



**TOWN CLERK'S REPORT
SPECIAL TOWN MEETING**

Monday, the Fourteenth Day of December, 2009

The Special Town Meeting of the Town of Foxborough convened at 7:35 P.M. in the auditorium of the Foxborough Senior High School, 120 South Street, Foxborough, Massachusetts with Mr. Francis J. Spillane, Town Moderator, presiding. Gary E. Whitehouse, Advisory Committee member, led the

Pledge of Allegiance. Town Clerk Robert E. Cutler, Jr. read the Warrant and Return. One hundred ninety-two (192) inhabitants qualified to vote in elections and at town affairs were recorded as present.

ARTICLE 1: Moved that the town's Annual 2010 Budget appropriations voted pursuant to Articles 4

and 5 of the May 11, 2009 Annual Town Meeting be hereby amended and reduced as follows:

<u>5/11/09</u>			<u>Budget</u>	<u>Adjust</u>	<u>Revised</u>
<u>Article #</u>	<u>Dept #</u>	<u>Department</u>			<u>FY '10 Budget</u>
4	156	GIS - Expenses	19,750	-9,750	10,000
5	171	Conservation	78,000	-78,000	0
		Capital - Dam Repair			
4	220	Fire - Capital Outlay	44,150	-27,000	17,150
4	410	Public Works - Capital Outlay	38,500	-6,000	32,500
4	543	Veterans - Expenses	73,585	-3,000	70,585
4	610	Library - Capital Outlay	12,500	-4,000	8,500
4	760	Debt Issuance & Expenses	50,000	-25,000	25,000
4	913	Worker's Compensation	180,000	-3,000	177,000
4	915	General Insurance	431,954	-5,261	426,693

ADOPTED Affirmative 170 Negative 1 7:50 PM

ARTICLE 2: Moved that Six Hundred Thousand Dollars (\$600,000) be appropriated to be spent by the Town Manager with the approval of the Board of Health for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements with the Board of Health and residential property owners, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow Six Hundred Thousand (\$600,000) Dollars and issue bonds or notes therefore under G.L. c111, s.127B1/2 and /or Chapter 29C of the General laws; that project and financing costs shall be repaid by the property owners, in accordance with those agreements, but such bonds or notes shall be general obligations of the Town; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof: and that the Board of Selectmen,

Town Manager, or other appropriate local body or official is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the projects.

ADOPTED Aff. 165 Neg. 3 7:56 PM

ARTICLE 3: Moved that the Revised General By-Laws of the Town of Foxborough, Article IV, be hereby amended by adding the following new Section 10:

Section 10 Due Dates For Payment Of Town Charges And Bills, Interest

- A. All charges and bills for the payment of any sum to the Town of Foxborough shall be due on the thirtieth day following the date such charge or bill was issued, absent any other provision of law permitting a longer time for payment.
- B. Interest shall accrue on the amount of any sum remaining unpaid after such thirtieth day at the same percentage rate as is provided in Massachusetts General Laws Chapter 59, Section 57.

ADOPTED Aff. 168 Neg. 0 8:00 PM
Approved by the A.G. March 24, 2010. REC

The Special Town Meeting was recessed at 8:00 PM to be reconvened after the second Special Town Meeting.

SPECIAL TOWN MEETING
Monday, the Fourteenth Day of December 2009

The Special Town Meeting was convened at 8:02 PM in the Auditorium of the Foxborough Senior High School on South Street, Foxborough, Massachusetts by Mr. Francis J. Spillane, Town Moderator. There were one hundred ninety-nine (199) inhabitants

qualified to vote at elections and town affairs recorded as present.

The Town Clerk, Robert E. Cutler, Jr. read the Warrant and Return.

Moved to recess the Special Town Meeting until the conclusion of Article #10 of the first Special Town Meeting of December 14, 2009 which was opened at 7:35 PM and recessed at 8:00 PM.

ADOPTED Affirmative 160 Negative 1 8:05 PM

Mr. Francis J. Spillane, Town Moderator, reconvened the Special Town Meeting which was previously recessed.

ARTICLE 4: Moved that the Revised General By-laws be hereby amended as follows:
by amending Article V, Section 13.D.2. to read as follows:

2. Removal of earth from an operating farm, nursery, or cemetery to the extent that such removal is necessary to the operation of same. The term operating farm as used in this Article V, Section 13.D. shall be defined as a parcel of land five acres or more in area, the primary and principal use of which is agriculture and which is being actively operated for agriculture as the primary and principal use of the land and not as an accessory use.

and by amending Article V, Section 13.F. to read as follows:

F. Penalty: Any person, firm, or corporation willfully violating, disobeying, or refusing to comply with any of the provisions of this Article V, Section 13 shall be prosecuted under the terms of M.G.L. Chapter 40, Section 21 and shall be subject to a fine of for the first offence, fifty dollars; for the second offence, one hundred dollars; and for each subsequent offence, two hundred dollars.

The Town Manager, Building Commissioner, Police Chief or any person designated by the Board, is

hereby empowered to enforce this Article V, Section 13 and is hereinafter referred to as the enforcing person. The enforcing person, as an alternative to such prosecution under the terms of M.G.L. Chapter 40, Section 21, may seek enforcement through a non-criminal proceeding pursuant to the provisions of M.G.L. Chapter 40, Section 21D, in which case the penalty for violation of this Article V, Section 13 shall be two hundred dollars (\$200.00).

Each day of non-compliance with this Article V, Section 13 shall constitute a separate offense. The Board may revoke or suspend the permit of any person, firm, corporation or limited liability company holding a permit under this Article V, Section 13 if such person, etc. violates, disobeys, or fails to comply with any of the provisions of such permit or of this Article V, Section 13.

MOTION MADE TO AMEND ARTICLE 4:
Moved to include after "operating farm" the words: "land in agricultural use and parcels of five acres or more used directly for agriculture."

NOT ADOPTED Aff. 20 Neg. 150 8:23 PM

MAIN MOTION ADOPTED
Aff. 155 Neg. 18 8:24 PM
Approved by the A.G. March 24, 2010. REC

ARTICLE 5: Moved that section 2(a) chapter 64 L of the General Laws of the Commonwealth be hereby accepted to impose an excise of 0.75% on sales of restaurant meals to take effect on April 2, 2010.

Moved to postpone indefinitely.

MOTION NOT ADOPTED
Aff. 90 Neg. 100 8:02 PM

MAIN MOTION NOT ADOPTED
Aff. 72 Neg. 83 8:40 PM

ARTICLE 6: Moved that the Foxborough Zoning Bylaws be amended by making the following changes:

ITEM 1. DELETE THE FOLLOWING ARTICLES OF THE EXISTING ZONING BY-LAWS IN THEIR ENTIRETIES:

ARTICLE 1:	CITATION AND PURPOSE
ARTICLE 2:	DEFINITIONS
ARTICLE 3:	ESTABLISHMENT OF DISTRICTS
ARTICLE 4:	USE REGULATIONS
ARTICLE 5:	DIMENSIONAL AND DENSITY REGULATIONS
ARTICLE 6:	SCREENING, BUFFERS AND LANDSCAPING
ARTICLE 7:	OFF STREET PARKING AND LOADING
ARTICLE 8:	SIGNS
ARTICLE 9:	SPECIAL REGULATIONS

ARTICLE 10:	ZONING PROTECTION
ARTICLE 11:	ADMINISTRATION AND ENFORCEMENT
ARTICLE 12:	AMENDMENTS, VALIDITY AND SEVERABILITY

ITEM 2. SUBSTITUTE THE FOLLOWING NEW SECTIONS THEREFOR:

SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE. These By-Laws are enacted to promote the general welfare of the Town of Foxborough, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the Town, all as authorized by, but not limited by, the provisions of the Zoning Act, Massachusetts General Laws, Chapter 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.2 AUTHORITY. These By-Laws are enacted in accordance with the provisions of Massachusetts General Laws, Chapter 40A – The Zoning Act, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

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

1.3.1 Certain Terms. For purposes of these By-Laws, and except otherwise as may specifically be stated, all references to the term “Town” shall mean the Town of Foxborough; all reference to such terms as “Planning Board,” “Board of Appeals,” and the like shall mean such boards, agencies, committees or the like of the Town of Foxborough as are designated by such terms; and all references to such terms as “Building Commissioner,” “Town Clerk,” “Town Planner,” and the like shall mean such officials of the Town of Foxborough as are designated by such terms.

1.4 APPLICABILITY. 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 these By-Laws. 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 these By-Laws imposes greater restrictions than those imposed by any other regulation, permit, restriction, easement, covenant, or agreement, the provisions of these By-Laws shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

1.4.1 Applicability; Nonconformities. Except as hereinafter provided, these By-Laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or Special Permit issued before the first publication of notice of the public hearing on these By-Laws or any amendments thereto, but shall apply to any change or substantial

extension of such use, to a building permit or Special Permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure.

1.4.2 Commencement. Construction or operations under a building permit or Special Permit shall conform to any subsequent amendments to these By-Laws, unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

1.5 REQUIREMENTS NOT ADDRESSED IN THESE BY-LAWS

1.5.1 Gravel Removal. All gravel removal operations shall only be authorized by the Board of Selectmen pursuant to the Town’s Revised Earth Removal By-Law.

1.5.2 Wetlands. All operations governed by Massachusetts General Laws, Chapter 131, the Wetlands Protection Act, shall also require the authorization of the Conservation Commission pursuant to the Foxborough Wetlands Protection By-Law.

1.5.3 Demolition. All requests for demolition permits shall comply with the provisions of the Demolition By-Law per Section 10 of the Foxborough General By-Laws.

1.5.4 Scenic Roads. All operations conducted on roads designated as “scenic” shall comply with the provisions of the Scenic Roads By-Law, per Section 11 of the Foxborough General By-Laws.

1.6 ZONING AMENDMENTS. These By-Laws may be changed by amendment, addition or repeal, but only in the manner hereinafter provided.

1.6.1 Initiation. Any change to these By-Laws may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, the Planning Board, by an individual owning land to be affected by the change, by the request of registered voters pursuant to Massachusetts General Laws, Chapter 39, Section 10, or by the Metropolitan Area Regional Planning Council (MAPC). When a petition is presented by an individual owning land to be affected by the change or by the request of registered voters, the petition shall be accompanied by a reasonable fee

to cover the costs of the required public notices. The Board of Selectmen shall submit any proposed change to the Planning Board for review within fourteen (14) days of receipt of such change.

1.6.2 Public Hearing. No change shall be adopted until after the Planning Board has held a public hearing at which interested parties shall be given an opportunity to be heard. The public hearing shall be held within sixty-five (65) days after the proposed change is submitted to the Planning Board by the Board of Selectmen.

1. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the Foxborough Town Hall for a period of not less than fourteen (14) days before the day of such hearing.
2. Notice of such hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, MAPC and to the Planning Boards of all abutting towns. A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under these By-Laws shall be sent by mail, postage prepaid to any such owner who files an annual request for such notice with the Town Clerk no later than January first and pays a reasonable fee.
3. Publication and notices shall contain the date, time and place of the hearing, a summary of the subject matter and the place where texts and maps may be inspected.

1.6.3 Planning Board Report. The Planning Board shall submit a report with recommendations to the Board of Selectmen and Town Meeting within twenty-one (21) days after the date of the public hearing.

1.6.4 Vote. No vote to adopt any proposed change shall be taken until after such notice, hearing

and report is subsequently submitted or twenty-one (21) days have elapsed without the required report with recommendations, after which the Town Meeting may adopt, reject, or amend any such proposed change. If a Town Meeting fails to vote to adopt any proposed change within six (6) months after the Planning Board hearing, no action shall be taken thereon until after a subsequent public hearing held with notice and report as provided above. No change shall be adopted except by a two-thirds (2/3) vote of Town Meeting. No proposed change that has been unfavorably acted upon shall be considered by Town Meeting within two (2) years after the date of such unfavorable action, unless the adoption of such proposed change is recommended in the final report of the Planning Board.

1.6.5 Statement. The Planning Board shall furnish a statement explaining the change proposed, with supporting maps or plans to be submitted with the change to the Massachusetts Attorney General. The change shall also be published in a Town bulletin or pamphlet, copies of which shall be posted in Town Hall; or be published at least twice, one (1) week apart in a newspaper of general circulation in the Town of Foxborough. The publication shall include a statement that claims of invalidity because of any default in procedures may only be made within ninety (90) days of such posting of the second publication and a statement indicating where copies of such change may be examined.

1.6.6 Transmittal. After adoption and approval, a copy of the By-Law shall be sent to the Massachusetts Department of Community Affairs by the Town Clerk.

1.6.7 Legal Action. Pursuant to Massachusetts General Laws, Chapter 40, Section 32, legal action may be taken regarding defects in the procedure of adoption. A copy of the petition must be filed with the Foxborough Town Clerk within seven (7) days after the commencement of the action.

1.7 EFFECTIVE DATE. The effective date of any change shall be the date of the Town Meeting vote of acceptance, unless disapproved by the Massachusetts Attorney General, whereby the previous By-Law shall govern.

1.8 SEPARABILITY. The invalidity of any section or provision of these By-Laws shall not invalidate any other section or provision herein.

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT. For the purpose of these By-Laws, the Town of Foxborough is hereby divided into the following types of use districts:

RESIDENTIAL DISTRICTS

R-15 Residential District
R-40 Residential and Agricultural District

BUSINESS DISTRICTS

GB General Business District
NB Neighborhood Business District
HB Highway Business District

INDUSTRIAL DISTRICTS

LI Limited Industrial District
GI General Industrial District

OTHER DISTRICTS

S-1 Special Use District

2.2 OVERLAY DISTRICTS. The following overlay districts are established in Section 9.0:

Design Review Overlay District
Flood Plain Overlay District
Water Resource Protection Overlay District
Economic Development Area Overlay District
Chestnut-Payson Overlay District

DRD
FPOD
WRPOD
EDAOD
CPOD

2.3 ZONING MAP. The Town of Foxborough is divided into zoning districts, as provided herein and as shown on the zoning map entitled, "Zoning Map, Foxborough, Mass." Filed January 30, 1960 as amended from time to time which, together with all explanatory matter thereon, is hereby declared to be part of these By-Laws. Said Zoning Map shall be the official record of zoning status of areas within the Town.

2.3.1 Supplemental Maps. The supplemental maps indicated below are hereby adopted, and with others that may hereafter be officially adopted for special purposes indicated, shall have the same force and effect as the zoning map and are included as a part of the Zoning Map:

1. Flood Insurance Rate Map;
2. Water Resource Protection District Map

2.4 INTERPRETATION OF ZONING MAP. The locations and boundaries of districts shall be as shown on the Zoning Map and supplemental maps as amended and as are on file with the Town Clerk.

2.4.1 Right of Way. Where boundaries are indicated in the right-of-way of streets or watercourses, such boundaries shall be the centerline of the right-of-way.

2.4.2 Property Lines. Where boundaries

approximately follow property lines and are not more than twenty-five (25) feet therefrom, the property line shall be the district boundary.

2.4.3 Parallel to Street or Road. Where boundaries are parallel to a street or road and are fixed by dimensions on the Zoning Map, the distances shall be measured from the right-of-way line where a plan is on file with the Norfolk County Registry of Deeds or, in the absence of such plan, from a line parallel to and twenty-five (25) feet from the centerline of the traveled way.

2.4.4 Scale. Where distances are not specified on the Zoning Map nor otherwise determined from the above provisions, the scale of the Zoning Map shall be used to determine the location of the district boundary.

2.4.5 Undefined Boundaries. The determination of boundaries in question not defined herein or on the Zoning Map, shall lie with the Board of Appeals.

2.4.6 Split Lots. Where a lot is transected by a zoning district boundary, the regulations of these By-Laws applicable to the larger part of the area of such lot may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary but not to exceed thirty (30) linear feet beyond such zoning district boundary, if the smaller part has frontage on an accepted way.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES. Except as provided by law or in these By-Laws in each district, no building or structure shall be constructed, used or occupied, nor shall land be used or occupied, except for the purposes permitted as set forth in the Table of Use Regulations.

3.1.1 By Right. A use listed in the Table of Use Regulations is permitted as of right in any district under which it is denoted by the letter "Y" subject to such restrictions as may be specified elsewhere in these By-Laws.

3.1.2 Not Permitted. A use listed in the Tale of Use Regulations is prohibited in any district under which it is denoted by the letter "N".

3.1.3 Special Permit; Board of Appeals. A use designated in the Table by the letters "BA" may be permitted as a Special Permit only if the Board of Appeals so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish.

3.1.4 Special Permit; Planning Board. A use designated in the Table by the letters "PB" may be

permitted as a Special Permit only if the Planning Board so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish

3.1.5 Special Permit; Board of Selectmen. A use designated in the Table by the letters "SB" may be permitted as a Special Permit only if the Board of Selectmen so determines and grants a Special Permit as provided in Section 10.4 of these By-Laws subject to such restrictions as are set forth elsewhere in these By-Laws, and such restrictions as said Board may establish.

3.1.6 Uses. Land uses are only allowed as noted below. Any use not noted herein, is prohibited. The abbreviations used are as follows:

Y = Permitted
N = Not Permitted
BA = Permitted by Special Permit from the Board of Appeals
PB = Permitted by Special Permit from the Planning Board
SB = Permitted by Special Permit from the Board of Selectmen

J. Recreational Use	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. Clubs such as golf clubs, country clubs, private club or lodge	BA	BA	BA	BA	BA	BA	BA	PB
2. Passive outdoor recreational uses such as beaches, parks, picnic groves, and other similar uses, but not including amusement parks	N	BA	N	BA	BA	Y	Y	PB
3. Low density recreational uses which predominantly occur within a building such as swimming, tennis, skating and other similar uses	N	N	BA	BA	BA	Y	Y	Y
4. Boat storage facility provided no construction or major repair shall be allowed other than necessary for the maintenance of boats owned by a proprietor or lessee	N	BA	N	BA	BA	Y	Y	PB
5. Commercial campgrounds	N	BA	N	N	N	N	N	N
6. Outdoor/Indoor recreational uses including, golf driving range, miniature golf course, batting cages, go-carts and bumper boats (except in Water Resource Protection Overlay District, where such uses shall be prohibited) but not including amusement parks	N	N	N	N	N	N	N	PB
7. Wellness and Recreation Center	PB	PB	PB	PB	PB	PB	PB	PB
K. Planned Development	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. Planned Development – See section 9.1.8	N	N	N	N	N	N	N	PB
L. Accessory Uses	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. The storage (temporary or otherwise), sale or processing of any combustible or waste materials	N	N	BA	BA	BA	BA	BA	PB
2. Seasonal migrant workers quarters, mobile home or watchman's quarters as accessory uses to permitted Agricultural and Industrial uses	Y	Y	Y	Y	Y	Y	Y	Y
3. Residential accessory uses and structures. Gross area of residential storage structures shall not exceed 400 square feet or 1.5 stories; the gross area of temporary wayside stands shall not exceed 400 square feet	Y	Y	Y	Y	N	N	N	N
4. Residential garages which do not exceed one and a half stories in height and a "footprint" not to exceed one and a half stories in height and a "footprint" not to exceed 625 square feet.	Y	Y	Y	Y	N	N	N	N
5. Residential Garages which exceed one and a half stories in height or have a "footprint" larger than 625 square feet	BA	BA	BA	BA	N	N	N	N
6. Outdoor storage or overnight parking of buses, trucks or other vehicles whose Gross Vehicle Weight (GVW) as determined by Mass Registry of Motor Vehicles exceeds 10,000 pounds	N	N	Y	N	Y	Y	Y	Y

	R-15	R-40	GB	NB	HB	GI	LI	S-1
7. Accessory uses to multifamily dwellings which are located within the principal building and are limited to eating establishments, personal service establishments; retail sales establishments selling convenience merchandise	Y	Y	Y	N	Y	Y	Y	Y
8. Accessory structures to multifamily structures	BA	N	BA	N	BA	BA	BA	BA
9. Nonresidential accessory uses and structures which do not exceed fifteen percent (15%) of the gross area of the principal building or buildings	N	N	Y	Y	Y	Y	Y	Y
10. Home occupation	BA	BA	Y	Y	N	N	N	N
11. Keeping of livestock or horses on a parcel of land which is not greater than two (2) acres in area	BA	BA	BA	BA	BA	BA	BA	BA
12. Keeping of livestock or horses on a parcel of land which is greater than two (2) acres in area	Y	Y	Y	Y	Y	Y	Y	Y
M. Other Uses	R-15	R-40	GB	NB	HB	GI	LI	S-1
1. Electronic video or mechanical gambling machines or devices or similar games of chance involving the betting or wagering of money	N	N	N	N	N	N	N	N
2. Access ways (including no more than one limited access way through residential districts) and associated infrastructure including, but not limited to, drainage, sewer lines and utilities serving events licensed but the Board of Selectmen at stadium	N	Y	N	N	N	N	N	Y

within the Economic Development Area Overlay District								
3. Parking spaces beyond the requirements of the primary use(s) on the lot provided the spaces are constructed to the standards found in Article 7 of these By-Laws	PB	PB	Y	Y	Y	Y	Y	Y
4. Arcades	N	N	N	N	N	N	N	PB
5. All lands and buildings which are used for the sale of previously owned vehicles	N	N	N	N	PB	PB	PB	PB

3.1.7 Notes to Table of Use Regulations.

1. See Section 9.0 for further regulations applicable in all overlay districts. To the extent that the provisions of this Section 3.0 are in conflict, the provisions of Section 9.0 shall govern.
2. There shall be allowed no more than one such access way through a Residential District to serve such a stadium use, except that this limitation shall not apply to any emergency access way serving such stadium that is required by public safety officials of the Town of Foxborough. For (i) all National Football League (or successor) football games, (ii) soccer games, and (iii) six (6) other events, for which tickets will be made available for 50,000 or more attendees (the "Permitted Events"), the one limited access way through residential districts may be used pursuant to Site Plan approval granted by the Planning Board and shall be subject to limitations as to the time, and number and type of vehicles using said access way, pursuant to Section 9.5.10.5. For any other stadium event for which greater than 50,000 tickets will be made available, the Planning Board may allow the use of said limited access way through residential districts subject to the issuance of a Special Permit. When reviewing a request for a Special Permit, the Planning Board shall employ the criteria detailed in Section 10.4 of these By-Laws. Among these and other concerns, the Board shall also review the day(s) of the week the access way is proposed to be open, the proposed hours of operation, the proposed number and types of vehicles to use it, and the general impacts on the neighborhood.
3. The Arcade must be located in separate room from the primary use and must be staffed by a dedicated employee of the business of the primary use when open. There must be at a minimum thirty (30) square feet net of floor space per machine in the arcade room. There shall be at least one (1) dedicated employee for every thirty (30) machines.
4. Considering a request for a Special Permit for the sale of used or previously owned vehicles, the Board shall employ the criteria found in Section 10.4 of these By-Laws. Among other concerns, it shall also consider the proximity of

the use to residential dwellings, the proposed location relative to similar uses, the number of vehicles proposed for sale and the proposed landscaping, screening and buffering.

5. Any use that would be offensive, hazardous, or harmful to the neighborhood or to property in the vicinity by reason of blight, air, water or noise pollution, debris, salvage materials, junk, solid or liquid waste, danger of explosion or fire, electric or electronic interference, or conditions conducive to the breeding of insects and rodents is prohibited whether or not enumerated around the uses otherwise permitted in any district.

3.2 ACCESSORY USES

3.2.1 General. Accessory uses and structures shall be permitted or permitted by Special Permit as set forth in the Table of Use Regulations.

3.2.2 Home Occupation; Intensive. An intensive home occupation is permitted by Special Permit as set forth in the Table of Use Regulations in the principal residence or in an accessory building, subject to the following standards:

1. The business must not produce noise or other objectionable characteristics beyond the limits of the lot; and
2. The area devoted to the home occupation shall not exceed forty (40) percent of the habitable floor area of the principal dwelling; and
3. Necessary off street parking shall be provided; and
4. Not more than (2) persons may be employed, other than the family members; and
5. Storage of material or products outside of a principal building is prohibited; and
6. The making of external structural alterations which are not customary in residential buildings is prohibited.

3.3 TEMPORARY USES

3.3.1 Amusement or Recreation. Temporary uses for amusement and recreation shall require the issuance of a Special Permit from the Board of Selectmen, and may be subject to appropriate conditions.

3.3.2 Other. Except as provided for in Section 3.3.1, when the Board of Appeals finds that the

general health, safety or welfare of the Town will be served by allowing as a temporary use one that is not otherwise permitted, and where such use will not be in conflict with the purposes permitted in the district in which such use is situated and such temporary use

may be permitted for a period of not more than one (1) year, without recourse of an extension of time, a Special Permit may be granted for same.

SECTION 4.0 DIMENSIONAL REQUIREMENTS

4.1 GENERAL REQUIREMENTS

residential structures shall conform to the dimensional regulations set forth in Table 4-1. All nonresidential structures shall conform to the dimensional regulations set forth in Table 4-2.

4.1.1 Tables of Dimensional Requirements. All

Table 4-1 DIMENSIONAL REGULATIONS FOR RESIDENTIAL USES									
DISTRICT/ USE	AREA (sq. ft.)	FRONTAGE (ft.)	YARDS (ft.)			BUILDING HEIGHT		MINIMUM LOT WIDTH (ft.)	
			Front	Side	Rear	Stories	Feet	Distance from Street	Width
R-15 & Two family									
Single and Two-Family	15,000	100	25	15	30	2.5	35	50	67
Multi-family									
First 3 units	32,250	100	50	25	75	2.5	35	100	67
Additional unit	6,125								
Non-residential uses	32,250	125	50	50	75	2.5	35	100	67
R-40 & NB									
Single family	40,000	200	35	15	30	2.5	35	100	134
Residential Compound			See Section 8.2						
Open Space Residential Development			See Section 8.3						
Planned Development – S-1 District			See Section 9.1.8						
Non-residential uses	40,000	200	50	50	75	2.5	35	100	134

4.1.2 Notes to Table 4-1.

1. When the side yard of a multi-family structure abuts a single or two-family structure or vacant land, the minimum side yard shall be twenty five (25) feet and the minimum frontage shall be one hundred twenty-five (125) feet.
2. No more than eight (8) dwelling units are allowed on a lot.
3. The total height of a structure shall not exceed either thirty five (35) feet or two and one-half (2.5) stories, whichever is greater.
4. All yard requirements shall be measured from the property line of the parcel

Table 4-2 DIMENSIONAL REGULATIONS FOR NONRESIDENTIAL USES

DISTRICT	FRONTAGE (ft.)	YARDS (ft.)			BUILDING HEIGHT		MAXIMUM LOT COVERAGE	MINIMUM LOT WIDTH (ft.)	
		Front	Side	Rear	Stories	Feet		Distance from Street	Width
GB	0	15	0	20	2.5	35	85%	0	0
NB	25	50	10	35	2.5	35	75%	100	17
HB	100	50	25	50	3.0	40	70%	100	67
LI	50	50	25	50	3.0	40	70%	100	34
GI	50	50	25	50	3.0	40	70%	100	34
S-1	300	300	75	50	3.0	40	70%	150	200

4.1.3 Notes to Table 4-2.

1. When any front yard abuts a Residential District, it shall be a minimum of one hundred (100) feet except for nonresidential uses in the General Business District.
2. When a nonresidential use abuts a residential district, no off-street parking, storage of materials, or the display of goods is allowed within the required front yard except for nonresidential uses in the General Business District.
3. When any side or rear yard abuts a Residential District, it shall be a minimum of fifty (50) feet.
4. Height requirements can be increased pursuant to Section 4 of these By-Laws.
5. Minimum lot size within the S-1 District is 80,000 square feet.
6. Lots located in the S-1 District with frontage on streets other than Route One shall have a minimum of two hundred (200) feet of frontage.
7. See Section 9.1.8 for specific regulations pertaining to Planned Developments (PD S-1), and the creation of lots with one hundred (100) feet of frontage by Special Permit in the S-1 district.
8. All yard requirements shall be measured from the property line of the parcel.
9. Insofar as there may be inconsistencies between this Table 4-2 and the provisions of Section 9.5, the provisions of Section 9.5 shall govern.

4.1.4 One Dwelling Per Lot. Only one (1) dwelling structure shall be located on a lot, unless otherwise expressly permitted by these By-Laws.

4.1.5 Nonresidential Buildings. Two (2) or more nonresidential buildings may be located on a lot, provided that each building conforms to the dimensional and density requirements of these By-Laws. The lot shall meet minimum frontage requirements.

4.1.6 Yards. Every part of a required yard shall be open except for permitted accessory buildings or structures and the ordinary projection of sills, chimneys, ornamental features, and eaves, provided that no such projection shall extend into the minimum side yards more than twenty-four (24) inches. Unroofed entrance porches or terraces which do not rise above the height of the floor level of the ground floor may extend into a required yard space provided the area shall not exceed two hundred (200) square feet.

4.2 SPECIAL DIMENSIONAL REQUIREMENTS.

4.2.1 Required Yards. Accessory buildings or structures may occupy not more than twenty-five (25%) percent of the rear yard in any Residential District and not more than forty (40%) percent of the

rear yard in any non-Residential District.

4.2.2 Swimming Pools. A swimming pool as an accessory use to a single or two (2) family dwelling may be located to within fifteen (15) feet of a side or rear lot line.

4.2.3 Accessory Structures to Multifamily Structures. Accessory structures to existing multifamily structures shall only be allowed by Special Permit from the Board of Appeals; provided, that if the structure is shown on a Special Permit application to construct a multifamily structure, it may be approved as a part of that application.

4.2.4 Corner Lot. The following shall apply to corner lots:

1. The required frontage for a corner lot shall be provided on only one (1) street.
2. No detached accessory building shall be erected closer to any street than the principal building on the lot.
3. Yards abutting upon streets shall be considered front yards.
4. At the intersection of two or more streets, no hedge, fence or wall higher

than three (3) feet, nor any obstruction to vision, shall be permitted on any lot within the triangular area formed by two (2) intersecting street lines bounding the lot and by a line connecting a point on each street line located twenty-five (25) feet from the point of intersection with the street lines.

4.2.5 Attached Garage. A garage or carport attached to any side of a dwelling and constructed as a part of the dwelling shall be considered as a part of the dwelling and shall meet all requirements for front, side, or rear yards, and height of structure which apply to the dwelling.

4.2.6 Storage Structure. A residential storage structure may be located to within five (5) feet of a side or rear lot line, while a detached residential garage shall be located a minimum of fifteen (15) feet from a side yard and thirty (30) feet from the rear lot line.

4.27 Swine. No structure for the shelter of swine shall be located within one hundred (100) feet of any property line nor shall any structure for the shelter of any other farm livestock be located within fifty (50) feet of any property line.

4.2.8 Gasoline or Oil Facility. No gasoline or oil facility shall be located within fifty (50) feet of any lot line.

4.3 ACCESS REQUIREMENTS.

4.3.1 Access Through Frontage Required. Access to all lots shall only be through or across its legal frontage. For corner lots, see Section 4.2.4. No "common driveways" are allowed unless otherwise provided for within these By-Laws.

4.3.2 Exception. During the subdivision control process, the Planning Board has the discretion to allow access to a lot where that portion of the street comprising the frontage of the lot will not be fully constructed due to the granting of a waiver of construction.

4.4 BUILDING HEIGHT

4.4.1 Exceptions. The height limitations of these By-Laws shall not apply to structures not used for human occupancy such as church spires, cupolas, chimneys, ventilators, skylights, water tanks, silos, necessary mechanical appurtenances usually carried above the roof level, such as elevator housings, nor to radio and television antennas.

4.4.2 Special Permit. Upon the granting of a Special Permit pursuant to the requirements set forth in Section 10.4, any principal structure, in any Nonresidential District, may be erected to a height in excess of that specified in Table 4-2 but shall not exceed sixty (60) feet, nor more than four (4) stories.

4.4.3 Controlling Provision. Insofar as the provisions of this Section 4.4 are in conflict with or are inconsistent with the provisions of Section 9.5, the provisions of Section 9.5 shall govern.

4.5 EXEMPTIONS.

4.5.1 Structures in the Public Interest. The following structures, which in the opinion of the Building Commissioner are obviously intended to be located in the public interest and are not incongruous with the aesthetic standards of the surrounding area, shall be exempt from the minimum yard requirements: telephone booths and pedestals, underground utility equipment, mailboxes, bus shelters, flagpoles, fences, retaining walls, trash disposal units, or any similar structures.

4.5.2 Eminent Domain. Where the Town of Foxborough or other governmental agency acquires an interest in land by eminent domain or otherwise that is adjacent to an existing public way for the purpose of constructing or widening of the public way or sidewalks, then the following provisions shall apply to lots or buildings affected by any such street widening or sidewalk acquisition:

1. If the area of the lot, which prior to such acquisition conformed to these By-Laws, is reduced to an area less than is required by Section 4.1.1, then the area of such lot remaining after such acquisition shall be deemed in conformity with these By-Laws.
2. If a yard setback of a building, which prior to such acquisition conformed to these By-Law, is reduced to a distance less than is required by Section 4.1.1, then the yard setbacks remaining after such acquisition shall be deemed to be in conformity with these By-Laws.
3. If the frontage of the lot, which prior to such acquisition conformed to these By-Law, is reduced to a frontage less than is required by Section 4.1.1, then the frontage of such lot remaining after such acquisition shall be deemed in conformity with these By-Laws.

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 APPLICABILITY. These By-Laws shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or Special Permit issued before the first publication of notice of the public hearing required by Massachusetts General Laws, Chapter 40A, Section 5 at, which these By-Laws, or any relevant part hereof, were adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no

modification of the use or structure is accomplished, unless authorized hereunder.

5.2 NONCONFORMING USES. The Board of Appeals may grant a Special Permit to change a nonconforming use in accordance with this Section 5.0 only if there is a finding that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the

