

SECTION III

Use Regulations

III-A Schedule of Uses

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

P - Use permitted

A1 - Use allowed under a Special Permit by the Board of Appeals as provided in Section I-F

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

O - Use prohibited

2. Permitted uses and uses allowed by the Board of Appeals shall be in conformity with all dimensional requirements, off-street parking requirements, and all other applicable requirements of this By-Law. Allowed uses for projects authorized by a Mixed Use Special Permit under Section IV-G are set forth in Section IV-G.
3. In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, including, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption of marijuana, and any other types of licensed marijuana-related businesses, as well as businesses dealing in marijuana accessories, and the conducting of any such activity for commercial purposes by whatever name used, shall be prohibited within the Town of Hingham. This prohibition shall not be construed to prohibit Registered Marijuana Dispensaries to the extent permitted under this Zoning By-Law.

III-B Special Conditions to Schedule of Uses

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

1. The minimum lot size on which such use will be permitted shall be 2 acres. All buildings not used for residence shall be placed a minimum of 40 feet from the front, side and rear lot lines.
2. No part of such use shall be located within 1,000 feet of any residence district.
3. All setback requirements of the district in which the use subject to this special condition is located shall prevail and, in addition, no filling pump or any structure may be located within 25 feet of a property line or public way. A minimum of 1,000 square feet of paved area shall be provided for each filling pump. No more than two driveways of 26 foot width each shall be permitted per street. Curbing shall be installed along each line except at driveways.
4. Intentionally left blank.
5. For properties zoned Industrial Park or Office Park that are included in the South Hingham Development Overlay District, refer to Section III-E, South Hingham Development Overlay District, for additional information regarding uses and dimensional criteria.

6. Subject to issuance of a temporary permit by the Building Commissioner pursuant to published regulations establishing hours of operation, size of lot, number and location of parking spaces, lighting, access and signage.
7. For parcels zoned Business A included in the Downtown Hingham Overlay District, refer to Section III-G, Downtown Hingham Overlay District, for additional information regarding permitted and prohibited uses and Design Review. Leased parking for Commercial/Residential Buildings is permitted only in conjunction with a Special Permit A2 for a Commercial/Residential Building and subject to the requirements of Section III-G, 7(a).
8. **The following uses shall be allowed as of right to the extent required by M.G.L. c.40A, §3 but shall be subject to Site Plan Review in accordance with Section I-I of this By-Law, provided that the requirements of Section I-I may only be applied to such uses in a manner consistent with the provisions of M.G.L. c.40A, §3.**
 - i. The uses set forth in Section III-A, subsections 2.1, 2.3, 4.5, 4.6 and 4.7.
 - ii. To the extent included within the uses listed in Section III-A, subsections 3.1 through 3.4, inclusive of the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation, and the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility, all as set forth in M.G.L. c.40A, §3. **Site Plan Review of these uses shall be limited to reasonable regulations concerning the bulk and height of structures, and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, or such other matters which may be subject to regulation under M.G.L. c.40A, §3 as the same may be amended from time to time.**
9. Registered Marijuana Dispensaries shall be allowed by Special Permit A2, subject to Section V-H, only for properties zoned Industrial Park or Office Park which are located in the South Hingham Development Overlay District.

III-A SCHEDULE OF USES

DISTRICTS

LEGEND

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

READ DOWN USING HEADINGS AT THE TOP OF THE PAGE

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

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

	Residence					Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
	A	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial Park	Recreation	Open Space
1.8.8	Bed and Breakfast Establishment in conjunction with a single-family dwelling only (subject to Section V-G) permitted with a Special Permit A2														
A2	A2	A2	A2	A2	A2	A2	A2	O	O	O	O	O	O	O	O
1.8.9	Accessory Dwelling Units within a single-family dwelling, subject to Section V-K														
A1	A1	A1	A1	A1	A1	A1	A1	O	O	O	O	O	O	O	O
2. AGRICULTURE															
2.1	Agricultural Use protected under M.G.L. c. 40A §3 (including, without limitation, single-family dwelling for resident proprietor), subject to Special Condition 8 of Section III-B.														
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2.2	Agricultural Use not protected under M.G.L. c. 40A §3 (except uses governed by subsections 2.3, 4.5, 4.6, and 4.7), subject to Special Condition 1 of Section III-B.														
A2	A2	A2	A2	A2	O	O	A2	O	O	A2	A2	A2	A2	A2	A2
2.2.1	Single-family dwelling for resident proprietor of use governed by subsection 2.2														
P	P	P	A2	A2	O	O	A2	O	O	A2	A2	A2	A2	A2	A2
2.3	Seasonal sale of cut Christmas trees (unless governed by subsection 2.1), subject to Special Permit Condition 6 of Section III-B.														
O	O	O	O	O	P	P	P	O	O	P	P	P	P	O	P
3. INSTITUTIONAL, EDUCATIONAL, AND RECREATIONAL USES															
3.1	Church or other place of worship, parish house, rectory, convent, and other religious institutions, subject to Special Condition 8 of Section III-B.														
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
3.2	Schools or Playgrounds - Public, religious, sectarian, or denominational, subject to Special Condition 8 of Section III-B.														
P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
3.3	Schools - Private, including dormitories accessory thereto, subject to Special Condition 8 of Section III-B.														
A2	A2	A2	A2	A2	A2	A2	A2	A2	O	O	A2	A2	A2	O	A1
3.4	Nursery school or other use for the day care of children, other than as exempted under Massachusetts General Laws Chapter 40A, Section 3, or a privately organized camp, providing any outdoor play area is at such a distance and so screened from any residential structure on an adjoining lot as to avoid a noise nuisance, subject to Special Condition 8 of Section III-B.														
A1	A1	A1	A1	A1	A1	A2	A2	A2	O	O	A2	A2	A2	O	A1

3.5	Public buildings and premises for government use, including public libraries, museums and parks													
P	P	P	P	P	P	P	P	A2	A2	P	P	P	A2	A2
A	B	C	D	E	A**	B	Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space

3.6 Private non-profit library, museum, or community center.
A2 A2 A2 A2 P P P A2 A2 O A2 A2 A2 A1 A1

3.7 Country, golf, swimming, skating, yacht, or tennis club, or other social, civic, or recreational lodge or club-- not conducted as a business
A2 A2 A2 A2 P A2 A2 A2 A2 O A2 A2 A2 P A1

3.8 Hospital
O O O O O O A2 A2 O O A2 A2 A2 O O

3.8A Clinic
O O O O O A2 A2 A2 O O A2 A2 A2 O O

3.8B Nursing home, rest home, convalescent home, congregate living facility, charitable institution or other non-correctional institutional use.
A2 A2 A2 A2 A2 A2 A2 A2 O O A2 A2 A2 O O

3.9 Cemetery
A1 A1 A1 A1 O O O O O O O O O O A1

3.10 Public-utility buildings and structures
A1 A1 A1 A1 A1 P P P A2 O P P P O A1

3.11 Outdoor Concession as an accessory use when supporting outdoor athletic field uses permitted or allowed under Sections 3.2, 3.3, 3.5 and 3.7 (subject to Section III-J).
O O O O O O O O O O O O O A1 A1

4. COMMERCIAL

4.1 Retail store (other than those specified elsewhere on this Schedule) distributing merchandise to the general public.
O O O O O P P O A2 O O O O O O

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

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

4.20 Adult uses, subject to Section V-F														
A	B	C	D	E	A**	B	Office Park*	Waterfront Business	Waterfront Recreation	Industrial	Industrial Park*	Limited Industrial Park	Business Recreation	Official and Open Space
0	0	0	0	0	0	0	0	0	0	0	A2	0	0	0
4.21 Body Art Establishment as defined by the Hingham Board of Health.														
0	0	0	0	0	0	0	0	0	0	A2	0	A2	0	0
4.22 Commercial/Residential Building (Subject to Section III-B, 7)														
0	0	0	0	0	A2	A2	0	0	0	0	0	0	0	0
4.23 Leased Parking for Commercial/Residential Buildings (Subject to Section III-B, 7)														
0	0	0	0	0	P	0	0	0	0	0	0	0	0	0
4.24 Farmers' Market														
0	0	0	0	0	A2	A2	0	0	0	0	0	0	A2	A2
4.25 Retail Store, Retail Sale of Alcoholic Beverages, or Consumer Service or Commercial Service Establishment permitted as an accessory use for up to 15% GFA within any single building.														
0	0	0	0	0	0	0	A2	0	0	A2	A2	A2	0	0
4.26 Registered Marijuana Dispensary, subject to Special Condition 9 of Section III-B (except for agricultural uses governed by Section 2.1).														
0	0	0	0	0	0	0	A2	0	0	0	A2	0	0	0
4.27 Media Broadcasting or Production Studio														
0	0	0	0	0	P	P	P	0	0	P	P	P	A2	A2
5. AUTOMOTIVE AND MARINE SALES AND SERVICE														
5.1 Automotive "filling" or service station, subject to special condition 3 of Section III-B.														
0	0	0	0	0	A1	A1	0	0	0	0	0	0	0	0
5.2 Repair or storage garage for motor vehicles or trailers, which may include body, repair, welding, or soldering shop for motor vehicles or trailers, provided such operation shall be sufficiently insulated so that any noise, flashing, fumes, gases, smoke, or vapor shall be confined to the premises.														
0	0	0	0	0	A2	A2	0	0	0	P	A2	A2	0	0
5.3 Salesroom for franchised dealer or recognized agent of motor vehicle manufacturer whose principal business is the sale of new motor vehicles (the purchase and sale of second-hand motor vehicles being incidental thereto), together with indoor storage and service facilities reasonably incidental to such salesroom, provided that the principal display visible from the street shall not be second-hand motor vehicles; subject to site plan review in accordance with Section I-I.														
0	0	0	0	0	P	P	0	0	0	P	P	0	0	0
5.4 Marina; boat livery; sales, storage, and repair of boats, boat trailers, and marine accessories.														
0	0	0	0	0	P	P	0	P	P	P	P	A2	0	0
6. WHOLESALE AND INDUSTRIAL USES														

6.1 Wholesale warehouse, including office or showroom facilities.

O	O	O	O	O	P	P	A2	O	O	P	P	A2	O	O
A	Residence				Business		Office	Waterfront	Waterfront	Industrial	Industrial	Limited	Business	Official and
	B	C	D	E	A**	B	Park*	Business	Recreation		Park*	Industrial	Recreation	Open Space
												Park		

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

O	O	O	O	O	O	O	A2	O	O	P	P	A2	O	O
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*(Subject to special condition 5 of Section III-B)

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

III-C Floodplain Protection Overlay District

1. The Floodplain Protection Overlay District shall be shown on a map entitled "Zoning Map Part B Floodplain Protection Overlay District." The district includes all special flood hazard areas within the Town of Hingham at or below 10 feet above Mean Sea Level (MSL) as well as all special flood hazard areas designated as Zone A, AE or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Hingham are panel numbers 25023C0018J, 25023C0019J, 25023C0038J, 25023C0081J, 25023C0082J, 25023C0083J, 25023C0084J, 25023C0091J, 25023C0092J, 25023C0101J, 25023C0102J, 25023C0103J, 25023C0104J and 25023C0111J, dated July 17, 2012, and revised by Letters of Map Revision effective August 14, 2015, September 8, 2017 and December 13, 2017. The FIRM and Flood Insurance Study (FIS) report are incorporated herein by reference and are on file with the Town Clerk, Building Department, and Conservation Commission. The Letters of Map Revision are on file with the Conservation Commission.

The Floodplain Protection Overlay District is established as an overlay district to all other districts for the following purposes:

- a. to protect public health, safety and general welfare;
- b. to protect human life and property from hazards of periodic flooding;
- c. to prevent the occurrence of public health emergencies resulting from water quality contamination and pollution due to flooding;
- d. to preserve natural flood control characteristics and the flood storage capacity of the floodplain; and
- e. to regulate development in floodplains in a manner that, at a minimum, meets the requirements of FEMA for participation in the NFIP.

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

2. Except as provided herein and in paragraphs 4 and 5 of this Section III-C:
 - a. No building, wall dam, or other structure shall be created, constructed, altered, enlarged or otherwise created or moved for any living or other purposes provided that fences, wildlife management shelters, footpaths, bicycle paths, horse paths and footbridges are permitted if they do not affect the natural flow patterns of any water course.
 - b. Dumping, filling, excavating or transferring of any material which will reduce the natural flood-water storage capacity or interfere with the natural flow patterns of any water course within this District is prohibited.
3. The following uses are permitted as a matter of right, subject to the provisions of paragraph 2 of this Section III-C and provided that said uses comply with the standards

and requirements of Sections 60.3(d) and (e) of the National Flood Insurance Program (Title 44, Code of Federal Regulations):

- a. Conservation of soil water, plants and wildlife;
 - b. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting where otherwise legally permitted;
 - c. Proper operation and maintenance of dams and other water control devices, including temporary alteration of water level for emergency or maintenance purposes;
 - d. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops; and
 - e. Accessory uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.
4. Upon the issuance of a Special Permit A1 for an exception by the Board of Appeals, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of this Section, the following uses as permitted in single residence districts are permitted:
- a. Duck walks and boat landings;
 - b. Appropriate municipal use, such as water-works pumping stations and parks;
 - c. Temporary storage of materials or equipment;
 - d. Dams, excavations, or changes in watercourses to create ponds or pools for swimming or other recreation or agriculture use, scenic features or for drainage improvements consistent with the purpose of this Section; and
 - e. Driveways and roads where alternative means of access are impractical.
5. The following are specifically exempt from the provisions of this Section III-C:
- a. All residential dwellings, and those portions only of the lots therefore needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this paragraph 5, existing in the Floodplain Protection Overlay District on January 1, 1969.
 - b. All industrial, commercial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargement of buildings as is permitted under this paragraph 5, existing in the Flood Plain and Watershed Protection District on January 1, 1969.
 - c. All residential, commercial, industrial and business buildings, and those portions only of the lots therefor needed for such repair, rebuilding, modification or enlargements of buildings as is permitted under this paragraph 5, the Building Permits for which were issued prior to January 1, 1969.

All dwellings and buildings referred to in this paragraph may be repaired, rebuilt, modified, or enlarged including but not limited to the addition of garages, additional living space, and

construction of appurtenant outbuildings, together with such filling, diking, and/or draining as may be necessary therefor or for the protection of said structures from flood water inundation, consistent with the laws of the Commonwealth of Massachusetts, and compliance with all other zoning requirements, and provided such construction does not affect the natural flow patterns of any water course.

6. The portion of any lot in the Floodplain Protection Overlay District may be used to meet the area and yard regulations for the district in which the remainder of the lot is situated, unless otherwise restricted in this By-Law.
7. All salt water areas within the limits of the Town including Hingham Harbor, Hingham Bay, Weir River and Back River and all other water bodies encircled by the Floodplain Protection Overlay District are hereby included within said District.
8. If any land in the Floodplain Protection Overlay District is proven to the satisfaction of the Board of Appeals as being in fact not subject to the flooding or not unsuitable because of drainage conditions for a use or structure which would otherwise be prohibited by the provisions of this Section and the Board of Appeals determines that the use of such land for such use will not interfere with the general purposes for which the Floodplain Protection Overlay District has been established and will not be detrimental to the public health, safety and/or welfare, the Board of Appeals may grant a Special Permit A1 for such use or structure which will comply in all respects with the provisions of this By-Law, provided that any and all necessary permits, orders or approvals required by local or state law, except for Massachusetts General Laws Chapter 131, Section 40, or federal law have first been obtained. The Board of Appeals shall refer each question to the Planning Board, Conservation Commission and Board of Health and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.
9. All those lands along the following named streams and their tributaries: Weir River, Accord Brook, Back River, Eel River, Plymouth River, Crooked Meadow River, Fresh River, Tower Brook, Fulling Mill Brook and by other brooks and streams that lie within a horizontal distance of twenty-five (25) feet from the mean high water line along each bank thereof except as otherwise defined on said Part B of the Zoning Map are hereby included within the Floodplain Protection Overlay District.
10. Whenever an application is made for a Building Permit on a lot of land which the Building Commissioner believes may contain a Floodplain Protection Overlay District boundary, said Commissioner shall require the applicant for such permit to provide as part of such application a plan, certified by a registered land surveyor, of the lot showing the exact location of the Floodplain Protection Overlay District boundary.

III-D Accord Pond Watershed and Hingham Aquifer Protection District

1. This By-Law is adopted by the Town under its home rule powers, its police powers to protect public health and welfare, and its authorization under Chapter 40, Section 21 of the Massachusetts General Laws.
2. The locations and boundaries of the Accord Pond Watershed and Hingham Aquifer Protection District shall be as shown on a map entitled "Zoning Map Parts A and C", filed in the office of the Town Clerk, which map by this reference is incorporated herein and made

a part of this Zoning By-Law.

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

3. Definitions

Approved Container Storage

The storage of toxic or hazardous substances in a container, which container is designed and constructed to be product-tight and to resist corrosion, accidental damage or deterioration for the period of time in which the toxic or hazardous substance is intended to be stored within the District.

Approved Tank Storage

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

Container

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

Discharge

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

Store or Storage

Keeping or stocking of substances for later consumption or sale.

Tank

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

Toxic and Hazardous Substances

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

substance likely to be located in its proximity and which upon such action or reaction would produce a toxic or hazardous substance, or any substance determined by the Board of Health to pose the hazard to health referred to above.

Use or Usage

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

Accord Pond Watershed and Hingham Aquifer Protection District ("the District")

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

4. Except for uses in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall use any toxic or hazardous substance in the District except by Special Permit obtained in accordance with subsection 12 below.
5. No person or entity shall discharge any toxic or hazardous substance in the District.
6. Except for storage in tanks in existence on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store in the District any toxic or hazardous substance in a tank except that gasoline, diesel, heating or lubricating oil may be stored by Special Permit granted in accordance with subsection 12 below. The Board shall not grant a Special Permit for storage in tanks incident to residential uses.
7. Except for storage existing on April 25, 1983, or in the case of the Accord Pond Watershed and Hingham Aquifer Protection District added by this amendment April 28, 1987, no person or entity shall store toxic or hazardous substances in the District unless a Special Permit shall have been granted for such storage pursuant to subsection 12 below except that storage in tanks shall be governed by the provisions of subsection 6 above.
8. There shall be exempted from the provisions of this Section III-D: (i) the disposal of sanitary wastewater generated on-site which does not contain toxic or hazardous substances; and (ii) the use or storage and discharge incidental to residential uses of household products generally available in retail stores and in quantities normally used by a single family even if such products contain toxic or hazardous substances; and (iii) approved container storage of heating oil for use in heating buildings in which such containers are located and for which all necessary licenses or permits pursuant to Chapter 148 of the Massachusetts General Laws have been obtained and remain in force and effect.
9. Any tank located in the District, whether or not in active use, shall be presumed to contain toxic or hazardous substances, and the owner of record of the land on which the tank is located shall be required to comply with the provisions of this By-Law until the tank is removed from the District.
10. All tanks within the District shall be tested for structural integrity and freedom from discharge utilizing such generally recognized and commercially feasible standard tests as the Building Commissioner may from time to time reasonably designate, at the following times:
 - a. incident to installation as part of the Special Permit application process, and

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

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

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

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

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

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

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

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

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

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

12. The Board of Appeals, upon application of a person or entity who furnishes the materials outlined in subsection 11 above may grant, subject to the limitations contained in

subsection 6 above, a Special Permit for the use or storage of toxic or hazardous substances if it finds that:

- a. storage will be either approved tank storage or approved container storage and any use will be in accordance with sound practices and in a manner designed to safeguard the District, and
 - b. the person or entity applying for the Special Permit has the experience and ability to deal with the responsibility of the use or storage of toxic or hazardous substances in the District, and
 - c. such person or entity has the financial strength or has provided such other financial assurances as the Board deems appropriate to assure that financial resources sufficient to discharge the applicant's responsibilities will be available, and
 - d. that the proposed use or storage does not constitute an unwarranted risk to the District.
13. Any Special Permit granted pursuant to this Section III-D shall:
- a. be issued to a specific person or entity and shall not be assignable or transferable either voluntarily or by operation of law;
 - b. be for a specific term of years and in the case of approved tank or approved container storage be for a term not in excess of the estimated life of the approved tank or approved container; and
 - c. contain such other conditions as the Board deems appropriate or useful.
14. In the case of an application for approved container storage, where the storage period is in excess of three years, the Board in appropriate circumstances may require the container to pass an inspection as a condition of granting the Special Permit.
15. The Building Commissioner shall compile and maintain complete records concerning the use and storage of all toxic and hazardous substances in the District and shall assure that all tanks and containers used in approved tank or approved container storage are tested and inspected as required hereunder and that any conditions contained in Special Permits issued hereunder are complied with.

III-E South Hingham Development Overlay District

1. Purpose
To assist the Town of Hingham in providing safe and efficient public infrastructure consistent with future growth potential in a designated South Hingham Development Overlay District (Overlay District).
2. Objectives
 - a. Encourage planning and development which will maintain the economic viability of businesses within the Overlay District.
 - b. Encourage future development that links major non-residential roadways in the Overlay District.

- c. Minimize commercial and industrial related traffic impacts on surrounding residential neighborhoods.
 - d. Support future development that balances the needs of abutting neighborhoods and environmental protection with the long-term fiscal needs of the community.
- 3. **Applicability**
Only Industrial Park and Office Park zoned land in Hingham south of Whiting Street (Route 53) shall be subject to the requirements of this Section.
- 4. **Special Permit Authority**
For those projects within the South Hingham Development Overlay District requiring a Special Permit the Board of Appeals (Board) may grant a Special Permit consistent with the requirements of this Section, Massachusetts General Laws Chapter 40A, Section 9, and any regulations which the Board may adopt for carrying out its requirements.
- 5. **Permitted Uses**
The provisions set forth in Section III-A for the underlying Industrial Park and Office Park Districts shall apply, with the following exceptions:
 - a. When the underlying zoning district is Office Park
 - i. Accessory Uses such as cafeterias, education and training facilities, and similar facilities designed for the use of on-site employees shall be allowed as part of any use permitted as-of-right or by Special Permit;
 - ii. Automotive sales and service, as described at III-A (5.3), shall be permitted with a Special Permit A2.
- 6. **Sign and Parking Criteria**
The provisions set forth in Sections V-A and V-B shall apply throughout the South Hingham Development Overlay District.
- 7. **Intensity**
The provisions of IV-A (Schedule of Dimensional Requirements) shall apply, with the following exceptions:
 - a. When the underlying zoning district is Office Park
 - i. A Floor Area Ratio (FAR) of .15 is permitted as-of-right; up to .25 may be permitted with a Special Permit A2.
 - ii. Building Height is limited to forty-eight (48) feet, but not more than four (4) stories; Building Height up to sixty (60) feet, but not more than five (5) stories is permitted with a Special Permit A2.
 - b. When the underlying zoning district is Industrial Park
 - i. For office use (as described in Section III-A 4.10) an FAR of 0.25 is permitted as-of-right, and up to 0.45 by Special Permit A2.
 - ii. Building Height is limited to forty-eight (48) feet, but not more than four (4) stories.

8. Traffic, Safety, and Infrastructure Improvement Fund

a. Applicability

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

b. South Hingham Development Overlay District Assessment

i. Industrial Park District: The rate of contribution for properties whose underlying zoning is Industrial Park shall be as follows:

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

ii. Office Park District: The rate of contribution for properties whose underlying zoning is Office Park shall be as follows:

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

c. Use of Assessments

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

d. Schedule of Assessment Payments

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

e. Refund of Assessment

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

9. Screening

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

III-F Personal Wireless Services Overlay District

1. Purpose

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

2. Location

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

3. Submittal Requirements

A Special Permit A2 is required to erect Personal Wireless Services Facilities (as defined in

section V-E), and service providers must comply with all requirements of Section I-I and section V-E of this By-Law.

III-G Downtown Hingham Overlay District

1. Purpose
To protect and promote the viability and value of business and residential properties located in the Downtown Hingham Overlay District (“Downtown”) in a manner consistent with Hingham’s historic character.
2. Objectives
 - a. Encourage planning and development which will maintain and improve the economic viability of Downtown businesses by encouraging a mix of uses that will maintain, provide for or encourage regular interaction with the general public on a walk-in basis on the ground floor and office and residential uses on the upper floors.
 - b. Encourage planning and development of the Downtown as a visitor destination for historic sightseeing, shopping and dining.
 - c. Encourage creation of mixed use buildings incorporating business and residential uses to create more diverse housing options in Hingham.
 - d. Encourage planning for and more efficient use of, off-street parking to better facilitate resident and visitor access to and parking in the Downtown.
 - e. Encourage maintenance, restoration or replacement of existing structures to bring them into compliance with current building, plumbing and electric codes, as well as the latest fire and handicap access regulations, in a manner consistent with Hingham’s historic character.
 - f. Preserve and/or complement the visual context of the streetscape.
3. Applicability
The Downtown Hingham Overlay District consists of parcels in Business District A extending from the intersection of South Street and Bates Way to the west and the intersection of Summer Street, Green Street and Chief Justice Cushing Highway to the east, as shown on the map “Zoning Map Parts A and C”.

Parcels within the Downtown Hingham Overlay District shall be subject to the requirements of this section. In addition, for any parcel located partially in the Downtown Hingham Overlay District, such portion located in the Overlay District shall be subject to the requirements of this Section, provided, however, that if any structure or use on such parcel lies partially in the Overlay District and partially in another zoning district, such structure or use shall comply with the requirements of this Section.
4. Permitted and Prohibited Uses
The permitted uses and uses allowed by Special Permit A2 in Business District A, as set forth in Section III-A, Schedule of Uses, shall be permitted or allowed, as applicable, in the Overlay District, with the following exceptions:
 - a. the following uses are prohibited in the Overlay District:

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

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

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

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

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

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

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

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

iii. The Planning Board, when conducting Site Plan Review under this subsection 4(b), shall consider, in addition to the items set forth in Section I-I,6 whether the appearance and treatment of the windows and doors of

the building will maintain, provide for or encourage regular interaction with the general public.

c. A Roof Deck may be allowed by a Special Permit A2, subject to the following criteria. If proposed in combination with another use that requires a Special Permit A2, the special permit process shall be combined.

i. Access:

(A) If the proposed Roof Deck is above the third story, access shall be limited to an internalized staircase and roof hatch. In no event shall any enclosed habitable space, nor Roof Deck access structures, other than a roof hatch, be permitted above the third story.

(B) For buildings with a height of 2.5 stories or less, the Roof Deck may be accessed either by roof hatch or from enclosed habitable space within the **roof form on the ½ story level or lower story level.**

ii. The Roof Deck and any guardrail or fence required by the state building code that is not a design element of the building shall not be visible from the opposite side of the public way(s) that abuts the structure. Proposed roof decks on existing structures shall demonstrate compliance with this standard by installing mock-ups/story poles with yellow tape strung between the poles at a height of 36" from the decking or at the proposed elevation of the guardrail or fence if greater than 36". Roof Decks on proposed buildings will be required to demonstrate how this criterion will be satisfied during the approval process with the submittal of perspective views and/or any other submissions deemed necessary by the Planning Board.

iii. No vertical structures in excess of the minimum height of guardrail or fence required by the state building code shall be permitted on the Roof Deck, including without limitation, trellises, privacy screens or the like, provided that this provision shall not prohibit natural plantings for screening approved pursuant to site plan or design review. Temporary, seasonal umbrellas shall be permitted provided the same are anchored in weighted stands to prevent umbrellas from becoming flying projectiles in windy weather.

iv. Lighting of the Roof Deck shall be dark sky compliant and foot candles shall not exceed zero at the building edges. No light fixtures shall be placed at a height greater than the minimum height of guardrail or fence required by the state building code.

v. No amplified live music shall be permitted, nor amplified sound fixtures installed, on a Roof Deck.

5. Design Review Criteria

a. Applicability. Any project located within the Overlay District, but not within a Local Historic District, and 1) subject to Special Permit or site plan review or 2) which requires a building permit and affects the exterior architectural features of a building

or structure, shall also be subject to Design Review. The following alterations, unless subject to the requirements of Section IV-B, 6 shall be exempt from the requirements of this subsection:

- i. normal maintenance and repair of the building or structure; and/or
- ii. replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.

b. **Submittal Requirements.** The building permit, site plan review and or special permit applications shall include photographs of the existing condition of the exterior of existing structure(s), and a narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used. Building elevations shall include detail regarding treatment of the roof, including placement and type of mechanicals, projections and any proposed Roof Deck. The Planning Board may also require additional submittals, including plans prepared by qualified registered professionals showing the total square footage and dimensions of all buildings, the building elevations and perspective renderings, and detailing the exterior architectural features of the buildings and the exterior materials to be used.

c. In connection with its review of such work, the Planning Board shall request advisory design review comments on the proposal from the Hingham Historic Districts Commission, and may engage other professional consultants, experts or assistance consistent with the provision of Section I-F,3 of this By-Law to ensure the proposal is architecturally and aesthetically consistent with the historic character of the Overlay District. Simultaneously with the submission of an application subject to this Section 5, the applicant shall submit a copy of the application and plans to the Historic District Commission. The Planning Board shall not act until the Commission or its designated staff has reported its recommendations or 21 days have passed from the filing of the application and no report has been received.

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

6. Commercial/Residential Building Special Permit

a. Application and Review Requirements

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

b. Eligibility Requirements

- i. Buildings which meet the following criteria are eligible to apply for a Commercial/Residential Building Special Permit:
- ii. Buildings containing a permitted commercial use at the ground floor. A permitted commercial use shall be those uses permitted under Section III-G, 4 above, but excluding Parking Areas under Section III-A, 4.18, except as specifically provided in subsection 7(a) below; and
- iii. Sufficient off-street parking to meet the requirements of subsection 7(a) of this Section III-G.

c. Additional Requirements

- i. A commercial use shall be located at the ground floor facing the street(s) on which the parcel has frontage or facing the Station Street parking lot. The commercial use must occupy not less than 65% of the linear width of the structure facing the street and must comprise not less than 55% of the area of the ground floor of the structure; provided, however, that the Board of Appeals may approve a lesser percentage of linear width or area of the ground floor (but not less than 40%) upon making the following findings:
 - (x) with respect to parking (A) the Planning Board has made a determination pursuant to a Special Permit A3 as to the minimum required on-site parking for such site and (B) the reduction in required commercial use along the linear frontage or within the area of the ground floor of the structure is necessary for satisfying such parking determination; and
 - (y) such reduction in commercial use along the linear frontage or within the area of the ground floor of the structure is consistent with Section III-G.1 and 2, and is not detrimental to the streetscape along which the structure is located
- ii. Dwelling units shall be located above the ground floor. No dwelling units shall be permitted below the ground floor. In the event of a building with multiple ground floors due to topography the residential use may occur at different elevations in the same building but shall always be above the respective ground floors as long as the percentages are consistent with Section III-G.6.c.i. Dwelling units shall not be smaller than 575 square feet for a studio or one bedroom dwelling unit and 750 square feet for a two bedroom dwelling unit. A dwelling unit may not contain more than two bedrooms.
- iii. Adequate provision shall be made for the disposal of household trash.

- 7. Off-Street Parking Requirements in the Downtown Hingham Overlay District
 Except as otherwise provided in this section (7), the requirements set forth in Section V-A, Off Street Parking Requirements, shall apply to the Overlay District.
 - a. Parking Requirements for Commercial/Residential Buildings
 The purpose of this subsection (a) is to ensure that sufficient off-street parking is provided for all dwelling units created under Section III-G,6.

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

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

- ii. When off-street parking exists or may be constructed on the parcel where the use is proposed, the Planning Board may make a finding in connection with a Special Permit A3 application pursuant to Section V-A that the commercial use(s) and the residential use within the Commercial/Residential Building are complementary uses having different peak demands times, in which event on-site parking may satisfy both the residential and the commercial uses (subject to the requirements of Section 7 below in the event of a change or increase in commercial uses).
- iii. Parking for all dwelling units (including, without limitation, dwelling units proposed in newly-constructed or reconstructed buildings or in newly-constructed stories to existing buildings) shall be located on the same parcel or on a contiguous parcel under common ownership.
- iv. Notwithstanding the foregoing, for dwelling units proposed in existing stories of existing buildings which, as of December 1, 2003, (a) are at least two stories in height and (b) which lack required on-site, off-street parking to meet the requirements of this Section, the Planning Board may grant a Special Permit A3 to permit the following;

(A) Leased Parking for Commercial/Residential Buildings, provided that a copy of a written, fully executed and effective lease, with a term of at least one (1) year, permitting use of sufficient parking spaces to comply with this Section for a minimum of overnight parking shall be provided to the Planning Board prior to the issuance of the Special Permit A3. For purposes of this Section III-G, "Leased Parking for Commercial/Residential Buildings" shall be the provision of parking for dwelling units in a Commercial/Residential Building on land of a third party located within 500 feet of the benefited parcel (but excluding parcels with Single-Family Dwellings or Two-Family Dwellings outside of the Overlay District). The granting of a Special Permit A3 shall require a finding by the Planning Board that such lease of parking spaces does not create a violation of the zoning of, parking requirements for existing uses on, or any special permit or variance granted to, the burdened parcel. In addition, the applicant (or its successor) shall be required, as a condition of the issuance of a Special Permit, (i) to certify to the Building Commissioner annually, on the anniversary of the date of the issuance of a Special Permit, that such lease remains in full force and in effect and (ii) no later than thirty (30) days prior to the expiration or other termination of such lease, to apply to the Planning Board for a modification of its Special Permit A3 which application shall provide for the required parking in another manner consistent with the requirements of this subsection 7(a).

(B) Off-site parking in designated resident parking areas of public parking lots, provided that a resident parking permit program or the like is adopted by the Town, and provided that, as a condition of the issuance of the Special Permit A3, the applicant applies for and presents written

evidence to the Planning Board and the Building Commissioner of approval by the Town of sufficient resident parking permits to comply with the parking requirements of this Section.

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

- v. No newly-constructed parking shall front on a public way, except along Summer Street (Route 3A), Water Street, Station Street or the Station Street parking areas.
- vi. For parcels which have opposite property lines along two streets or ways and for parcels with frontage on Summer Street (Route 3A), fully enclosed garage parking may be provided within the building at ground floor if such parking is accessed from the rear of the building, is not visible from the front of the building, and such building has a permitted commercial use at the front of the building. For purposes of this Section III-G, any portion of a building facing Main Street, South Street, North Street, or Summer Street shall be considered the front of a building.
- vii. Notwithstanding any provision of Section V-A to the contrary, and except as specifically provided in this Section III-G, 7(a), off-street parking requirements for residential uses in a Commercial/Residential Building shall not be reduced nor waived by special permit or otherwise. In the event of a conflict between the provisions of Section V and this Section, the provisions of this Section shall control.

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

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

c. Special Permit A3 for Waivers from Off-Street Parking Requirements

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

- i. Satisfactory demonstration of parking adequacy as evidenced by the results of a parking study conducted pursuant to the standards of the Institute of Transportation Engineers (ITE) and the Urban Land Institute (ULI) prepared by a Professional Engineer duly licensed in the Commonwealth of Massachusetts with demonstrated experience in the

Fields of Traffic Engineering and Transportation Planning, and concurrence with said results by the Planning Board's review consultant. The parking study baseline shall be consistent with the methodology and format implemented as a part of the Town's "2008 Downtown Hingham Parking Study" and associated shared parking model, as the same may be updated or amended from time to time. Upon written request of the applicant, the Planning Board may waive the above submittal requirement if deemed by the Planning Board to be not necessary for its review of the application.

- ii. Such relief will promote the goal of preserving and enhancing the Downtown as a mixed-use, pedestrian-oriented local shopping and business district and is consistent with the purpose and objectives of the Overlay District;
- iii. The maximum number of off-street parking spaces reasonably achievable on the premises has been provided; and
- iv. It is not practical to meet the applicable standards of this Section 7 and Section V-A and a waiver of these regulations will not (A) result in or worsen parking or traffic problems, or adversely affect pedestrian safety, on-site or on the surrounding streets or (B) adversely affect the value of abutting lands and buildings.

III-H Hingham Harbor Overlay District

1. Purpose
To promote access to and the use and enjoyment of the land and water along Hingham's inner harbor, while protecting and enhancing its cultural, scenic and natural character.
2. Objectives:
 - a. To provide for a variety of land and water based recreational uses, both passive and active, including pedestrian access along the waterfront and access to water uses such as swimming, pleasure boating and kayaking.
 - b. To provide appropriate public facilities including harbor master facilities, parking and restrooms;
 - c. To promote cooperation and a harmony of uses between privately and publicly owned parcels, including the dimensional and aesthetic design of structures on such parcels;
 - d. To promote and enhance connections between Downtown Hingham and Hingham's inner harbor.
3. Applicability
The Hingham Harbor Overlay District will include those parcels of land located along the portion of Hingham's inner harbor that extend from the northwesterly boundary of the parcel commonly known as Hingham Bathing Beach to the southeasterly boundary of the parcel commonly known as Steamboat Wharf, more particularly described as the following: Assessors Map 39, Lot 8; Map 50, Lots 49, 50 and 51; and Map 51, Lots 1, 2, 3, 4, 5, 58 and 59.

4. Definitions

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

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

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

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

- a. offices primarily providing services to a Water Dependent Use (such as harbormaster, other public safety, marina management or life guard offices), and related indoor storage;
- b. public restrooms, including bathhouses; and
- c. Snack Stands

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

- a. marinas, whether privately or publicly owned or operated;
- b. public boat basins (also referred to as the public mooring field);
- c. other public or private commercial or recreational boating facilities, such as a sailing club, rowing club and/or other organized boating facility. A designated public launch area which allows the launching by an individual of a vessel from a trailer or "car-top" for day-use shall not constitute an organized boating facility;
- d. public facilities for fishing, swimming, and boat launching; and
- e. parks, esplanades, boardwalks, and other pedestrian facilities that promote use and enjoyment of the water by the general public and are located at or near the water's edge.

5. Permitted and Prohibited Uses

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

1. The uses allowed under Section III-A, 3.5 (Public buildings and premises for government use), shall only be permitted as herein provided:
 - a. Permitted – The uses described in subsections (a), (b), (d) and (e) of the above definition of Water Dependent Uses, provided, however, that public buildings supporting such Water Dependent Uses shall require a Special Permit A2 as provided in subsection (b) below.
 - b. Special Permit A2 –
 - i. Uses described in subsection (c.) of the above definition of Water Dependent Uses
 - ii. Buildings supporting a Water Dependent Use which house Uses Accessory to a Water Dependent Use

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

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

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

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

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

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

6. Dimensional Requirements

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

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

2. The minimum rear yard along the waterfront shall be 10 feet from the existing sea wall or, if none, from the mean high water mark.
- B. Special Permit A3 for Waivers from IV-A Schedule of Dimensional Requirements. The Planning Board may grant a Special Permit A3 to waive strict adherence to the requirements of Section IV-A where the underlying zoning is Waterfront Business District, if it finds that such application will promote the purpose and objectives of the Hingham Harbor Overlay District, subject to the following:
1. If the area or frontage of the lot existing as of January 1, 2010 does not meet the "minimum lot size" requirements set forth in Section IV-A, the "minimum lot size" requirement may be reduced to no smaller than the lot size or frontage, as applicable, of the lot on that date.
 2. The "maximum height" of a building may be modified as follows: Maximum height shall not exceed two stories and 28 feet to the peak of the building, subject to the following:
 - a. For the purposes of this Overlay District, the definition of Grade Plane in Section VI shall be modified by replacing the term "Finished Grade" with the term "Pre-Construction Grade".
 - b. The maximum wall height of the building shall be 20 feet, inclusive of any elevated floors for flood resistant construction, it being the intention that the additional 8 feet of height shall be permitted only to the extent the design of the building includes a peaked roof.
 - c. There shall be no occupiable space between the 20 foot maximum height and the peak. Any gables, cupolas, towers or related architectural features between the eave and the peak shall be for design purposes only.
 3. The "minimum yard dimensions" may be modified as follows:
 - a. Front: May be reduced to 20 feet – measured horizontally at right angles to the sideline of the public way.
 - b. Side: The side yard requirement may be modified to allow in the aggregate a total of not less than 40 feet, provided that the side yard dimension on any one side may be no less than 10 feet. A yard space of not less than 5 feet wide on each side shall be maintained open and not parked upon, including parking overhang, along the entire length of each side lot line. Where adjacent property is below the mean high water line, the rear yard limitation shall apply, even if the adjacent property is subsequently filled to raise it above the mean high water line.
- C. Public access commencing at the boundary of the lot and extending along the side and rear yards of the lot to the next boundary of the lot, adjacent to the water's edge, shall be provided, in order to contribute to continuous public access along the waterfront.

7. Design Review Criteria

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

1. normal maintenance and repair of the building or structure; and/or
2. replacement of exterior materials, including roofing materials, shingles or clapboard, provided such materials are replaced with the same type of materials.

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

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

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

III-I Nonconforming Conditions

1. General – Any structure or any use of a structure or land, lawfully existing at the time of the enactment or subsequent amendment of this By-Law, may be continued although such use and/or structure does not conform with the provisions of this By-Law, subject to the following conditions and exceptions:
 - A. Changes – Once changed to a conforming use or once the extent of a nonconforming use is reduced, no structure or land shall be permitted to revert to the prior or a new nonconforming use.
 - B. Restoration - A lawfully existing nonconforming building or structure may be repaired or reconstructed if damaged or destroyed by a casualty, including explosion, fire, storm or other natural disaster, but only if such repair or reconstruction is begun within two (2) years of such damage or destruction and diligently pursued to completion within two (2) years of commencement; provided however, that, except as **may be allowed by the provisions of M.G.L. Chapter 40A, Section 6 or this Section III-I** governing alterations of nonconforming structures, the repaired or reconstructed structure shall be no less conforming than the structure that was so damaged or destroyed.

- C. Extension of Nonconforming Use – Except as may be allowed under M.G.L. Chapter 40A, Section 6, no increase in the extent of a nonconforming use of a structure or land may be made.
- D. Abandonment or Discontinuance
 - (i) A nonconforming use (other than Single-Family Dwelling or Two-Family Dwelling) that has been discontinued for a period of more than two (2) years, shall not be reestablished, and any future use shall conform to this By-law.
 - (ii) The nonconforming use of a building or structure as a Single-Family Dwelling or Two-Family Dwelling (and/or any Accessory Buildings related thereto) that has been discontinued for a period of more than four (4) years shall not be reestablished and any future use shall conform to this By-law, provided however, that the lawful nonconforming use of more than one Dwelling Unit within an existing Dwelling (that has not been discontinued or abandoned) shall not terminate unless such Dwelling has been converted to a Single-Family Dwelling with complete living facilities for only one household.
 - (iii) A nonconforming structure that has been discontinued (not used or occupied) for a period of more than two (2) years, or has been abandoned, may not be used or occupied for any use, with the following exceptions:
 - a. This subsection (iii) shall not apply to and shall not prohibit the conforming use as a Single-Family Dwelling or a Two-Family Dwelling, as applicable, of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder; provided, however, that section III-I, 2 shall not apply and any alteration, reconstruction, addition, extension, or structural change to such building or structure shall not extend the yard and/or height dimensional conditions that were nonconforming at the time the building or structure was abandoned or discontinued.
 - b. Except as provided in the foregoing subsection (iii)a, the conforming use of a building or structure that would be a lawful nonconforming building or structure if it had not been deemed discontinued or abandoned hereunder, may be permitted upon the issuance of a Special Permit A2; a building or structure reestablished pursuant to the above exceptions (iii)a or (iii)b shall no longer be considered nonconforming once a building permit or special permit has issued.
- E. Definitions - As used in this Section III-I:
 - (i) "Discontinuance" shall mean the actual cessation of any use or the non-use of any structure.
 - (ii) A nonconforming use shall be deemed "abandoned" when it is discontinued for a period of at least six consecutive months, and customary equipment, furniture or supplies for the operation of such use have been removed, and at least one of the following apply:

- a. The building or structure in which such use was located is not actively marketed for sale or lease.
 - b. Failure to provide for regular maintenance of the building or structure such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.
- (iii) A nonconforming building or structure shall be deemed "abandoned" when it is no longer occupied for a conforming or lawfully nonconforming use for at least six consecutive months and one or more of the following apply:
 - a. It is not actively marketed for sale or lease.
 - b. Failure to provide for regular maintenance such as failing to heat the building at a level necessary to prevent frozen pipes or related damage, failing to provide snow removal, or failing to maintain landscaping.
 - c. Issuance of a written notice of an unsafe structure by the Building Commissioner and failure of the owner to rectify the unsafe condition in the manner and in the timeframe specified in such written notice.
- 2. For the purposes of this Section III-I, the alteration of, addition to, reconstruction of, extension of, or structural change in an existing nonconforming Single or Two-Family Dwelling shall not be considered the extension of a nonconforming use or structure provided that:
 - A. the Single or Two-Family Dwelling conformed in all respects to the Zoning By-Law in existence at the time of its initial construction; and,
 - B. the alteration of, addition to, reconstruction of, extension of, or structural change in the nonconforming Single or Two-Family Dwelling does not further reduce the minimum linear measurement of the existing nonconforming dimensions.

III-J Accessory Uses

- 1. Accessory uses shall be those uses that are customarily incidental to and located on the same lot with a principal use or on an adjoining lot under the same ownership and which are uses otherwise permitted in the zoning district in which they are proposed, provided, however, that:
 - a. Uses considered customarily incidental to residential uses shall be those accessory uses permitted under Section III-A, 1.8. Such uses shall also be permitted in buildings accessory to Single-Family and Two-Family Dwellings located in non-residential districts.
 - b. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit A2, provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

2. Additional Requirements

- a. Accessory uses may be located in any area contained within a non-conforming residential building (whether primary or accessory) existing as of April 26, 2004.
- b. Notwithstanding the provisions of Section III-A, 1.8.4, 1.8.5 and 1.8.6, regarding resident offices, studios, or customary home occupations, as described in those subsections, no more than three persons, including the resident professional(s), or business owner(s), shall be employed on the premises at any one time.
- c. Such uses shall be clearly incidental and secondary to the primary use.
- d. Such uses shall not alter the character of the premises on which they are located or impair the neighborhood.