grouped in one or more contiguous areas and identified by appropriate signage.
- (3) Loading spaces. Each loading space shall be not less than ten (10) feet in width nor fourteen (14) feet in height, and shall be of such length that a truck or trailer occupying the space shall be entirely within the loading space and shall not project into any street, vehicular accessway, or pedestrian walk. The loading space may use common access driveways and aisles with parking spaces where such access is adequate for both purposes. If located within fifty (50) feet of a residential district or if used frequently at night, loading spaces shall be enclosed and noise reducing elements shall be incorporated into the design. Loading spaces shall not be located within the required front yard.

**~174-34.3. Schedule of off-street parking and loading requirements.**

Unless modified by other provisions of this Zoning Bylaw, off-street parking spaces shall be provided according to the following schedule.

A. Residential uses.

- (1) Single-family or two-family dwelling: minimum of two (2) spaces per dwelling unit.
- (2) Multi-family or townhouse dwelling: minimum of 1.5 spaces per one-bedroom unit and two (2) spaces per unit for units with two or more bedrooms, plus one (1) space per four (4) units for visitor parking.

- (3) Accessory apartment or accessory cottage: minimum of one (1) space per unit in addition to the minimum required spaces for the principal residential use.
- (4) Accessory home occupation: minimum of one (1) space per 200 square feet of floor area devoted to the home occupation.

B. Business uses.

- (1) Retail or personal or business service: minimum of one (1) space per 300 square feet of gross floor area and a maximum of one (1) space per 200 square feet of gross floor area, exclusive of storage space.
- (2) Professional office or business office, or bank: minimum of one (1) space per 300 square feet of gross floor area for ground-floor offices and one (1) space per 400 square feet of gross floor area for offices located above the ground floor.
- (3) Medical office or clinic: minimum of one (1) space per 200 square feet of gross floor area.
- (4) Hotel, motel, inn, bed and breakfast, or other place providing overnight accommodations: minimum of one (1) space per room accommodation plus one (1) space for each two employees on the largest shift, plus one (1) space per 400 square feet of public meeting area and restaurant.
- (5) Restaurant or other place serving food or beverages: for a restaurant with less than 5,000 square feet of gross floor area, the minimum shall be one (1) space for each four (4) seats or equivalent bench seating, plus one (1) space per employee on the largest shift; for a restaurant with 5,000 square feet or more of gross floor area, the minimum shall be one (1) space for each three (3) seats or equivalent bench seating, plus one (1) space per employee on the largest shift. However, for a restaurant of any size that includes entertainment or a function room, the minimum shall be one (1) space for each three (3) seats or equivalent bench seating, plus one (1) space per employee on the largest shift.
- (6) Theater, membership club, place of amusement, recreation or assembly (public or private), or church: minimum of one (1) space per four (4) seats or, where benches are used, one (1) space per eight (8) lineal feet of bench seating.
- (7) Gasoline service station, without a convenience store: minimum of two (2) spaces per lubrication pit, lift, or bay plus one (1) space per employee.
- (8) Gasoline station, with a convenience store: minimum of two (2) spaces per lubrication pit, lift, or bay plus one (1) space per employee, one (1) space per 250 square feet of gross floor area, and one (1) parking space per employee for the convenience store.

## C. Public and institutional uses.

- (1) Library: minimum of one (1) space per 400 square feet of gross floor area.
- (2) Public or private non-profit educational use: minimum of two (2) spaces per classroom for elementary and intermediate school; 2 1/2 spaces per classroom for secondary school, and one (1) space per two (2) students beyond secondary school, plus one (1) space per school employee.
- (3) Hospital: minimum of one (1) space per bed plus one (1) space per two employees on the largest shift.
- (4) Assisted living residence or nursing home: minimum of one (1) space per two (2) beds plus one (1) space per (2) two employees on the largest shift.

## D. Industrial uses.

- (1) Light industrial development, including manufacturing, storage, processing, fabrication, packaging and assembly; or data processing: the parking requirement shall be the sum of the requirements for each component of the development, calculated as follows: a minimum of one (1) space per 300 square feet of gross floor area for offices and one (1) space per 1,500 square feet for warehouse storage and distribution space, and an overall maximum of one (1) space per 300 square feet. For a light industrial development with additional components, the Building Inspector shall interpret and apply the parking space requirements of this section based on uses with similar parking demand characteristics.
- (2) Research and development or bioscience use: minimum of one (1) space per 400 square feet of gross floor area and a maximum of one (1) space per 300 square feet of gross floor area.
- (3) Warehouse: minimum of one (1) space per 1,500 square feet of gross floor area and a maximum of one (1) space per 1,000 square feet of gross floor area.
- (4) All other nonresidential uses: minimum of three (3) spaces per 1,000 square feet of gross floor area.

E. Mixed uses. When two (2) or more uses with different parking requirements occupy the same building or premises, the minimum required number of parking spaces shall be the same as the sum of the requirements of the various uses computed separately, except where the Planning Board determines that the parking demand for the uses occurs at different times. In such cases, the Planning Board may, as part of major plan review under § 174-7.5, approve a reduction in the number of parking spaces that would otherwise be required.

F. Loading space requirements. Loading spaces shall be provided according to the following schedule.

- (1) Retail, wholesale, storage, or manufacturing: minimum of one (1) loading space per 50,000 square feet of gross floor area for the first 300,000 square feet, and a minimum of one (1) additional space per 100,000 square feet of gross floor area over 300,000 square feet.
- (2) Office, hotel or motel, educational use, other nonresidential uses: minimum of one (1) loading space for the first 100,000 square feet of gross floor area, a minimum of two (2) loading spaces for 100,001 to 150,000 square feet of gross floor area, and a minimum of three (3) loading spaces for 150,001 to 300,000 square feet of gross floor area. When such uses exceed 300,000 square feet of gross floor area, the loading space requirements shall be as determined by the Planning Board.

G. Exceptions in a village business district. When located in a village business district, the following shall be exempt from the requirements of § 174-34.3:

- (1) A retail use that does not exceed nine hundred (900) square feet of floor area and is located on the ground floor of a multi-story building, the minimum off-street parking requirement shall be one (1) space, provided that only one (1) such exemption shall be permitted on a lot.
- (2) No off-street loading spaces shall be required for a use that occupies less than three thousand (3,000) square feet of gross floor area.
- (3) For a building in which at least forty (40) percent of the habitable floor area is on the second story or higher, the minimum required number of parking spaces shall be reduced by twenty percent (20%) or more if approved by the Planning Board.
- (4) By special permit from the Planning Board, off-premises parking may be used to satisfy some or all of a project's off-street parking requirements. The Planning Board may grant a special permit for this purpose only if all of the following conditions are met:
  - (a) The parcel or lot designated for off-premises parking has adequate parking capacity for existing uses on the lot as well as the applicant's proposed uses, in the opinion of the Planning Board;
  - (b) The owner of the off-premises parking location provides written consent to allow a specific number of parking spaces to be used in calculating the off-street parking requirements for the applicant's proposed uses;
  - (c) The owner of the off-premises location grants the right to use the parking spaces to the owner of the property that is the subject of the special permit application, and the form of any such agreement is deemed acceptable to the Planning Board and Town Counsel.

**~174-34.4. Electric car recharge stations.**

For any development of more than 50,000 square feet of gross floor area in a business district or in an industrial district, the Planning Board may require, as a condition of major plan review or a special permit with major plan review under §174-7, that a minimum of five (5) percent of the required parking spaces under this section shall be electric car stations operated on a pay-per-use basis or paid by the owner/operator. Spaces designed as electric car stations shall be grouped in one (1) or more contiguous areas and identified by appropriate signage.

**~174-34.5. Reserve parking.**

As part of site plan review under § 174-7, the Planning Board may approve a reserve parking plan in order to reduce the number of off-street parking spaces that must be constructed under this section, provided that:

- A. The reduction shall not be more than forty percent (40%) of the total number of spaces required under § 174-34.3;
- B. An area sufficient for construction of the parking spaces shall be labeled "Reserve Parking" on the site plan, and such area shall be landscaped and not used for a building, other structure, or for parking except in an emergency;
- C. The proposed reduction in the number of required spaces shall not create undue congestion, traffic hazards, or a substantial detriment to the neighborhood and shall not derogate the intent and purpose of this section;
- D. In no case shall any reserve parking spaces be located within areas devoted to minimum open space or landscaped buffer requirements; and
- E. The Planning Board shall have the right to review the parking reduction every three (3) years or whenever it receives reasonable evidence that such review is warranted and shall have the right to require construction of the reserve parking spaces up to the full number required by this section.

**~174-34.6. Shared parking.**

The Planning Board may grant a special permit for shared parking serving two (2) or more adjacent lots, subject to the following requirements.

- A. A reciprocal agreement in the form of a recorded perpetual easement shall be required in order to guarantee long-term joint use of the shared parking, and the agreement shall be acceptable to the Planning Board and Town Counsel.
- B. Uses sharing the parking facility shall be located not more than five hundred (500) feet from the closest parking space.

- C. The Planning Board shall base its decision on the criteria listed in § 174-7 and the following additional criteria:
- (1) The hours of operation of the uses involved;
  - (2) The number of spaces required for each individual use under this section;
  - (3) The degree to which vehicles using a particular number of spaces are unlikely to require the use of those spaces at the same time of day or same day of the week; and
  - (4) The degree to which the applicant's proposal promotes and accommodates other means of transportation to access the site, such as pedestrian or bicycle facilities.
- D. No change in any conditions associated with a shared parking arrangement, such as but not limited to any change in the use of such property(ies) to a category of use with greater parking demand, shall be permitted unless the Planning Board approves an amendment to the special permit.

**~174-34.7. Design standards for vehicular use areas.**

The following requirements shall apply to all uses subject to site plan review under § 174-7.

A. Access driveways and interior circulation.

- (1) Access driveways shall be located so as to provide for safe access and egress to the lot being served, and no access driveway shall be located directly in front of a building as seen from the street.
- (2) In order to provide vehicular access to two (2) or more adjacent properties without entering a public way, shared or cross access drives are preferred wherever possible.
- (3) Shared or cross access may be provided through one or more of the following methods: (a) a cul-de-sac or loop road or common driveway shared by adjacent lots or premises, (b) joint and cross access between the lot and adjacent uses, or (c) an existing side or rear street. A reciprocal agreement in a form of a recorded perpetual access easement acceptable to the Planning Board and Town Counsel shall be required in order to guarantee the long-term shared access.
- (4) As an incentive for providing shared or cross access in the HB, I, or IP District, the Planning Board may grant a special permit to reduce the minimum lot frontage to 150 feet or to increase the maximum floor area ratio to 0.70, or both, for any lot served by shared access, provided that such access meets the requirements of subsection (A)(1) above.

- (5) For parking areas containing fewer than ten (10) spaces, the maximum width of an access drive shall be fourteen (14) feet for one-way use and eighteen (18) feet for two-way use. For parking areas containing ten (10) or more spaces, the maximum width of an access drive shall be fourteen (14) feet for one-way use and twenty-eight (28) feet for two-way use, except that for access driveways on Route 9, the maximum width of an access drive for two-way use shall be thirty (30) feet unless in any of the above cases the Planning Board determines that a greater width is justified by engineering design. An access driveway with more than one inbound or outbound lane shall have a median divider with a minimum width of ten (10) feet.
- (6) The minimum curb radius shall be fifteen (15) feet and the maximum curb radius shall be twenty-five (25) feet, except that on Route 9, the maximum curb radius shall be thirty (30) feet.
- (7) Each lot shall have or be served by not more than one (1) access driveway, except that for lots with frontage on a street other than Route 9, one (1) additional access driveway may be provided on a lot with more than two hundred (200) feet of frontage, and for lots with frontage on Route 9, one (1) additional access driveway may be provided on a lot with more than three hundred (300) feet of frontage.
- (8) Any access driveway serving a use that is likely to generate more than two hundred (200) vehicle trips per average business day shall comply with the following unless the Planning Board grants a special permit for an alternative configuration, upon its determination that safety will be adequately protected, based on commonly employed engineering standards:
  - (a) Exiting vehicle unobstructed sight distance at edge of traveled way shall be in accordance with ASHTO Geometric Design of Highways and Streets.
  - (b) Driveway centerline separation from other driveways serving two hundred (200) or more trips per average business day: three hundred (300) feet on Route 9, one hundred (100) feet in any other location.
  - (c) Driveway centerline separation from intersecting street sideline: 150 feet on Route 9, or fifty (50) feet in any other location.
  - (d) The total width of all driveways shall not exceed thirty percent (30%) of the front lot line unless approved by the Planning Board as part of site plan review.
- (9) Where a curb cut permit is required from the Massachusetts Department of Transportation (MassDOT), the location, width, and number of access driveways and the construction thereof shall conform to MassDOT standards. The applicant shall make every reasonable effort to comply with the above requirements and those of MassDOT.

- (10) Surfacing. Required vehicular use areas shall be surfaced in accordance with the Planning Board's rules and regulations.

B. Location, design, and construction of off-street parking.

- (1) No off-street parking shall be located directly in front of the principal building on the lot, and no parking shall be located closer to the front lot line than the front line of the principal building except for properties abutting Route 9, where no more than twenty-five percent (25%) of the parking spaces may be located directly in front of the principal building on the lot. The Planning Board may waive this requirement by special permit in a business or industrial district, but not in a village business district, for up to twenty-five percent (25%) of the required off-street parking spaces. In granting a special permit, the Planning Board may impose design, surface treatment, landscaping, lighting, and other requirements to mitigate the visual impact of parking areas on views from the road and may regulate the location of the remaining parking to achieve the purposes of this section. On lots with two (2) or more buildings, parking may be located in front of a building that is located in the rear of another building when viewed from the street.
- (2) Except for parking within an enclosed structure, no parking space shall be located within eight (8) feet of a building wall. No access aisle, entrance, or exit driveway shall be located within five (5) feet of a building. Loading facilities are exempt from this requirement.
- (3) Each required off-street parking or loading space shall have adequate access to a street, either directly or via an access drive.
- (4) All required off-street parking spaces shall be located on the same lot as the use they serve except for shared parking approved under § 174-34.6 or a special permit granted for off-premises parking in a village business district.
- (5) All required parking spaces shall be marked by painted lines, curbs, or other means to indicate individual spaces. Signs or markers painted or provided and maintained in good condition shall be used as necessary to ensure efficient traffic flow within the lot.

C. Landscaping and screening requirements. Any new parking area with five (5) or more parking spaces or an existing parking area that is expanded or improved to increase the number of spaces by five (5) or more shall conform to the requirements below. Such landscaping shall improve the visual environment and shall conform to the provisions of § 174-35 as applicable, and shall not include lot area used for parking or access drives or any other impervious areas. Where there is a conflict between this section and § 174-35, the latter shall control.

- (1) Landscaped buffer.

- (a) Parking lots shall be bordered on all sides, excluding required access drives, with a landscaped buffer area at least five (5) feet in width, except that for any portion of a parking lot abutting property that is residentially used or zoned, the buffer shall be at least twenty (20) feet, or in the IP district, at least fifty (50) feet.
  - (b) Each landscaped buffer shall contain shade or ornamental trees, or a mix thereof, and may contain shrubs, bushes, succulents, or grasses, provided that all such trees and plantings shall be non-invasive species and the landscaping shall be of sufficient density and height to provide effective screening for parked vehicles. However, where adjacent properties are subject to a shared access or shared parking agreement under this § 174-34.6, the Planning Board may approve eliminating the minimum buffer on all common property lines.
  - (c) The selection of plantings for the landscaped buffer shall be in accordance with the Planning Board's rules and regulations and shall be shown on the approved site plan.
  - (d) Wherever possible, existing natural vegetation and landforms shall be protected and incorporated into the buffer area.
  - (e) The Planning Board may approve the use of a fence, wall, or other non-living structure to achieve the purpose of the buffer, provided it is determined to be a more effective and suitable buffer than could be provided with living materials.
  - (f) For vegetated swales located within a buffer area, the Planning Board may approve alternative buffer dimensions and buffer design standards than those specified above.
  - (g) For properties on Route 9, landscaping shall be designed so as to block, to the extent reasonably possible, the view from Route 9 of vehicles parked on such properties.
- (2) Interior landscaping.
- (a) Required trees shall be located within or adjacent to parking lots as tree islands, medians, and at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than sixty (60) feet from a tree.
  - (b) Trees shall be planted at a rate of two shade trees or three ornamental trees for every ten (10) spaces or fraction thereof. For a mix of shade and ornamental trees, there shall be an average of 2.5 trees for every ten (10) parking spaces.
  - (c) Trees shall be at least three (3) inches in trunk diameter at the time of planting and shall be a non-invasive species characterized by moderate growth.

- (d) Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area and to assure safe patterns of internal circulation.
  - (e) Trees shall be located in planting beds of at least six (6) feet in diameter. To the extent possible, tree plantings shall be located in continuous islands six (6) feet or more in width.
  - (f) The Planning Board may authorize shrubs and other plantings instead of trees if it determines that the planting of trees is impractical.
  - (g) To preserve landscaped areas from damage by parking cars and snow removal operations, bumper overhang areas shall be provided with permeable ground cover that will not be damaged by bumpers or vehicle drippings, and all landscaped open space shall be provided with suitable curbing.
  - (h) The Planning Board may approve modifications to the above requirements for any interior landscaped areas or islands that serve as vegetated swales or bioretention cells. The number, dimensions, and design specifications for bioretention cells shall be determined by the Planning Board.
- D. Lighting. Off-street parking areas with ten (10) or more spaces shall provide adequate lighting if the parking is to be used at night. Minimum security lighting shall be provided in any parking area serving other than a single-family or two-family dwelling. All lighting shall be designed, installed, and aimed so as to shield nearby public or private streets and neighboring properties from direct glare light radiation and shall conform to the requirements of § 174-36.
- E. Pedestrian accommodation.
- (1) Parking facilities shall incorporate clearly defined pedestrian connections between parking spaces and building entrances. Such connections shall be integrated into the internal landscaping whenever possible.
  - (2) Continuous internal pedestrian walkways shall be provided from the sidewalk, parking lot, public right-of-way or interior access driveway to the public entrance of all principal buildings on a site. At a minimum, walkways shall connect focal points of pedestrian activity such as but not limited to building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of their length.
  - (3) Crosswalks shall be clearly recognizable through the use of raised, textured or color treatments in order to aid pedestrians in crossing traffic within the lot. Such crosswalks shall be kept clear under all weather conditions.

**~174-34.8. Bicycle parking.**

A. Bicycle parking facilities shall be provided for any new building, addition or enlargement of an existing building, or for any change in the occupancy of any building that results in the need for additional vehicular parking facilities, according to the following schedule. These requirements shall not apply to single-family or two-family dwellings.

- (1) Multi-family dwelling: minimum of one (1) bicycle parking space or locker for each two (2) dwelling units or portion thereof for up to eight (8) units; and one (1) bicycle space per four (4) dwelling units thereafter.
- (2) All other uses: minimum of one (1) bicycle parking space for every ten (10) required vehicle parking spaces for up to fifty (50) vehicle spaces; and one (1) bicycle parking space for every twenty (20) required vehicle parking spaces thereafter.
- (3) In all cases where bicycle parking is required, a minimum of two (2) and a maximum of twenty-five (25) bicycle parking spaces shall be provided.
- (4) The Planning Board may approve a reduction of one (1) vehicle parking space for every five (5) bicycle parking spaces provided.

B. Minimum design standards.

- (1) Accessory off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers, racks, or equivalent structures in or upon which the user may lock a bicycle.
- (2) Structures that require a user-supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (that is, not at just one wheel).
- (3) All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location.
- (4) The surfacing of such facilities shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitted, provided that edging materials such as landscape timbers are used so that the bicycle parking area is clearly demarcated and the surfacing material is contained.
- (5) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance, or physical barrier (such as curbs, wheel stops, poles, or other similar features).
- (6) Adequate maneuvering space shall be provided.

- (7) Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, the bicycle parking shall be placed within fifty (50) feet of building entrances and in well-lit areas.
- (8) When vehicle parking spaces are provided in a structure, the same percentage of required bicycle parking spaces shall be located inside the structure or shall be located in other areas protected from the weather.

**~174-34.9. Transportation demand management.**

- A. For any office or industrial use with more than 50,000 square feet of gross floor area in the BH, I, or IP district, the application for a special permit with site plan review shall include a transportation demand management plan. The plan shall include, at minimum:
  - (1) Evidence of a proposed plan for participation in an existing regional transportation demand management program, if applicable;
  - (2) The specific programs that will be provided to the facility's employees in order to reduce single-occupancy vehicle trips, such as but not limited to employer subsidies for public transportation, vanpools, ridesharing, other incentives to discourage single-occupancy vehicle use, alternative work schedules, telecommuting, or parking pricing;
  - (3) Transit advocacy, including but not limited to the provision of a sheltered bus stop;
  - (4) A management plan for the program(s);
  - (5) A plan for post-construction traffic monitoring, enforcement, and mitigation; and
  - (6) Any other transportation demand management submission requirements as may be set forth in the Planning Board's rules and regulations.
- B. In granting a special permit for any use requiring a transportation management plan under this section, the Planning Board may require the applicant to submit periodic reports and documentation of vehicle trips and parking utilization in order to monitor the effectiveness of the plan.
- C. The Planning Board may grant a special permit to reduce the minimum parking space requirements of § 174-34.3 in exchange for its approval of the applicant's transportation management plan.
- D. Nothing herein shall preclude an applicant from submitting a transportation management plan for a project that is not required to provide one under this section.

**~174-35. Landscaping.****~174-35.1. General provisions.**

A. Purposes. The purposes of this section are to:

- (1) Ensure that all multi-family, commercial, and industrial developments contribute to and enhance the aesthetic and scenic characteristics of the Town;
- (2) Promote the protection of existing, mature trees and other vegetation, especially along the Town's roadways and in environmentally sensitive areas;
- (3) Minimize the impact of intensive development on abutting and nearby residential uses; and
- (4) Encourage water conservation in the design and maintenance of landscaped areas.

B. Applicability.

- (1) Except as provided in subsection (B)(2) below, this § 174-35 applies to any new building, addition, or change of use in an existing structure that is subject to site plan review under § 174-7. As part of the major plan review process or a special permit with major plan review, the Planning Board may approve alternatives to the provisions of this section, taking into consideration existing vegetation, topography, soils and other site conditions, provided that equivalent screening, shading, and articulation are achieved.
- (2) This section shall not apply in a village business district, but the Planning Board may require landscaping as part of a site plan review decision for any development located in a village business district.

**~174-35.2. Basic requirements.**

- A. Each application for major plan review or a special permit with major plan review under § 174-7 shall include a comprehensive landscaping plan and planting schedule in accordance with the Planning Board's rules and regulations.
- B. The applicant shall furnish and install all plant materials listed on the approved landscaping plan and planting schedule.
- C. All plant materials shall conform to the specifications contained in the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen, or an equivalent publication as determined by the Planning Board.
- D. All plant materials shall be non-invasive species. Any plant species identified in the most recent edition of A Guide to Invasive Plants in Massachusetts, published by the Natural

Heritage and Endangered Species Program (NHESP), or an equivalent publication as determined by the Planning Board, shall be prohibited.

- E. Applicants shall employ water conservation principles in the design and maintenance of all landscaped areas, such as but not limited to drought-resistant native plant materials and limiting the amount of land covered with high water use turf. When the source of water is the public water supply, outdoor watering of landscaped areas may be achieved by drip irrigation or low-energy spray irrigation, or a comparable water-conserving irrigation system, but sprinkler systems are prohibited unless the applicant can demonstrate to the Planning Board's satisfaction that the proposed system meets acceptable water conservation standards.
- F. All fences required for screening shall be properly maintained.

### **~174-35.3. Plantings.**

- A. Plantings shall consist of at least one (1) tree per forty (40) linear feet of planting area length, except one (1) tree per twenty (20) linear feet of street planting area abutting Route 9, and at least one (1) shrub per three (3) feet. Plantings shall be grouped or clustered, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walkways essentially perpendicular to the area, and shall be located wholly within the lot.
- B. Plantings shall comply with the following minimum requirements:
  - (1) Shade trees shall be a minimum of three (3) inches in caliper six inches above grade and reach an ultimate height of at least thirty (30) feet.
  - (2) Ornamental trees shall be a minimum of eight (8) feet at the time of planting, measured from the top of the root ball to the top of the tree.
  - (3) Shrubs shall be at least eighteen (18) inches in height at the time of building occupancy and reach an ultimate height of at least three (3) feet.
- C. The property owner shall ensure the health and survival of all plantings required under this section. If any plant material dies, the property owner shall replace it with equivalent plant material within 180 days.
- D. Applicants are encouraged to plant salt-tolerant species for street trees in order to prevent early plant loss due to winter road salt. All proposed street trees, including planting and placement standards, shall meet the Street Tree Standards of the Southborough Department of Public Works.
- E. Street planting area. For all nonresidential and multi-family properties, there shall be a landscaped buffer strip at least fifteen (15) feet in depth along the full length of the front lot line. The Planning Board may reduce or modify this requirement if it determines that strict conformance would create a substantial hardship due to existing conditions such as lot size, location of existing buildings, or environmental conditions, or if the applicant

proposes an alternative approach that is consistent with the purposes of this section and provides equivalent screening and aesthetic benefits.

- F. Side and rear line planting area. A landscape buffer area at least ten (10) feet in width shall abut all side and rear property lines, except that a landscaped buffer along the side property line shall not be required on lots that are subject to a shared parking agreement approved by the Planning Board under § 174-34.6.
- G. Existing vegetation. Wherever possible, the requirements of this section shall be met by retaining existing plants. If located within fifteen (15) feet of the front lot line or within ten (10) feet of a side or rear lot line, no existing tree of six (6) inches in diameter at breast height (dbh), or dense hedgerow of four (4) or more feet in both depth and height, or existing earth berm providing similar visual screening, shall be removed or have grade changed by more than one (1) foot unless dictated by public health, access safety, or identification of the premises.
- H. Berms. When berms are used to meet the requirements for a landscaped buffer area, they shall be planted with living vegetation. The minimum top width shall be five (5) feet with a minimum slope of 3:1. In no case shall more than twenty-five percent (25%) of the berm planting area be composed of bare mulch or non-living material.
- I. Exceptions. Where plant materials required by this section would obstruct a scenic view, the Planning Board may authorize substitution of additional low-level plantings that visually define the street edge or property line, provided that proposed buildings are also designed and located to preserve the scenic view.
- J. Site distance restrictions. When an access driveway intersects a public street or another access way, required plantings shall conform to the requirements of unobstructed site distance under § 174-35.

**~174-35.4. Nonconforming landscaping and screening.**

- A. Any improvement along the property boundary, including landscaping, screening and fencing, legally erected and conforming to the requirements of this Bylaw when so erected, may continue to be maintained, even though as a result of changes to this Bylaw the boundary improvements no longer conform, provided that such boundary improvements shall not be enlarged, redesigned, or altered except so as to make them conform to the requirements herein, and further provided that any such boundary improvements which have been destroyed or damaged to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement value of the boundary improvements at the time of destruction or damage shall not be repaired, rebuilt, or altered except so as to make said boundary improvements conform to the requirements of this Bylaw.
- B. The exemption for nonconforming landscaping and screening herein granted shall terminate with respect to any boundary improvements that have been abandoned or have not been repaired or properly maintained for at least sixty (60) days after written notice to that effect has been given by the Building Inspector.

**~174-36. Outdoor lighting.****~174-36.1. General provisions.**

A. Purposes. The purposes of this section are to:

- (1) Encourage lighting that provides safety, utility and security;
- (2) Prevent glare on public roadways;
- (3) Protect the privacy of residents;
- (4) Promote energy-efficient outdoor lighting; and
- (5) Reduce atmospheric light pollution.

B. Applicability.

- (1) Except as provided in subsection (B)(2) below, this section shall apply to any outdoor illumination by flood or spot luminaires rated at 900 lumens or more [which is approximately equal to one sixty (60) watt incandescent light bulb] or by any other luminaires rated at 1,800 lumens or more [which is approximately equal to one one-hundred-twenty (120) watt incandescent light bulb], including the replacement of an existing nonconforming lamp or fixture.
- (2) This section shall not apply to:
  - (a) Emergency lighting;
  - (b) Hazard warning;
  - (c) Temporary decorative or holiday lighting or public roadway illumination;
  - (d) Any luminaire intended solely to illuminate any freestanding sign, flag, or the walls of any building, provided that such luminaire shall be aimed and shielded so that its direct light is confined to the surface of such sign, flag or building; or
  - (e) The replacement of an existing nonconforming lamp or fixture with the same or lower output nonconforming lamps or fixtures.

C. As part of major plan review or a special permit with major plan review under § 174-7, the Planning Board may determine that special circumstances of the site, context, or design make an alternative lighting design at least equally effective in meeting the purposes of this section and in such cases may modify the requirements of this section.

**~174-36.2. Basic requirements.**

- A. Each application for major plan review or a special permit with major plan review under § 174-7 shall include an exterior lighting plan in accordance with the Planning Board's rules and regulations.
- B. Lighting not subject to the provisions of this § 174-36 shall not require an exterior lighting plan, but shall meet the standards as set forth in this section unless as may otherwise be provided herein.

**~174-36.3. Standards for outdoor lighting.**

- A. Strobe, flickering or flashing lights and laser lighting are prohibited. Processes that create light flashes, such as but not limited to arc welding, shall be confined within buildings or shielded to prevent either direct glare or visible flashing.
- B. Wall-mounted fixtures. In a nonresidential district, a luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than seventeen (17) feet above grade and shall be shielded to prevent glare. "Wal-pac" lighting fixtures are prohibited.
- C. Pole-mounted fixtures. Pole-mounted exterior lighting fixture types are defined and restricted as follows:
  - (1) Type A: no light cutoff.
  - (2) Type B: luminaire shielded such that peak candlepower is at an angle of 75° or less from straight down, and essentially no light is emitted above the horizontal.
  - (3) Type C: luminaire shielded such that total cutoff is at less than 90° from straight down, and no light source is in direct view of an observer five (5) feet above the ground at any point off the premises.
- D. Pole-mounted fixtures height limitation. Illustrations of pole-mounted exterior lighting fixture types are shown in Chart I herein. The Type A pole-mounted exterior lighting fixture is prohibited in all districts unless equipped with shields. Pole-mounted fixtures shall not exceed the applicable pole-mounted height limitations set forth in the Planning Board's rules and regulations.
- E. Ceiling-mounted fixtures. Luminaires mounted on an exterior ceiling such as under a canopy shall be mounted with the refractor or lens flush with or recessed in the ceiling or fixture.
- F. Lighting levels. Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or more and any flood or spot luminaire rated at 900 lumens or more shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire. If any spot or flood luminaire rated 900 lumens or less is directed or focused such as to cause direct light from the luminaire to be cast toward residential buildings on

adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions. While understanding the need for safety and security lighting, the Planning Board reserves the right to limit and regulate the amount of illumination on a site between the hours of 10:00 p.m. and 6:00 a.m., including the prohibition of all lighting during these hours.

- G. Light trespass. There shall be no light trespass by a luminaire beyond the property boundaries of the lot on which it is located, except within a street right-of-way for which there shall be no limit.

**~174-37. Signs.**

**~174-37.1. General provisions.**

- A. Purpose. The purposes of this section are to:

- (1) Promote public safety and convenience of the streets and roads, sidewalks and other pedestrian spaces, public property and private property within public view;
- (2) Preserve for present and future inhabitants of the Town the natural, architectural and historical assets and other qualities which distinguish the Town as a highly desirable community;
- (3) Protect business viability, economic opportunity, property values, educational values, aesthetic integrity, village character, creativity and community appearance by exercising prudent control; and
- (4) Encourage compatibility and harmony with surrounding buildings, land and land uses.

- B. Applicability. This section applies to all signs erected, maintained, or replaced in any district, excluding traffic control signs placed by a state or other public agency.

- C. Definitions. Special terms used in this § 174-37 shall have the meanings listed under "Signs" in Article II.

**~174-37.2. Basic requirements.**

- A. General. The only signs allowed in the Town of Southborough are signs that advertise, call attention to, or indicate the person occupying the premises on which the sign is erected or maintained or the business transacted thereon or that advertise the property itself or any part thereof as for sale or rent and which contain no other matter.

- B. Permits. Except as provided under subsection C below, no sign shall be erected or altered on the exterior of any building or on any land unless a permit has been issued by the Building Inspector in accordance with this section.
- C. Permit not required. The following types of signs do not require a permit from the Building Inspector:
- (1) Signs on a premises not exceeding four (4) square feet in area and bearing only street name, street numbers, or the names of residents of such premises.
  - (2) Flags and insignia of any government, except when displayed in connection with commercial promotion.
  - (3) Legal notices, identification, informational, or directional signs erected by governmental bodies or by any department of the Town of Southborough.
  - (4) Integral decorative or architectural features of buildings, except letters, trademarks, logos, moving parts or moving lights.
  - (5) Signs not exceeding four (4) square feet for directing and guiding traffic and parking on private property, but bearing no advertising matter.
  - (6) In accordance with G.L. c. 94, § 295c, standard gasoline fuel pump signs on service station fuel pumps bearing thereon in usual size and form the name, type and price of the gasoline.
  - (7) “Open” or “closed” signs not exceeding two (2) feet by three (3) feet; limited to one per business.
  - (8) Open flags, not exceeding three (3) feet by five (5) feet and not containing any promotional logos or advertising; one (1) per business, to be displayed only during the hours that the business is open.
  - (9) Political signs for elections, political viewpoints or causes, not exceeding thirty (30) days in any twelve (12) month period.
- D. Prohibited. The following shall be prohibited:
- (1) Billboards and similar signs.
  - (2) Flashing, moving, changing message and animated signs.
  - (3) “No hunting, fishing, etc.” signs exceeding one (1) square foot.
  - (4) The illumination of any sign between 10:00 p.m. and 6:00 a.m., except signs identifying police or fire stations or businesses open to serve the public on site.
  - (5) The placement, painting, or maintenance of a sign on the roof of any building or structure in any district.

- (6) Any sign depicting or representing any sexual conduct or state of sexual excitement, as defined in G.L. c. 272, § 31. No such representations or depictions shall be placed upon or within the windows or walls of the premises so as to be visible to the public from the exterior of the premises.
- (7) Banners, pennants, streamers, ribbons, spinners and other moving, fluttering, revolving or changing devices and strings of lights shall not be used as permanent signs or parts thereof, provided that lights may be used as part of a religious celebration not connected to commercial promotion, and further provided that banners or similar devices may be used for temporary political signs.
- (8) Signs placed on trees or utility poles, unless warning of danger or prohibiting trespass.
- (9) Signs placed on public property without prior approval from the Town. Such signs may be removed by the Building Inspector without notice.
- (10) Trailer or vehicle signs.

**~174-37.3. General sign regulations.**

- A. Maximum sign area. For purposes of determining the maximum sign area, any intermediary removable surface to which a sign is attached shall be deemed to be part of the sign, and any sign composed of separate letters, numbers, or symbols cut into or attached to a wall or painted on or otherwise attached to an awning, canopy, or window shall be deemed to include the surface to the extreme limits of the sign. A two (2) sided sign with messages on opposite sides (back-to-back) will be deemed to be one (1) sign. A sign with faces at an angle to each other shall be deemed to consist of several signs, one for each direction faced.
- B. Maximum number of signs allowed. No business establishment shall have more than two (2) of the four (4) following types of signs: wall, window, standing, or awning, except as follows:
  - (1) If a business establishment has more than one public entrance at street level, there may be one (1) additional sign at each such entrance other than the wall to which the principal sign is attached. Such signs shall not exceed fifteen (15) square feet or ten percent (10%) of the side wall façade of the business establishment, whichever is less. If a business establishment consists of more than one (1) building, a secondary sign not exceeding fifteen (15) square feet or ten percent (10%) of the façade of the business establishment, whichever is less, may be affixed to a wall of each such building, not including the building to which the principal sign is attached.
  - (2) In addition to the foregoing sign or signs, one (1) directory of the business establishments occupying a building may be attached to the exterior wall of the building at each public entrance to the building. Such directory shall not exceed

an area determined on the basis on one (1) square foot for each establishment occupying the building or six (6) square feet in total area, whichever is less.

- C. Illumination of signs. Illumination shall be by white, steady, stationary light shielded and directed solely (or by silhouette) at the sign. The foregoing applies to signs exterior to a building and to permanent interior signs designed to be visible through a door or window. No sign shall utilize translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through, except for businesses in the HB, I, or IP district fronting on Route 9. The light, whether internal or illuminating the sign from the outside, shall conform to the requirements of § 174-36.3(F) and not be placed, directed, or arranged so as to emit a beam of light, glare, or reflection on any street or highway, walk, or nearby properties of others in such a manner as to create a traffic hazard or nuisance.
- D. Construction and maintenance. All signs shall be painted, posted, or otherwise securely attached to a substantial intermediary removable surface which shall be securely attached to the building. The foregoing shall not prevent installation of a sign consisting of individual letters or devices securely attached to the building. The material and construction of any sign and intermediary surface and the manner of attaching the sign to the intermediary surface and the intermediary surface to the wall of the building shall be in accordance with applicable provisions of the State Building Code. All signs, together with their structural elements, shall be kept in good repair and in proper state or preservation to the reasonable satisfaction of the Building Inspector. The Building Inspector may order the removal of any sign that is not maintained in accordance with the provisions of this Bylaw.

**~174-37.4. Regulations for specific types of signs.**

- A. Wall signs. A wall sign shall be parallel to or perpendicular to a wall of the building and shall not project beyond the face of any other wall of the building, or above the top of the wall to which attached. A wall sign shall not project more than one foot from the face of the wall to which attached.
- B. Temporary signs. Temporary signs shall be removed promptly after the sale, event, or reason for the sign message has been concluded. Temporary signs shall not be allowed for more than thirty (30) days in any twelve (12) month period, except as may be otherwise specifically provided below, as determined by the Building Inspector. A temporary sign erected for the purpose of the sale, lease, rental, or construction of real estate is not subject to the thirty (30) day display limitation but shall be removed promptly after such sale, lease, rental, or construction has been effected or completed. Temporary signs pertaining to construction shall not be erected prior to the commencement of work.
- C. Standing signs. No standing sign shall be erected if, in the opinion of the Building Inspector, it creates a safety hazard to vehicular or pedestrian traffic.

- D. Traffic signs. The regulations contained herein shall not apply to traffic signs not exceeding four (4) square feet in area.
- E. Gasoline filling stations and garages. Gasoline filling stations and garages may divide the principal sign area to which they are entitled into separate signs attached to and parallel to the wall to which the principal sign is attached and indicating the separate operations or departments of the business; provided, however, that the total size of the separate signs shall not exceed the maximum size permitted under this section for a single exterior sign on such wall. Signs displayed on structural canopies over gasoline pumps or gasoline pump islands shall be regulated as wall signs.
- F. Agricultural signs. One (1) sign not to exceed thirty-two (32) square feet shall be allowed and the wording may be changed periodically to advertise products raised or grown principally on the premises.
- G. Awning signs. The following provisions shall apply to all awning signs:
- (1) Awning signs may be located only at the first floor level and shall be painted on or attached flat against the surface of the awning or canopy, and shall not extend beyond the valance or any other part of the awning or canopy nor be attached to or displayed on the sides or underside of the awning.
  - (2) Awning signs shall not be back lit or internally illuminated.
  - (3) Awning signs shall not be used in combination with wall signs or projecting signs, except as follows. An awning sign which consists of letters and numbers only, not more than eight inches in height and includes no other form of graphic, logo, or symbol; and is located only on the valance of the awning or canopy and no other sign, graphic, logo or symbol is displayed on the awning or canopy; and does not occupy more than fifty percent (50%) of the horizontal length of the valance of the awning sign or canopy, shall not be subject to § 174-37.3(A) or (B).

**~174-37.5. Sign regulations by district.**

- A. In the C, RA, and RB Districts, and for residential uses in any other district:

- (1) There shall be not more than one (1) sign per lot.
- (2) No sign shall be illuminated.
- (3) For a standing or wall sign, the maximum height shall be six (6) feet and the maximum sign area shall be four (4) square feet.
- (4) For a temporary sign, the maximum height shall be six (6) feet and the maximum sign area shall be six (6) square feet.

## B. In the DVB, FVB, and CVB Districts:

- (1) For a standing sign, there shall be not more than one (1) sign per building, the maximum height shall be ten (10) feet above grade, and the maximum sign area shall be twenty-five (25) square feet.
- (2) For a wall sign, there shall be not more than one (1) sign per tenant, the maximum height shall be fifteen (15) feet, and the maximum sign area shall be twenty-five (25) square feet.
- (3) For an awning sign, there shall be not more than one (1) sign per tenant and the maximum sign area shall be the lesser of twenty-five percent (25%) of the awning or canopy or ten percent (10%) of the total area of the façade of the business establishment.
- (4) For a temporary sign, there shall be not more than one (1) sign per tenant, the maximum height shall be ten (10) feet, and the maximum sign area shall be fifteen (15) square feet.
- (5) The sum of the areas of wall, window, and awning signs of any business establishment in the aggregate shall not exceed the lesser of ten percent (10%) of the façade of the business establishment or twenty-five (25) square feet.

## C. In the FVB/9, BRB, HB, I, and IP Districts:

- (1) For a standing sign, there shall be not more than one (1) sign per lot, and:
  - (a) On lots fronting on streets other than Route 9, the maximum height shall be fifteen (15) feet and the maximum sign area shall be seventy-five (75) square feet;
  - (b) On lots fronting on Route 9, the maximum height shall be twenty-five (25) feet or the building height at the roofline, whichever is less, and the maximum sign area shall be one hundred (100) square feet.
- (2) For a wall sign, there shall be not more than one (1) sign per tenant, and:
  - (a) On lots fronting on streets other than Route 9, the maximum height shall be twenty (20) feet and the maximum sign area shall be fifty (50) square feet;
  - (b) On lots fronting on Route 9, the maximum height shall be twenty (20) feet and the maximum sign area shall be seventy-five (75) square feet.
- (3) For a window sign (permanent), there shall be not more than one (1) sign per tenant and the maximum sign area shall be the lesser of ten (10) square feet or ten percent (10%) of the total area of exterior area of exterior windows of the business establishment excluding doors, whichever is less.

- (4) For an awning sign, there shall be not more than one (1) sign per tenant, and the maximum sign area shall be the lesser of twenty-five (25) percent of the awning or canopy or ten percent (10%) of the total area of the façade of the business establishment.
- (5) For a temporary window sign, the maximum sign area shall be twenty-five (25) square feet.
- (6) For a temporary sign, there shall be not more than one (1) sign per building, the maximum height shall be ten (10) feet, and the maximum sign area shall be twenty-five (25) square feet.
- (7) The sum of the areas of wall, window, and awning signs of any business establishment in the aggregate shall not exceed the lesser of ten percent (10%) of the façade of the business establishment or fifty (50) square feet fronting on streets other than Route 9 and seventy-five (75) square feet fronting on Route 9.

**~174-37.6. Nonconforming signs.**

Any legal nonconforming sign may continue to be maintained but shall not be enlarged, reworded, redesigned, or altered in any way unless it is brought into conformity with this § 174-37. Any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement value of the sign at the time of the destruction or damage shall not be repaired or rebuilt or altered unless in conformity with this section. The exemption herein granted shall terminate with respect to any sign which:

- A. Shall have been abandoned for six months or more;
- B. Advertises or calls attention to any products, businesses or activities which have not been carried on or sold for six (6) months or more; or
- C. Shall not have been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the Building Inspector.

**~174-37.7. Special permits for signs.**

- A. The Board of Appeals may grant a special permit for a sign not meeting the limitations of sign height, maximum number of signs allowed, illuminations of signs, maximum area of signs allowed, or minimum setback under this § 174-37; provided, however, that the sign is otherwise in compliance with the provisions of this section. In no case shall a special permit be granted for:
  - (1) A wall sign which exceeds in height the top of the wall.
  - (2) A sign in the RA or RB District, except that a special permit may be granted for a sign at a legal nonconforming use.

- (3) A standing sign in districts other than C, RA, or RB:
    - (a) Which exceeds in height:
      - (i) Fifteen (15) feet in a village business district.
      - (ii) Twenty (20) feet in districts other than a village business district fronting on streets other than Route 9.
      - (iii) Twenty-five (25) feet or the building height at the roofline in districts other than a village business district fronting on Route 9.
    - (b) Or exceeds in area:
      - (i) Thirty-five (35) square feet in a village business district.
      - (ii) Seventy-five (75) square feet in districts other than a village business district fronting on streets other than Route 9.
      - (iii) Two hundred (200) square feet in districts other than a village business district fronting on Route 9.
  - (4) A wall sign in districts other than C, RA, or RB, which exceeds in area:
    - (a) Thirty-five (35) square feet in a village business district.
    - (b) Seventy-five (75) square feet in districts other than a village business district fronting on streets other than Route 9.
    - (c) One hundred (100) square feet in districts other than a village business district fronting on Route 9.
- B. The Board of Appeals shall not act on any special permit application without first receiving a written report from the Planning Board.
- (1) A favorable report of the Planning Board shall indicate that:
    - (a) Sign scale is determined to be in reasonable relation to development scale, viewer distance and travel speed and sign sizes on nearby structures;
    - (b) Sign size, shape and placement serves to define or enhance architectural elements of the building such as columns, sill lines, cornices and roof edges and do not unreasonably interrupt, obscure or hide them;
    - (c) Sign design is in harmony with other signage on the same or adjacent structures and provides reasonable continuity in mounting location and height, proportions and materials;

- (d) Sign materials, colors, lettering style, illumination and form are reasonably compatible with building design, neighborhood context and use; and
  - (e) Sign size, location, design and illumination are not judged to present a safety hazard to vehicular or pedestrian traffic.
- (2) An unfavorable report of the Planning Board shall indicate which of the above criteria were not met and shall state what modifications to the sign or signs could be made to render a favorable report.

**~174-38. Lower-impact development.**

**~174-38.1. General provisions.**

A. Purposes. The purposes of this section are to:

- (1) Protect the quality and quantity of surface waters, reservoirs, and groundwater, to maintain the integrity of aquatic living resources and ecosystems, and to preserve the physical integrity of receiving streams and water bodies;
- (2) Encourage a more efficient form of development that consumes less open land and protects existing topography, wildlife habitats, and natural features;
- (3) Require that new development, redevelopment, and land conversion activities maintain the natural hydrologic characteristics of the land to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, and property damage and to maintain the integrity of stream channels and aquatic habitats;
- (4) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources; and
- (5) Minimize the total amount of disturbance of the land.

B. Definitions. Special terms used in this § 174-38 shall have the meanings shown under "Lower-Impact Development" in Article II.

C. Applicability.

- (1) A LID permit under this § 174-38 is required for any project requiring one or more of the following:
  - (a) Any activity subject to major plan review or a special permit with major plan review under § 174-7.
  - (b) Any activity that will result in soil disturbance of one (1) acre or more.

- (c) Any residential development or redevelopment of five (5) or more acres of land proposed under site plan review, a special permit, or the Subdivision Control Law, G.L. c. 41, §§ 81K to 81GG.
  - (d) An alteration, redevelopment, or conversion of land use to a hotspot, as may be reasonably determined by the Planning Board, such as, without limitation: auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high-intensity use, road salt storage areas, commercial nurseries and landscaping, or outdoor storage and loading areas of hazardous substances.
- (2) Exemptions. A LID permit shall not be required for the following:
- (a) Any activity that will disturb an area less than one (1) acre.
  - (b) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04 and G.L. c. 40A, § 3.
  - (c) Construction and associated grading of a way that has been approved by the Planning Board.
  - (d) The maintenance, reconstruction, or resurfacing of any public way and the installation of drainage structures and utilities within or associated with public ways that have been approved by the appropriate authorities.
  - (e) Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the applicable permitting authority.
  - (f) Any work or projects for which all necessary approvals and permits have been issued before the effective date of this section.
- (3) Redevelopment projects are presumed to meet the requirements of this § 174-38 if the total impervious cover is reduced by forty percent (40%) or more from existing conditions. Where site conditions prevent the reduction in impervious cover, LID practices shall be implemented to provide stormwater controls for at least forty percent (40%) of the site's impervious area. When a combination of impervious area reduction and implementation of LID techniques is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a LID practice shall equal or exceed forty percent (40%).

#### **~174-38.2. Basic requirements.**

- A. LID Authority. The Planning Board (“LID Authority”) shall administer, implement, and enforce this section. For an activity requires both a LID permit and site plan review under § 174-7, the requirements of this section shall be addressed as part of the site plan application and the Planning Board shall issue a combined decision on the site plan and

the LID permit. For a subdivision submitted under the Subdivision Control Law, every reasonable effort shall be made to address the requirements for a LID permit as part of the subdivision review process, recognizing that different timelines apply to a major site plan submission and a definitive subdivision plan. Planning Board approval of a LID permit shall neither oblige the Planning Board to approve a related definitive plan nor substitute for such approval.

If the activity that requires a LID permit does not otherwise require a review or decision by the Planning Board, such as but not limited to a special permit, site plan review, or subdivision approval, the Planning Board shall, with the concurrence of the applicant, designate a LID Reviewing Board to serve as its authorized agent for the purposes of reviewing all LID submittals and issuing LID permits for any project within the LID Reviewing Board's jurisdiction.

- B. LID regulations. The LID Authority may adopt and periodically amend rules and regulations relating to the terms, conditions, definitions, enforcement, fees (including application, inspection, and/or consultant fees), fines, procedures, and administration of this section by majority vote of the LID Authority, following a public hearing. Such rules and regulations shall not be inconsistent with this Zoning Bylaw or the laws of the Commonwealth. The hearing shall be advertised in a newspaper of general local circulation at least seven (7) days prior to the hearing date. After public notice and public hearing, the LID Authority may promulgate rules and regulations to effectuate the purposes of this section. Failure by the LID Authority to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this § 174-38.
- C. LID Reviewing Board. When a LID Reviewing Board is designated as the LID Authority's agent, the applicant shall submit to the LID Reviewing Board a LID management plan and a LID operations and maintenance plan in compliance with the requirements herein, in addition to any requirements of the LID Reviewing Board. No additional fee or application form shall be required other than as specified in this section. The LID Reviewing Board shall have authority to grant a LID permit, if the proposed project complies with this § 174-38 and the LID Authority's regulations, in addition to any other approval or permit it may grant. The LID Reviewing Board shall notify the LID Authority of all LID permits it grants. The LID Authority and any LID Reviewing Board shall have authority to enforce this Bylaw.

### **~174-38.3. LID permit.**

- A. Procedures. Application for a LID permit shall be in accordance with this § 174-38 and the LID Authority's rules and regulations. The LID application shall include a LID management plan and an operations and maintenance plan that comply with the requirements set forth herein.

**B. Decision.**

- (1) The LID Authority or LID Reviewing Board shall approve a LID permit, together with any conditions it deems appropriate, only upon finding that that LID techniques have been employed to the maximum extent practicable to meet the purposes of this section and that compliance with the following requirements has been demonstrated:
  - (a) All stormwater runoff generated from land development and land use conversion activities shall not discharge directly to a wetland, local water body, municipal drainage system, or abutting property, without prior treatment in conformance with Massachusetts DEP Stormwater Regulations and local stormwater bylaw.
  - (b) Measures shall be employed to minimize adverse impacts on wildlife habitats.
  - (c) Compliance with all applicable federal, state and local regulations and guidelines, including but not limited to the Massachusetts Stormwater Handbook as it may be amended.
  - (d) Based upon the nature of the application, the LID Authority or LID Reviewing Board may impose requirements or limitations to minimize the impacts, if any, on abutting properties or uses.
- (2) The LID Authority or LID Reviewing Board may deny a LID permit if it determines that:
  - (a) The requirements set forth herein are not met; or
  - (b) The intent of the application is to circumvent the stormwater provisions of this Bylaw or other town bylaws.

C. Appeal. Any decision or action of the Building Inspector based on failure to obtain a LID permit or failure to comply with conditions of an approved LID permit may be appealed to the Board of Appeals in accordance with G.L. c. 40A §§ 8 and 15.

**D. Waivers.**

- (1) The LID Authority may waive requirements for a LID permit application if it determines that such requirements are unnecessary because of the size or character of the development project or because of the natural conditions at the site. Waivers granted at the initial approval may not be binding if the reasons for which the waiver was granted change or no longer exist.
- (2) The applicant shall make all requests for waivers in writing. The applicant shall submit supporting technical information and documentation to demonstrate that some, or all, of the requirements are unnecessary because of minimal environmental impact or other reasons why such waiver/s should be granted. The

LID Authority's decision to grant or deny waivers shall be in writing and shall set forth the reasons for the grant or denial.

- (3) At the time of application, the applicant shall provide in writing the name of the person who is responsible for the site disturbing activity which is the subject of the application. Said person shall ensure that the approved activity takes place in accordance with the application, plan, and special permit requirements.

**~174-38.4. LID management plan.**

- A. The LID management plan shall contain sufficient information for the Planning Board or LID Reviewing Board to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant to reduce all adverse impacts from stormwater runoff; to control and minimize increases in stormwater runoff rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion, and nonpoint source pollution associated with post-development stormwater runoff; and to minimize the impacts associated with land development. This plan shall be in accordance with the criteria established in this section and the supporting regulations and must be prepared, stamped, and signed by a Massachusetts registered professional engineer.
- B. The LID management plan shall fully describe the project in drawings, narrative, and calculations. It shall meet the criteria set forth in the regulations adopted pursuant to this section.

**~174-38.5. LID operation and maintenance plan.**

The operation and maintenance plan (O&M plan) shall be designed to ensure compliance with this section and the LID permit, and to ensure that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons of the year and throughout the life of the system. The O&M plan shall be prepared in accordance with the criteria established in any regulations adopted pursuant to this section, and shall be stamped and signed by a Massachusetts registered professional engineer and Massachusetts registered land surveyor, as appropriate. The O&M plan shall require that O&M inspection logs and reports will be maintained by the current property owner and all successors and assigns and made available to the Town Engineer and LID Authority for inspection at their request. The O&M plan shall remain on file with the LID Authority and shall be an ongoing requirement. Failure to comply with the O&M plan approved as part of the LID permit shall be a violation of this Bylaw and subject to enforcement action by the Building Inspector.

**~174-39. Reserved.**

**~174-40. Reserved.**

**~174-41. Reserved.**

**~174-42. Reserved.**

**ARTICLE IX. OVERLAY DISTRICTS****~174-43. Flood Plain Overlay District.****~174-43.1. General provisions.**

- A. The purpose of the Flood Plain Overlay District (FPOD) is to preserve and maintain the groundwater table; to protect the public health and safety and persons and property against the hazards of floodwater inundation; to protect and preserve wildlife habitat; and to protect the community against costs which may be incurred when unsuitable development occurs in swamps, marshes, along watercourses and in areas subject to floods.
- B. The FPOD shall be considered as overlying other districts. All uses permitted in the FPOD shall conform to uses permitted in the underlying district.
- C. In the FPOD, there shall be no landfilling or dumping and no new construction or extension of existing structures except as provided below, and for all areas designated as floodways, any proposed encroachment in a floodway is prohibited unless certification by a registered professional engineer or architect is provided by the proponent, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood.

**~174-43.2. Applicability.**

The FPOD shall be described by and include all flood hazard areas designated as "Zone A" and [X] on the Town of Southborough Flood Insurance Rate Maps (FIRM) and the Town of Southborough Flood Boundary and Floodway Maps, dated [date], together known as the Flood Plain Maps.

**~174-43.3. Prohibited uses.**

Except as provided in § 174-43.4 and § 174-43.5, all new construction and encroachments including, grading, filling, excavating, substantial improvements, and other development is prohibited unless:

- A. A technical evaluation by a Massachusetts registered professional engineer demonstrates that the new construction or encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge; and
- B. It is otherwise allowed by a special permit from the Board of Appeals under § 174-43.5.

**~174-43.4. Permitted uses.**

- A. 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;

- B. Such maintenance, repair and replacement of existing structures in a driveway or private way or in an associated easement. Structures referred to herein are banks, walls, culverts, bridges or similar structures;
- C. Any woodland, grassland, wetland, agricultural, horticultural or recreational use of land or water not requiring filling, including parking facilities requiring no permanent structures. Alteration or extension of preexisting nonconforming structures shall be designed, placed and constructed to offer a minimum obstruction to the flow of water and shall be firmly anchored to prevent floating away.
- D. Any activity, construction or installation conducted solely for the purpose of environmental clean-up or remediation, and required or approved by the U.S. Environmental Protection Agency (EPA) or the Massachusetts DEP.
- E. Driveways across flood plain areas are to be designed so that the existing elevations are not altered in such a way as to decrease the flood control potential of the area or interfere with the flow of water.

**~174-43.5. Uses permitted by special permit.**

- A. Buildings and sheds accessory to the uses described in § 174-43.4 above, and driveways and roads are allowed by special permit from the Board of Appeals. In hearing such applications, the Board of Appeals shall consider the following in addition to the factors set forth in § 174-6:
  - (1) Any such building, structure, driveway or road shall be designed, placed and constructed so as to offer a minimum obstruction to the flow of water; and said building or structure shall be firmly anchored to prevent floating away.
  - (2) Such structure shall not be used for sustained human occupancy.
  - (3) Such structure shall be designed to protect equipment or materials stored therein against damage from inundation by floodwaters.
  - (4) There shall be no practical alternative means of access, and the Town Engineer has certified that the said driveway or road, if constructed, shall not endanger the health, safety or welfare of the public.
  - (5) The proponent has obtained any existing flood elevation data, and it has been reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements of the State Building Code.
- B. No approval by the Board of Appeals shall be considered to supersede or satisfy the requirements of G.L. c. 131, § 40 (Wetlands Protection Act) or the Southborough Wetlands Bylaw.
- C. If any land in the FPOD is proven to the satisfaction of the Board of Appeals as being in fact not subject to flooding or not unsuitable because of drainage conditions for any use

which would otherwise be permitted if such land were not, by operation of this section, in the FPOD, and said Board finds that the use of such land for any such use will not interfere with the general purpose for which the FPOD has been established and will not be detrimental to the public health, safety or welfare, the Board of Appeals may, after a public hearing with due notice, issue a special permit for any such use.

- D. Any other Bylaw or regulation to the contrary notwithstanding, no construction shall be permitted within the FPOD unless the Board of Appeals determines that all utilities are located, elevated and constructed so as to minimize or eliminate flood damage and that the methods of disposal for sewage, refuse and other wastes and for providing drainage are adequate to reduce flood hazards.
- E. If a special permit is granted, the Board of Appeals 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 Massachusetts registered professional engineer or Massachusetts registered land surveyor, as appropriate to the data, of all improvements in the FPOD shall be submitted to the Building Inspector and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been floodproofed and the finished grades of all disturbed areas.

**~174-44. Reserved.**

**~174-45. Reserved.**

**~174-46. Reserved.**

**~174-47. Reserved.**

**ARTICLE X. SPECIAL REGULATIONS****~174-48. Open space residential development.****~174-48.1. General provisions.**

A. Purposes. The purposes of open space-residential development (OSRD) are to:

- (1) Preserve open space, agricultural and forestry land, viewsheds, wildlife habitat and corridors, wetlands and water resources, and historical and archeological resources;
- (2) Minimize the total amount of disturbance on a site;
- (3) Encourage more efficient development that consumes less open land and respects existing topography and natural features better than a conventional or grid subdivision;
- (4) Encourage flexibility and creativity in the design of residential developments; and
- (5) Through flexible design and more efficient use of land, facilitate the provision of a variety of housing opportunities in the Town.

B. Applicability.

- (1) In the RA and RB Districts, an OSRD shall be allowed by-right, consistent with the purposes and provisions of this § 174-48 and subject to a major plan review under § 174.7.5.
- (2) To be eligible as an OSRD, the proposed tract of land:
  - (a) Shall consist of a parcel or two or more contiguous parcels. The Planning Board may determine that two or more parcels separated by a road, right of way, or similar feature are “contiguous” for the purposes of this section if they will effectively serve the purposes of this section.
  - (b) May, but need not be, a subdivision or a division of land pursuant to G.L. c. 41, § 81P. An OSRD may also be approved if the property will be held in condominium or cooperative ownership or other form not involving a subdivision.

**~174-48.2. Basic requirements.**

A. No building permit shall be issued for an OSRD unless the Planning Board has first granted all of the approvals required under this § 174-48 and § 174-7.

B. Uses. An OSRD may include:

- (1) Detached single-family dwellings.

- (2) Two-family dwellings.
- (3) Conservation, agricultural or horticultural uses, and passive recreation.
- (4) Accessory recreational amenities for residents of the OSRD, such as a community center, tennis court, or playground.
- (5) By special permit with major plan review under § 174-7.6:
  - (a) Townhouses, up to five (5) units per building.
  - (b) Multi-family units, up to eight (8) units per building.

C. Dimensional and density requirements.

- (1) Except as provided in § 174-48.6, the maximum number of dwelling units in an OSRD shall not exceed the base maximum number established under subsection D below.
- (2) To maximize the open space area or facilitate a desired arrangement of buildings and other amenities, the minimum lot dimensional requirements of the RA or RB district, as applicable, shall not apply in an OSRD, and the Planning Board may allow more than one dwelling on a lot in an OSRD, except as follows:
  - (a) No residential lot shall have a minimum frontage of less than twenty-five (25) feet unless the Planning Board determines by special permit that a further reduction in frontage serves the purposes of this section. Individual townhouse lots shall have frontage of not less than twenty-five (25) feet.
  - (b) Lots having reduced lot area or frontage shall not have frontage on a street other than a street within the OSRD unless the Planning Board determines that such reduced lot(s) or frontage on other streets serves the purposes of this section and will not have a detrimental impact on surrounding residential properties.
  - (c) Front yards may be staggered to provide for variety in setbacks and to minimize land disturbance. However, no structure shall have a front setback of less than fifteen (15) feet, and the average front setback for residential structures in the OSRD as a whole shall be twenty-five (25) feet. The minimum side and rear setback shall be ten (10) feet, except that for townhouses or two-family structures, side setbacks between units may be 0 feet.
  - (d) Townhouse structures shall be clustered in groups, with not more than twenty (20) dwelling units in any one cluster.
  - (e) Unless the Planning Board grants a special permit to provide greater flexibility, no two structures shall be closer than their average height,

excluding accessory structures not exceeding one story and seventeen (17) feet in height. Clusters of townhouse structures shall be separated by a minimum of fifty (50) feet unless reduced by special permit from the Planning Board.

- (f) No residential structure in an OSRD shall be located closer than fifty (50) feet in the RA district and thirty (30) feet in the RB district to an existing residence on abutting land.
- (3) The Planning Board may grant a special permit to waive any of the limitations under subsection (C)(2) above if doing so serves the purposes of this § 174-48, in the opinion of the Planning Board.
- D. Base maximum number of dwelling units. The base maximum number of dwelling units allowed in an OSRD shall be determined by the following two-part formula:
- (1) Total tract area (in square feet) minus 10 percent = net tract area (in square feet), and
  - (2) Net tract area divided by the minimum lot size for the applicable zoning district = base maximum number of units
- E. Common open space. The common open space in an OSRD shall be protected in perpetuity and shall comply with the standards herein. The common open space shall have no structures, parking, private yards, patios, or gardens restricted for the exclusive or principal use by the occupants of individual dwelling units. The common open space shall not be further subdivided, and a notation to this effect shall be placed on the plan of record, which shall be recorded with the Registry of Deeds. The following standards apply to the common open space in an OSRD:
- (1) Minimum protected area. A minimum of fifty (50) percent of the total tract area shall be protected in perpetuity, in compliance with the requirements for common open space.
  - (2) Use, shape, and location.
    - (a) Except as allowed under paragraphs (b) through (f) below, the open space shall be undisturbed, unaltered, and left in its natural or existing condition. It shall be appropriate in size, shape, dimension, location, and character to be functional for wildlife habitat, conservation, passive recreation, or agriculture or equestrian uses, and shall be served by suitable access for such purposes. Not more than three percent (3%) of the open space may be covered by gravel roadways, pavement, or structures accessory to the dedicated use or uses of the open space unless approved by the Planning Board.
    - (b) The percentage of open space that includes wetlands shall not exceed the percentage of the site that includes wetlands unless a larger percentage of

wetlands promotes the purposes of this section, as determined by the Planning Board.

- (c) Wherever possible, the common open space shall be contiguous and linked as a unit and linked to other existing open space.
  - (d) Existing trails shall be kept open for limited recreational use.
  - (e) Underground utilities providing shared or common benefits to residents of the OSRD site may be located within the common open space.
  - (f) Community sanitary or shared drainage facilities serving the OSRD may be located within the open space. However, surface systems such as retention and detention ponds shall not count toward the minimum common open space requirement.
  - (g) Existing or proposed utility easements shall not be counted as common open space unless approved by the Planning Board.
- (3) Ownership and maintenance.
- (a) Common open space within an OSRD shall be conveyed in accordance with the provisions of G.L. c. 40A, § 9, as determined by the Planning Board. When common open space is not conveyed to the Town, a conservation restriction or agricultural preservation restriction enforceable by the Southborough Conservation Commission or other board under G.L. c. 184, §§ 31-32, conforming to the standards of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services or Department of Agricultural Resources, or successor agencies, shall be recorded with the Registry of Deeds, and the Board of Selectmen is hereby authorized to accept such restrictions if the Conservation Commission declines to do so in any instance. The common open space shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein, and maintained in a manner which will ensure its suitability for its intended purposes. Any common open space that does not qualify for inclusion in a conservation restriction or agricultural preservation restriction or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a restrictive covenant, which shall be approved by the Planning Board and Board of Selectmen and enforceable by the Town.
  - (b) When the common open space is conveyed to corporation, homeowners association, or trust owned jointly or in common by the owners of lots or units within the OSRD, maintenance of common open space shall be guaranteed in perpetuity by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot and unit. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions to effect these requirements. Documents creating such homeowners

association, trust, or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded with the Registry of Deeds.

- (c) In any case where open space is not conveyed to the Town, the Planning Board may impose specific maintenance requirements as a condition of the special permit or require the posting of a performance bond to ensure that the common open space is properly maintained, or both. In addition, the Town shall be granted an easement over the common open space to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the corporation, trust, or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the owners and public hearing, enter upon the common open space to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the common open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.

F. General design standards. The following minimum design standards shall apply to any OSRD and shall govern the design and development process for the site.

- (1) Landscape preservation. An OSRD shall preserve the landscape in its natural state by minimizing tree removal and grade changes. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. The location and orientation of individual building sites shall be such as to maintain maximum natural topography and limit the removal of trees six (6) inches or more in diameter at breast height (dbh). Topography, viewsheds, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as elements that can be changed to follow a particular development scheme.
- (2) Roadway design. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the proposed site.
- (3) Lower-impact development. The OSRD shall conform to the requirements of § 174-38.
- (4) Cultural resources. The removal or disruption of archaeological or historical resources shall be minimized.
- (5) Architectural design. In scale, massing, height, exterior materials, and roofline articulation, residential structures in an OSRD shall be compatible with existing structures in surrounding residential areas when such existing structures have a functional or visual relationship to the proposed structures.
- (6) Visibility of open space. Open space in the OSRD, whether common open space or other open space, shall be designed to add to the visual amenities of the area by

maximizing its visibility for persons passing the site or overlooking it from nearby properties.

- (7) Common driveways. A common or shared driveway shall serve not more than two (2) single-family dwellings unless the Planning Board determines that a common driveway serving more than two (2) units will serve the purposes of this section.
- (8) Pedestrian circulation. Where appropriate, walkways shall be provided within the OSRD to link residences with parking areas, recreation facilities, open space, and adjacent land uses.
- (9) Off-street parking. All off-street parking in an OSRD shall conform to the requirements of § 174-34.

### **~174-48.3. Procedures.**

- A. Pre-application Meetings. OSRD applicants are encouraged to meet with the Planning Board prior to submitting a major plan review application. The purposes of a pre-application meeting are to solicit guidance from the Planning Board at the earliest possible stage in the process in order to identify site design issues and to establish an approximate number of allowed residential dwelling units, thereby keeping the applicant's costs for landscape design, site engineering, and other technical expertise to a minimum. At the request and expense of the applicant, the Planning Board may engage technical experts to review the applicant's informal plans and to facilitate submittal of a formal site plan approval application.
- B. Concept plan. A concept plan shall be submitted as part of the site plan approval application. A concept plan is defined as a minimally detailed, schematic drawing of the proposed OSRD that contains sufficient information regarding existing and proposed conditions to allow the Planning Board to understand the nature and physical impact of the development on the property and vicinity. Site constraints that figure into the analysis may be delineated from existing secondary sources such as local wetlands maps, Massachusetts Department of Environmental Protection Wetlands Conservancy Program maps, Natural Heritage and Endangered Species Program maps, Geographic Information System (GIS) resources, USDA soils maps, information from deed documentation, and other governmental, institutional, and private sources.
- C. OSRD major plan review.
  - (1) General. All OSRD applications shall be subject to major plan review under § 174.7.5 of this Bylaw, except as modified herein. The Planning Board may waive particular submission requirements for an OSRD if such requirements are determined to be inapplicable or unnecessary for major plan review purposes, provided that doing so is consistent with the purposes of this § 174-48.
  - (2) Public hearing and decision framework. A public hearing shall be conducted by the Planning Board and a decision rendered within ninety (90) days of receipt of

the application. Failure to take action within the 90-day period shall be deemed to constitute approval of the site plan application unless major plan review is integrated with a definitive plan in a concurrent hearing process.

- (3) OSRD four-step design process. The major plan review application shall contain plans, illustrations, and narrative material sufficient to demonstrate to the Planning Board that the four-step design process set forth below was performed by a Massachusetts registered landscape architect or a team which includes a Massachusetts registered landscape architect in establishing the layout of open space, housing units and clusters, streets, and lots.
  - (a) Step one: identification of conservation areas. The first step in the design process shall be to identify, analyze, and incorporate in the plans the natural, hydrological and wetlands resources, wildlife habitat, scenic corridors and views, agriculture, horticulture and forestry operations, cultural resources and other natural and man-made features of value to the community that exist on the OSRD tract and immediate vicinity. In addition, the OSRD concept plan shall be considered in the larger context of neighborhood character, transportation and transit services, district land use patterns, cultural issues and other factors that might affect, or be affected by, the OSRD. The outcome of Step One is to identify likely open space protection areas and in a preliminary way the potentially developable parts of the OSRD tract.
  - (b) Step two: location of housing sites (clusters). The second step shall be to locate the approximate siting of residential structures within the potentially developable areas, including the delineation of private yards and shared amenities so as to reflect an integrated community. The number of dwelling units with direct access to the natural and man-made amenities of the OSRD should be maximized.
  - (c) Step three: alignment of streets and trails. The third step shall be to align streets in order to provide access to the housing clusters and residential structures. New trails should be laid out to create internal and external connections to existing or potential streets, sidewalks, and trails.
  - (d) Step four: drawing of lots and easement lines. The final step shall be to draw in the lot lines depicting the subdivision of the OSRD tract, including all easements and deed restrictions shown on the plan. In the case of condominiums or cooperatives without individual lot ownership, assumed lot lines for illustrative purposes may be depicted on the plans.

#### **~174-48.4. Approval.**

A. The Planning Board shall approve an application for OSRD major plan review if:

- (1) The site plan for the proposed OSRD does not create undue risk to public health, safety and welfare;

- (2) The site plan meets the submission requirements and approval conditions for major plan review in Section 174.7.5; and
  - (3) The OSRD furthers the purposes of this section, including adequate use of the four-step design process described in § 174.48.3(C) and compliance with general design standards § 174.48.2(F).
- B. Effect of major plan approval. The Planning Board's OSRD major site plan decision shall lapse after two (2) years following the date thereof. The Planning Board may grant one or more one-year extensions if the applicant petitions for the same prior to the date of expiration. If the actions approved in the site plan decision are not exercised within two (2) years or the extension period, if any, authorized by the Planning Board, a new site plan application, notice, hearing, and approval will be required prior to the issuance of a building permit.
- C. The issuance of certificates of occupancy within an OSRD may be withheld pending satisfactory completion of all elements and conditions, including preservation and treatment of common open space containing no structures.

**~174-48.5. Definitive plan and relation to major plan review.**

For an OSRD that involves a subdivision of land, the applicant shall comply with the Subdivision Control Law, G.L. c. 41, §§ 81K-81GG, by submitting a definitive plan to the Planning Board. Said plan shall comply with all applicable requirements of the Chapter 244 of the Southborough Town Code, Subdivision of Land. The definitive plan shall not vary materially from the site plan in any significant detail or design aspects. The applicant may request, with Planning Board concurrence, a combined public hearing process for major plan review and the definitive plan, with separate decisions being written and recorded at the conclusion of the process. In such instances, the Planning Board shall hold a public hearing and render a decision on both applications (major plan review and the definitive plan) within the time periods specified in G.L. c. 41, § 81U. If the applicant chooses to file the definitive plan after the Planning Board approves the site plan, the Planning Board shall hold a hearing and take action in accordance with G.L. c. 41, § 81U. Nothing in this section shall be construed to preclude the filing of a preliminary subdivision plan prior to a definitive plan, as provided in G.L. c. 41, §81S.

**~174-48.6. Allowable increases in density by special permit.**

The Planning Board may approve a special permit for a density bonus to increase the number of dwelling units beyond the base maximum number of units determined in accordance with § 174-48.2(D). For fractions over one-half, computations shall be rounded up to the next whole number.

A. A density bonus may be approved in the following circumstances:

- (1) For each additional ten percent (10%) of the site set aside as common open space, over and above the minimum required fifty percent (50%) under § 174-48.2(E), a bonus of five percent (5%) of the base maximum number may be approved.

- (2) For every one (1) dwelling unit in a townhouse or multi-family structure and limited to a maximum of two (2) bedrooms, one (1) additional unit may be added to the base maximum number.
- (3) For every one historically significant building or structure preserved as part of the OSRD, one (1) additional unit may be added to the base maximum number. The determination of historical significance shall be made by and at the sole discretion of the Planning Board in consultation with the Southborough Historical Commission.
- (4) For every one (1) dwelling unit restricted in perpetuity as affordable housing as defined in Article II, three (3) market-rate dwelling units may be added to the base maximum number. Affordable housing units shall be eligible for a density bonus under this section only if they comply with all applicable requirements of § 174-49.

B. A density bonus may be based on any combination of the circumstances listed under subsections (A)(1) through (A)(4) above, provided that in no event shall the density bonus for the OSRD exceed, in the aggregate, fifty percent (50%) of the base maximum number. The density bonus for affordable units shall be exempt from the aggregate fifty percent (50%) limit.

**~174-48.7. OSRD regulations.**

Following a public hearing, the Planning Board may adopt OSRD rules and regulations not inconsistent with this Zoning Bylaw or the laws of the Commonwealth. Such rules and regulations shall be on file in the Southborough Planning Department and with the Town Clerk.

**~174-49. Incentives for affordable housing.**

**~174-49.1. General provisions.**

A. Purposes. The purposes of this section are to:

- (1) Provide housing that is affordable to low- or moderate-income households.
- (2) Assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a comprehensive permit.
- (3) Encourage mixed-income neighborhoods.
- (4) Achieve a diverse and balanced community with housing available for households of all income levels as a matter of basic fairness.
- (5) Provide reasonable cost offsets to developers who provide new affordable units.

- (6) Implement the major goals and policies of the Southborough Master Plan with respect to housing choices and affordable housing.

B. Applicability. The Planning Board may grant a special permit for a development with four (4) or more dwelling units where the applicant voluntarily seeks approval under this § 174-49.

**~174-49.2. Basic requirements.**

A. Minimum affordable housing requirement. In any development subject to this section, at least 12.5 percent of the units shall be affordable housing as defined in Article II. For fractions over one-half, computations shall be rounded up to the next whole number, and for fractions equal to or less than one-half, computations shall be rounded down to the next whole number.

B. Affordability standards.

- (1) Except as provided in subsection (B)(2) below, each affordable unit created under this § 174-49 shall be sold or rented to a qualified household as defined in Article II and occupied by said household as its principal residence.
- (2) When an applicant provides at least one-half of the required affordable units for households with income at or below fifty percent (50%) of area median income, the remaining affordable units may be sold or rented to households with incomes up to one hundred percent (100%) of area median income, adjusted for household size, subject to approval by the Planning Board.

C. Methods of providing affordable housing. Affordable housing shall be provided through one or more of the following methods, or any combination thereof:

- (1) On-site units: affordable housing constructed on the same site as the proposed development. This is the preferred method of providing affordable housing.
- (2) Off-site units: affordable housing provided on a different site in the same or a more restrictive district in the Town of Southborough.
- (3) Payment of a fee in lieu of units: in lieu of providing on-site or off-site units, the applicant may make a cash contribution to the Southborough Affordable Housing Trust. The fee per affordable housing unit shall be 2.5 times the HUD income limit for a qualified household of four persons.

D. Location and comparability of affordable units.

- (1) On-site units shall be dispersed throughout a development. For multi-family dwellings, on-site units shall be dispersed throughout the buildings and the floors of each building such that no single building or floor therein has a significantly disproportionate percentage of affordable housing.

- (2) Affordable units, whether on-site or off-site, shall be comparable to market-rate units in exterior building materials and finishes, overall construction quality, energy efficiency, and amenities.
- E. Production schedule. On-site and off-site affordable units shall be constructed in proportion to the number of market-rate units in the development. For every four (4) units for which a building permit has been issued, at least one (1) shall be an affordable unit, and the affordable unit shall meet the requirements for a certificate of occupancy before any additional building permits shall be issued for market-rate units. When the applicant has been approved for a payment in lieu of units, the full payment may be made prior to the issuance of any building permits or paid in equal installments prior to the issuance of each building permit. The Planning Board may approve an alternative production schedule if it determines that such alternative serves the purposes of this section.
  - F. Affirmative marketing. The selection of eligible homebuyers or renters for the affordable units shall be in accordance with an affirmative marketing plan approved by the Planning Board and the Massachusetts Department of Housing and Community Development (DHCD), or successor agencies, prior to the issuance of any building permits for the development.
  - G. DHCD requirements. The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to approve the affordable units for listing on the Chapter 40B Subsidized Housing Inventory.

#### **~174-49.3. Density bonus.**

- A. For an OSRD, the density bonus for affordable units shall be as set forth in § 174-48.6.
- B. For any other development, the Planning Board may approve up to three (3) additional market-rate units for each affordable unit provided by the applicant. For example, in a development that would normally be allowed to have four (4) units under the district's dimensional and density requirements, one (1) shall be an affordable unit, and in exchange for providing one (1) affordable unit, the applicant shall be eligible to request three (3) additional market-rate units, for a combined total of seven (7) units in the development. In granting a special permit for this purpose, the Planning Board shall have authority to modify the dimensional and density requirements that apply to the development in order to accommodate the additional units.

#### **~174-49.4. Procedures.**

- A. No building permit shall be issued for a development that is subject to this § 174-49 unless the Planning Board has granted a special permit.
- B. The special permit application submitted under this § 174-49 shall include the following information:
  - (1) Computation of the minimum required number of affordable units under § 174-5.2;

- (2) Computation of the density bonus under § 174-55.3;
  - (3) A plan showing the proposed location of the affordable units in the development;
  - (4) A table showing the proposed unit sizes and configurations of all units, demonstrating substantial comparability between the proposed market-rate and affordable units; and
  - (5) The proposed affordable housing restriction and, for homeownership units, the proposed affordable housing deed rider.
- C. The special permit application, review, and decision procedures shall be in accordance with § 174-6 and the Planning Board's rules and regulations.

**~174-49.5. Preservation of affordability.**

- A. Affordable housing units shall be subject to an affordable housing restriction.
- B. No building permit shall be issued unless the affordable housing restriction has been approved by the Planning Board and DHCD or successor agencies, and the restriction has been recorded with the Registry of Deeds, as applicable.
- C. For an affordable homeownership unit, no certificate of occupancy shall be issued until the applicant submits documentation acceptable to the Building Inspector that an affordable housing deed rider has been signed by the homebuyer and recorded with the Registry of Deeds, as applicable.

**~174-49.6. Affordable housing regulations.**

The Planning Board may adopt inclusionary housing rules and regulations in order to administer this section, following a public hearing. Such rules and regulations shall not be inconsistent with this Bylaw or the laws of the Commonwealth, and shall be on file in the Southborough Planning Department and with the Town Clerk.

**~174-50. Common driveways.**

- A. Except in an OSRD, no common driveway serving more than two detached single-family dwellings shall be allowed in any district unless the Planning Board determines that such common driveway would be more beneficial to the Town than a conventional plan roadway, in which case the Planning Board may grant a special permit. Prior to granting a common driveway special permit, the Planning Board shall be assured that the following minimum requirements have been met:
  - (1) Each lot served by a permitted common driveway shall have its own required frontage on a public way.

- (2) The design of common driveways shall assure adequate access for emergency and public safety vehicles to include turnaround provision in all seasons, provide water service, if available, including hydrants, and provide adequate drainage of surface waters.
  - (3) A declaration of covenants, easements and restrictions for the use and maintenance of said common driveways shall be required by the Planning Board and shall include satisfactory arrangements concerning driveway maintenance, snowplowing and restriction against future use as a public way. Said covenants, easements and restrictions shall be perpetual, run with the land and be recorded with the Registry of Deeds.
  - (4) In the best interest of public safety, the Planning Board may require the common driveway to be officially named, clearly identified with appropriate signage and with all residences within the way addressed to indicate this name.
- B. The Planning Board shall hold a public hearing on any request for a common driveway permit within thirty (30) days of receipt of the application, and shall seek comments and recommendations from the Departments of Public Safety and Public Works, the Board of Health, and the Conservation Commission.
- C. Enforcement. To assure that the conditions of the common driveway permit are met to the greatest extent possible, the following items shall be satisfied prior to the issuance of any occupancy permit for any house on the common driveway:
- (1) A Town-approved Declaration of Common Driveway, Easement and Covenant shall be signed by the buyer and filed with the Registry of Deeds. A master covenant, designed by the Planning Board, may be used for this purpose.
  - (2) It shall be the applicant's responsibility to provide the Building Inspector with the above required documentation, including, if requested by the Building Inspector, an engineering report asserting that all required work has been completed per the plans and conditions approved by the Planning Board.

## **~174-51. Wireless communications facilities.**

### **~174-51.1. General provisions.**

- A. Purposes. The purposes of this section are to minimize the adverse visual and environmental impacts of communication structures such as monopoles and their related buildings and appurtenances. The standards set forth in this section are intended to preserve the safety, character, appearance, property values, natural resources, and historic structures of the Town; mitigate adverse visual effects through proper design, location and screening; encourage co-location of antennas on a structure wherever feasible in order to minimize the number of sites and structures required; encourage location of antennas on existing towers; and protect the Town from the effects of uncontrolled

development and location of wireless telecommunications towers, wireless service facilities and accessory structures, while recognizing federally granted rights of carriers to provided necessary and marketable telecommunications services.

- B. **Applicability.** This section applies to any wireless communications facility (wireless communications facility) as defined in Article II, except for the following:
- (1) Police, fire, ambulance, public works, and other emergency dispatch;
  - (2) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC, are exempt, provided that the tower is not used or licensed for any commercial purpose, and the tower shall be removed at the expense of the owner upon loss or termination of said FCC license.
  - (3) **Definitions.** Special terms used in this § 174-51 shall have the meanings shown under "Wireless Communication Facility" in Article II.

**~174-51.2. Basic requirements.**

- A. **Building permit required.** No wireless telecommunications facility shall be placed, constructed, or modified without a building permit subject to the provisions of this § 174-51.
- B. **Federal and state requirements.** Wireless telecommunications service facilities and equipment shelter shall be constructed, installed, maintained and used in compliance with all applicable Federal and State laws, rules and regulations.
- C. **Use regulations.**
- (1) A wireless telecommunications service facility antenna may be attached to any existing lattice tower, monopole, utility pole, electric utility transmission tower, or water tank in any zoning district, except on towers supporting antennas used for citizen's bands, amateur radio, or television receiving antennas, provided that the installation of the new facility does not substantially alter the size or increase the height of the existing structure. No building permit for such installations shall be issued without major plan approval by the Planning Board under § 174-7.5. The installation of a wireless telecommunications service facility attached to an existing structure may exceed the height of such structure by no more than ten (10) feet, subject to the issuance of a special permit by the Board of Appeals and site plan approval by the Planning Board.
  - (2) A wireless telecommunications service facility antenna may be installed within any existing church steeple in any district, provided such antenna and accessory equipment is completely enclosed and not visible from outside the structure.
  - (3) A wireless telecommunications service facility antenna may be installed within any structure used exclusively for business in a business district, provided such antennas are completely enclosed and not visible from any adjacent street. No

building permit for such installations shall be issued without major plan approval by the Planning Board in accordance with § 174-7.5. The installation of an exterior wireless communication facility antenna on a structure used exclusively for business in a business district shall not exceed the existing height of the building by more than ten (10) feet, subject to the issuance of a special permit by the Board of Appeals and site plan approval by the Planning Board.

- (4) Subject to a special permit from the Board of Appeals and major plan review by the Planning Board, a wireless telecommunications service facility tower and accessory equipment shelter(s) may be constructed provided the maximum tower height shall be one hundred (100) feet above ground level. A whip antenna may extend a maximum of ten (10) feet above the top of a tower. Guyed towers are prohibited.
- D. Location. Wireless telecommunications service facilities shall be as unobtrusive as possible and, if mounted on a business structure, shall be compatible with the style and color of the structure upon which it is located.
- E. Camouflage. Where a wireless telecommunications service facility extends over the roof height of a business structure on which it is mounted, every reasonable effort shall be made to conceal the facility within or behind architectural features to limit its visibility from streets and adjacent properties. Facilities mounted on a roof shall be stepped back from the front façade in order to mitigate impact on the building silhouette. Wireless telecommunications service facilities that are side-mounted shall blend with the existing structure's architecture and, if over five (5) square feet, shall be painted or screened with material that is consistent with the design features and materials of the building.
- F. Color. Wireless telecommunications service facilities that are side-mounted or top-mounted on business structures shall be painted or constructed of materials to match the color of the building material to which they are attached. All other facilities including towers shall be painted or finished in light gray/blue hue that blends with sky and clouds, shall not be lighted, and shall not be painted with hazard paint.
- G. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- H. To the maximum extent practicable and technologically feasible, all wireless communications facilities shall be co-located with one or more wireless communications facilities for which a special permit has been previously granted and whose height, location, and characteristics meet the needs of the proposed new wireless communications facility. The applicant shall demonstrate to the Board of Appeals that it has made a reasonable effort to co-locate the proposed wireless communications facility upon an existing structure or wireless communications facility.
- I. All new wireless communication monopoles or support structures shall be designed and constructed, to the maximum extent practicable with existing technology and within the height limits set forth in this section, for co-location of antennas and other necessary facilities for at least three (3) additional wireless communication providers, and shall

offer space to all other providers at market rates. Any special permit granted for a new wireless communications facility under this section shall be conditioned upon the written agreement of the wireless communications facility operator to allow the co-location of at least three other wireless communication providers on commercially reasonable terms. If co-location facilities are not installed at the time of construction of the wireless communications facility, then at the time of any addition of a co-located facility, the holder of the special permit and the new provider shall notify the Board of Appeals and the Building Inspector that the installation has occurred and certify that the installation has been performed in accordance with the special permit for the wireless communications facility.

- J. In descending order of district preference, a wireless communications facility shall be located in the IP, I, HB, BRB, RA, or the RB District, and not in any village business district. Any applicant not proposing to locate a wireless communications facility in the IP, I, or HB District shall demonstrate why it is not feasible for the wireless communications facility to be located in one of these three districts or co-located with an existing wireless communications facility.
- K. No wireless communications facility shall contain more than one (1) monopole, tower, or other structure for elevating an antenna or dish.
- L. Minimum dimensional requirements.
  - (1) Not more than one wireless communications facility, except co-locators, shall be constructed on one (1) lot. In no event shall any wireless communications facility be located closer than one (1) mile to any other wireless communications facility unless the applicant can show that no existing space on the existing wireless communications facility can be leased or procured.
  - (2) The maximum height of the wireless communications facility shall not exceed one hundred (100) feet above ground level in the IP, I, or HB District, and shall not exceed seventy-five (75) feet above ground level in the BRB, RA, or RB District. The Board of Appeals may waive the maximum height limit in exceptional circumstances to allow a greater height where such action is in the public interest and is not inconsistent with the purposes of this section. A whip antenna may extend a maximum of ten (10) feet above the top of a tower.
  - (3) In the IP District, I District, and HB District, the minimum setback for a wireless communications facility tower shall be the sum of its vertical height above ground level and the height of the highest attached whip antenna above the structure, or its fall zone, whichever is greater. The minimum distance from the center of the tower base of any wireless communications facility tower to a dwelling unit on abutting or nearby property shall be four hundred (400) feet. The Board of Appeals may waive such requirement in exceptional circumstances to allow a lesser setback where such action is in the public interest and is not inconsistent with the purpose and intent of this Bylaw.

- (4) In the BRB District and in any residential district, the minimum setback for a wireless communications facility tower shall be five (5) times its vertical height above ground level and the height of the highest attached whip antenna above the structure, or its fall zone, whichever is greater. The minimum distance from the center of the tower base of any wireless communications facility tower to a dwelling unit on abutting or nearby property shall be five hundred (500) feet. The Board of Appeals may waive such requirement in exceptional circumstances to allow a lesser setback where such action is in the public interest and is not inconsistent with the purpose and intent of this Bylaw.

M. Minimum reporting requirements.

- (1) Within ninety (90) days of commencing operations of the wireless communications facility and annually thereafter, the owner shall submit to the Building Inspector existing measurements of RFR from the wireless communications facility. All annual RFR measurements shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed and certified by a radiofrequency engineer, stating that RFR measurements are accurate and meet FCC regulations. Testing shall be done for all freestanding facilities and all mounted facilities. The RFR shall not exceed FCC regulations.
- (2) Within ninety (90) days of commencing operations of the wireless communications facility and annually thereafter, the owner shall submit to the Building Inspector existing measurements of noise from the wireless communications facility and documentation of the status of the facility's federal license. All annual noise reports shall be due July 1 of each year. Such measurements shall be performed by an independent consultant and shall be signed by an acoustical engineer, stating that noise measurements are accurate. Testing shall be done for all freestanding facilities and all mounted facilities.
- (3) A qualified independent structural engineer shall perform a structural safety inspection of the wireless communications facility at least once every two (2) years, and shall deliver a copy of said reports to the Town Engineer on July 1. All structural safety deficiencies noted in any such report shall be remedied and the Building Inspector notified by the structural engineer within sixty (60) days of the date of the report.

N. Minimum design standards. The minimum design provisions for a wireless communications facility shall include, but are not limited to:

- (1) No new wireless communications facility shall be placed or constructed that uses a lattice-type construction which requires more than three (3) legs or guy wire supports or both.
- (2) Except as provided herein, every wireless communications facility shall comply with all applicable sign regulations in this Bylaw. Notwithstanding any other

regulation, however, no wireless communications facility shall place any sign above the height of ten (10) feet, measured from the ground to the highest point of the sign, or twelve (12) feet to the top of the sign structure.

- (3) All monopoles, antennae, antennae support structures, and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings, and structures of the surrounding area. Such structures shall be constructed of nonreflective materials.
- (4) Every building-mounted wireless communications facility shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that match or blend with those of the building.
- (5) The related unmanned equipment and/or building, per carrier, shall not contain more than eight hundred (800) square feet of gross floor area or be more than ten (10) feet in height.
- (6) There shall be a minimum of one (1) parking space for each wireless communications facility, to be used in connection with maintenance of the site and not to be used for the permanent storage of vehicles or other equipment.
- (7) Fencing eight (8) feet in height, notwithstanding any other requirements of this Bylaw, shall be erected around the base of any wireless telecommunications service tower or monopole and any equipment shelter sufficient to prevent public entry to the facility. Barbed wire or razor wire is prohibited.
- (8) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.
- (9) Every wireless communications facility shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and structures and to limit the need to remove existing vegetation. All equipment shall be colored, molded, and installed to blend into the existing structure or landscape.

O. Minimum environmental standards.

- (1) No hazardous waste shall be discharged on the site of any wireless communications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- (2) Ground-mounted equipment for a wireless communications facility shall not generate noise in such concentrations and of such duration as to:

- (a) Be greater than fifty (50) dB at any audible frequency measured at the wireless communications facility property line;
  - (b) Be injurious, or on the basis of current, credible scientific information, be potentially injurious to human or animal life, to vegetation, or to property; or
  - (c) Unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.
- (3) Roof-mounted or side-mounted equipment for wireless telecommunications service facilities shall not generate noise in excess of fifty (50) dB at ground level at the base of the building closest to the antenna.

P. Cessation of use; minimum bond requirement.

- (1) All structures associated with a wireless communications facility shall be removed at the expense of the property owner or the tower owner within one (1) year of cessation of said use.
- (2) A wireless communications facility shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was constructed for a period of one (1) year or more. Once abandonment or discontinuance has occurred, the owner, at his expense, shall remove the wireless communications facility from the subject property within ninety (90) days. In the event that the owner fails to remove the wireless communications facility, the Town shall give notice to the owner and, if appropriate, the independent escrow agent, that the wireless communications facility shall be removed forthwith and the Town or the escrow agent shall, after providing written notice seven (7) days in advance to the owner, remove the wireless communications facility.
- (3) As a condition of any special permit for the placement, construction, or modification of a wireless communications facility, the applicant shall provide a bond, in a form acceptable to the Board of Appeals, or shall place into escrow a sum of money sufficient to cover the cost of removing the wireless communications facility from the property, and furthermore, said funds shall be held by the Town Treasurer or an independent escrow agent to be appointed by the carrier and the Board of Appeals. The amount of the surety shall be certified by a Massachusetts registered engineer, architect, or other qualified professional. The applicant shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the property to remove the wireless communications facility when the wireless communications facility has been abandoned or discontinued.
- (4) The special permit shall further state that in the event the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover any such difference in cost.

- (5) The applicant shall provide to the Board of Appeals and the Building Inspector a contact for emergencies, and said contact person and phone number and the owner of the wireless communications facility and their phone number shall be posted on the fence surrounding the wireless communications facility.

**~174-51.3. Procedures.**

**A. Application.**

- (1) An application for a building permit for the installation of a wireless telecommunications service facility antenna that does not require a special permit under this section shall include a site plan approved by the Planning Board under § 174-7.5.
- (2) Application for a wireless communications facility requiring a special permit shall be submitted to the Board of Appeals under § 174-4 and this section. Submission requirements shall be in accordance with the rules and regulations of the Board of Appeals, and shall be sufficient for the Board to make the required findings for a special permit under § 174-4.
- (3) The special permit application shall be accompanied by a site plan application to the Planning Board. The site plan application shall be in accordance with § 174-7.5 and shall contain sufficient information to demonstrate that the proposed wireless communications facility meets all applicable requirements of § 174-51.2. The Board of Appeals and Planning Board may, with the applicant's consent, conduct joint public hearings to consider the special permit and site plan. In such cases, the time periods for a public hearing and decision on the site plan may be modified to align with the time periods for a public hearing and decision on the special permit.

- B. Decision.** A special permit for a wireless communications facility may be granted provided that a applicant satisfies the requirements of this section and § 174-4.

**~174-52. Adult uses.**

**~174-52.1. General provisions.**

- A. Purposes.** This section is enacted pursuant to G.L. c. 40A, § 9A in order to serve the compelling interests of the Town in preventing the clustering and concentration of adult entertainment enterprises because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect on generating crime and blight.
- B. Applicability.** The requirements of this section shall apply in any district in which adult uses are allowed by special permit in § 174-19, Schedule of Use Regulations.

- C. Special terms used in this § 174-58 shall have the meanings shown under "Adult Uses" in Article II.

**~174-52.2. Basic requirements.**

- A. The Board of Appeals may grant a special permit for an adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre, or adult live entertainment establishment only upon determining that all of the following requirements are met:
- B. No adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment shall be located less than one thousand (1000) feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, or another adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment. The distance of one thousand (1000) feet shall be measured from all property lines of the proposed adult use.
- C. No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre or adult live entertainment establishment merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of any adult bookstore, adult video store, adult paraphernalia store or adult motion picture theatre, or be visible to the public from the pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.
- D. No special permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, § 63, or G.L. c. 272, § 28.
- E. Signs for adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre and adult live entertainment establishment shall conform to the requirements of § 174-37 for signs in a village business district.

**TABLE 1: SCHEDULE OF USES (Rev.)**

USES	C	RA	RB	DVB	FVB/ CVB	FVB/9	BRB	HB	I	IP
<b>EXTENSIVE USES</b>										
Agriculture on five (5) or more acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Agriculture on less than five (5) acres <sup>1</sup>	Y	BA	BA	N	N	N	N	N	N	N
Conservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Day camp	N	BA	BA	N	N	N	N	N	N	N
Forestry	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Greenhouse	N	N	N	N	Y	Y	Y	Y	Y	Y
Public recreation	Y	Y	Y	Y	Y	Y	Y	Y	N	N
<b>RESIDENTIAL USES</b>										
Single-family dwelling	N	Y	Y	Y	Y	N	Y	N	N	N
Two-family dwelling (conversion)	N	BA	BA	BA	BA	N	BA	N	N	N
Live/work unit	N	N	N	PB	PB	N	PB	N	N	N
Dwelling units above the ground floor	N	N	N	PB	PB	N	PB	N	N	N
Open space-residential development	N	PB	PB	N	N	N	N	N	N	N
<b>BUSINESS USES</b>										
Goods and services										
Retail store	N	N	N	Y	Y	Y	Y	Y	Y	N
Convenience store	N	N	N	PB	PB	Y	Y	Y	Y	N
Retail sale of custom goods	N	N	N	Y	Y	Y	Y	Y	N	N
Bank or other financial institution	N	N	N	Y	Y	Y	Y	Y	Y	N
Personal service	N	N	N	Y	Y	Y	Y	Y	Y	N
Repair shop	N	N	N	N	PB	Y	Y	Y	Y	N
Professional or business office	N	N	N	Y	Y	Y	Y	Y	Y	Y

<sup>1</sup> Except that when commercial agriculture on two (2) or more acres yields at least \$1,000 per year in gross sales, it is subject to the same exemption under G.L. c. 40A, s. 3, as commercial agriculture on five (5) or more acres.

**TABLE 1: SCHEDULE OF USES (Rev.)**

<b>USES</b>	<b>C</b>	<b>RA</b>	<b>RB</b>	<b>DVB</b>	<b>FVB/ CVB</b>	<b>FVB/9</b>	<b>BRB</b>	<b>HB</b>	<b>I</b>	<b>IP</b>
Medical or dental office	N	N	N	PB	PB	Y	Y	Y	Y	Y
Business service	N	N	N	Y	Y	Y	Y	Y	Y	Y
Child care center	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Veterinarian, animal clinic, animal hospital	N	BA	BA	N	PB	PB	Y	PB	Y	PB
Kennel	N	BA	BA	N	N	N	BA	N	N	N
Club, private or membership.	N	N	N	PB	PB	PB	Y	N	N	N
Mixed-use building.	N	N	N	Y	Y	Y	Y	N	N	N
<b>Hospitality, food service, recreation/entertainment uses</b>										
Restaurant	N	N	N	PB	PB	PB	PB	Y	PB	PB
Take-out food service establishment	N	N	N	Y	Y	Y	Y	Y	PB	PB
Inn	N	N	N	PB	PB	PB	PB	Y	PB	N
Hotel or motel	N	N	N	N	N	N	N	PB	Y	PB
Extended stay hotel	N	N	N	N	N	N	N	PB	Y	PB
Conference center	N	N	N	N	N	N	N	PB	Y	PB
Theatre	N	N	N	PB	N	N	N	PB	Y	BA
Commercial amusement	N	N	N	N	N	N	PB	PB	Y	BA
Commercial recreation, indoor	N	N	N	N	PB	PB	PB	PB	Y	Y
Commercial recreation, outdoor	N	N	N	N	N	N	N	N	PB	PB
<b>Auto-related uses</b>										
Auto repair shop	N	N	N	N	N	N	PB	Y	PB	N
Auto sales	N	N	N	N	N	N	N	Y	Y	N
Commercial parking	N	N	N	N	N	N	N	Y	Y	N
Gasoline station	N	N	N	N	PB	PB	PB	Y	Y	N
<b>INDUSTRIAL USES</b>										
Research and development	N	N	N	N	N	N	N	N	PB	PB
Bioscience use	N	N	N	N	N	N	N	N	N	PB
Light industry	N	N	N	N	N	N	N	N	PB	PB

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**TABLE 1: SCHEDULE OF USES (Rev.)**

<b>USES</b>	<b>C</b>	<b>RA</b>	<b>RB</b>	<b>DVB</b>	<b>FVB/ CVB</b>	<b>FVB/9</b>	<b>BRB</b>	<b>HB</b>	<b>I</b>	<b>IP</b>
Clinical or medical testing laboratory	N	N	N	N	N	N	N	Y	Y	Y
Data processing and storage	N	N	N	N	N	N	N	N	Y	PB
Newspaper, job printing, or publishing	N	N	N	N	N	N	N	N	PB	PB
Warehouse or wholesale trade	N	N	N	N	N	N	N	N	PB	PB
Contractor's yard	N	N	N	N	N	N	N	N	PB	N
Agricultural and construction sales	N	N	N	N	N	N	N	PB	Y	N
Aviation facility <sup>2</sup>	N	N	N	N	N	N	N	PB	PB	PB
<b>PUBLIC SERVICES</b>										
Essential services	N	BA	BA	BA	BA	BA	BA	BA	BA	BA
Municipal facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Public transportation facility	N	N	N	N	N	N	N	Y	Y	Y
Sheltered bus stop	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wireless communications facility	N	BA	BA	N	N	BA	BA	BA	BA	BA
<b>INSTITUTIONAL USES</b>										
Educational use, public or non-profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Public or non-profit library, museum, or art gallery	N	N	N	Y	Y	Y	Y	N	N	N
Hospital	N	N	N	N	N	N	N	N	PB	PB
Assisted living residence	N	PB	PB	PB	PB	PB	PB	PB	N	N
Adult day care	N	N	N	PB	PB	PB	PB	PB	N	N
Continuing care retirement community	N	PB	PB	N	N	N	N	PB	N	N
Nursing home	N	PB	PB	N	N	N	N	PB	N	N

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<sup>2</sup> For purposes of this chapter, any area on a lot used for the landing and take-off of aircraft, as defined by M.G.L. c. 90, § 35, or helicopters on a regular or intermittent basis, shall not be considered an accessory use and shall not be allowed as an accessory use in any zoning district.

**TABLE 1: SCHEDULE OF USES (Rev.)**

<b>USES</b>	<b>C</b>	<b>RA</b>	<b>RB</b>	<b>DVB</b>	<b>FVB/ CVB</b>	<b>FVB/9</b>	<b>BRB</b>	<b>HB</b>	<b>I</b>	<b>IP</b>
<b>UNCLASSIFIED</b>										
Adult Uses	N	N	N	N	N	N	N	N	N	PB
<b>ACCESSORY USES</b>										
<b>Residential</b>										
Residential accessory structure	N	Y	Y	Y	Y	N	Y	N	N	N
Garage for more than 3 vehicles	N	BA	BA	BA	BA	N	BA	N	N	N
Accessory apartment	N	BA	BA	BA	BA	N	BA	N	N	N
Accessory cottage	N	BA	BA	BA	BA	N	BA	N	N	N
Room and board	N	Y	Y	BA	BA	N	BA	N	N	N
Home occupation	N	Y	Y	Y	Y	N	Y	N	N	N
Family day care	N	Y	Y	Y	Y	N	Y	N	N	N
Bed and breakfast	N	BA	BA	Y	Y	N	Y	N	N	N
Accessory antique or craft sales	N	BA	BA	Y	Y	N	Y	N	N	N
<b>Nonresidential</b>										
Outdoor display of merchandise	N	N	N	Y	Y	Y	Y	Y	N	N
Drive-through service	N	N	N	PB	PB	PB	PB	PB	N	N
Parking garage	N	N	N	PB	PB	PB	PB	PB	PB	PB
Employee training facility	N	N	N	N	N	N	N	N	PB	PB
Employee restaurant or cafeteria	N	N	N	N	N	N	N	Y	Y	Y
Retail accessory to an industrial use	N	N	N	N	N	N	N	N	PB	PB
Watchman's dwelling	N	N	N	N	N	N	N	N	PB	PB
Commercial vehicle parking and storage	N	N	N	N	N	N	N	Y	Y	Y

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**TABLE 2: DIMENSIONAL AND DENSITY REGULATIONS (Rev.)**

District	Minimum Lot Area	Minimum Upland	Minimum Frontage	Setbacks				Maximum FAR	Feet	Stories
				Maximum	Minimum					
				Front	Front	Side	Rear			
C	NA	NA	NA	NA	NA	NA	NA	NA	NA	
RA	43,560	20,000	150	NA	35	25	50	0.18	35	2.5
RB	25,000	15,000	100	NA	30	15	35	0.30	35	2.5
TCB	6,000	NA	40	10	None	5	10	0.75	37	3.0
FVB	10,000	NA	40	10	None	5	10	0.70	37	3.0
CVB	6,000	NA	60	15	None	5	10	0.75	37	3.0
FVB/9	20,000	NA	100	NA	25	10	35	0.60	37	3.0
BRB	20,000	10,000	100	NA	25	25	25	0.50	37	3.0
HB	43,560	20,000	200	NA	50	50	50	0.60	56	4.0
IP	43,560	20,000	200	NA	50	50	50	0.60	45	3.0
I	43,560	20,000	200	NA	50	50	50	0.60	56	4.0

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