

# **ZONING BY-LAW TOWN OF HUNTINGTON, MA.**

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## CONTENTS

Page #:

4	Section I: General
	A. Authority
	B. Purpose
	C. Reference
	D. Application
	E. Mandated Provisions
5-6	F. Abbreviations and Definitions
6	Section II: Zoning Districts
	A. Types of Districts
	B. Location of Districts
	C. Interpretation of District Boundaries
7	Section III: Dimensional Requirements
	A. General
	B. District Requirements (see also Appendix A)
	Section IV: Use Regulations
	A. General
8	B. Residential Uses
	C. Non-residential Uses on Residential Lots
9	D. Non-residential Uses for Lots Not Also Used for Residence
11	E. Multiple Uses on a Lot
	F. Central Business District
	G. Animal Husbandry
	H. Off-street Parking
12	I. Signs
13	J. Earth Removal
18	K. Common Driveways
19	L. Aquifer Protection District
23	M. Floodplain District
24	N. Context-Sensitive Developments
25	O. Open Public Land District
	P. River Protection District
27	Q. Wireless Communications Facilities
29	R. Adult Business Bylaw
30	S. Accessory Family Dwelling Unit Bylaw
31	Section V: Special Permits
	A. Authority
	B. General Provisions
32	C. Procedures for Special Permit
	Section VI: Exemptions
	A. Non-conforming Uses, Structures, and Lots
33	B. Variances
	Section VII: Officers, Powers, and Enforcement
	A. The Zoning Board of Appeals
	B. The Zoning Enforcement Officer
34	Section VIII: Appeals
	A. Appeals to the Zoning Board of Appeals
	B. Appeals of Decisions of Town Boards or Officers
	Section IX: Amendments
	Section X: Repeal

Unofficial version – Please see the Town Clerk 3  
for the official version

Current as of April, 2009

Section XI: Validity

(Con't)

35 Appendix A: Table of Dimensional Requirements

Current as of April, 2009

**ZONING BY-LAWS OF  
THE TOWN OF HUNTINGTON**

**SECTION I. GENERAL**

**A. Authority**

Under authority granted by the Zoning Act, Massachusetts General Laws Chapter 40A, as amended (MGL 40A), the Town of Huntington hereby adopts this by-law, called the Zoning By-Law of the Town of Huntington.

**B. Purpose**

The purpose of the Zoning By-Law is to regulate the dimensions and uses of buildings, structures, and land within the Town of Huntington in a manner appropriate to the character of the Town and its various areas and activities, in order to provide for the general welfare, conserve, protect, and enhance the natural and cultural resources of the Town and the health and safety of its inhabitants, insure an adequate supply of light and air, and protect against the hazards of fire and flood.

**C. Reference**

For matters not covered by this By-Law, reference is made to Chapter 40A and Chapter 40, Section 32 of the Massachusetts General Laws and to such other State laws as may apply. Quotations, paraphrases, and summaries drawn from the General Laws have been placed within brackets: [...]. They are included for the convenience of those consulting this By-Law and are not officially a part thereof.

**D. Application**

No land shall be occupied or used, no lot dimensions, areas, or boundaries shall be altered, moved, or used, except as provided in this By-Law and other legally binding regulations, including the Mass. Building Code, Health Act, Wetlands Act, and the By-Laws and other rules and regulations of the Town of Huntington. (2/11/87)

**E. Mandated Provisions**

This By-Law shall be deemed to include all provisions mandated by MGL 40A and other State laws.

**F. Abbreviations and Definitions**

**ABBREVIATIONS:**

- MGL: The Massachusetts General Laws currently in force, as amended.
- MGL 40A: MGL, Chapter 40A (The Zoning Act).
- PGA: Permit Granting Authority (usually the ZBA).
- SPGA: Special permit granting authority (usually the ZBA: see Sect. VA3.)
- ZBA: The Zoning Board of Appeals, Town of Huntington.
- ZEO: The Zoning Enforcement Officer, Town of Huntington.

Current as of April, 2009

## **DEFINITIONS**

In this By-Law, the singular shall include the plural and the plural shall include the singular. Terms not defined in this section shall be defined as in the State Building Code, Article 2, as amended, or, if they are not defined there, they shall be defined as in the (Merriam) Webster's Third New International Dictionary.

accessory building or structure: any building or structure whose use is subordinate or incidental to the use of another building or structure on the same lot.

accessory family dwelling unit: a minimal second dwelling unit created from and contained within a single family structure, which is owner-occupied and which maintains the outward appearance of a single family dwelling. (Added May 3, 2004)

agriculture: the raising or production of plants or plant products (including horticulture, grape raising, forestry) and/or the raising or keeping of animals primarily for food, and the keeping and use of animals for such activities.

animal husbandry: the raising or keeping of animals other than personal pets.

building: a structure with exterior walls and a roof, designed for the shelter of persons, animals, or property.

condominium: a multi-family house or houses in which the dwelling units are individually owned.

driveway: a portion of a lot which is prepared for vehicular traffic and which provides access from a street to or towards a structure on a lot. (Amended 5/02/1988)

common driveway: a private way which serves as a common vehicular access to two (2) residential lots. No driveway or portion of a driveway's length may be used as frontage to satisfy the requirements of Huntington's Zoning By-Law. (ATM 5/02/2005)

dwelling unit: a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

home occupation: The pursuit of an occupation on a lot by a resident of the lot. (5/11/96)

house: a permanent building containing one or more dwelling units.

multi-family house: a house containing more than two dwelling units.

single-family house: a house containing one dwelling unit with not more than three lodgers or boarders.

two-family house: a house containing two dwelling units with not more than three lodgers or boarders per dwelling unit.

boarding house, tourist house: a dwelling unit arranged or used for lodging, with or without meals, by more than three lodgers or boarders.

junkyard: storage in the open of used items offered for sale. Also any lot with more than three unregistered and ungaraged automotive vehicles or parts thereof, except that open storage for sale of unregistered automotive vehicles by a licensed dealership is not a junkyard.

kennel: the raising or keeping of more than three dogs on a lot.

lot: a measured parcel of land having fixed boundaries and designated on a plot or survey, all as described in a current deed of record, including all conveyances of record thereto. (A conveyance is a deed transferring land from one lot to another.)

lot line: a line dividing one lot from another, or from a street or public place.

lot front line: (See also street frontage) the portion or portions of a lot line that lie on the line of a street. (2/11/87)

lot side line: that portion of a lot line or lines which is not a lot front line. Includes lot rear line.

manufacture: the production for sale of articles by standardized methods, primarily by means of stationary or self actuated power driven machinery.

manufactured home with the definition as per M.G.L. Chapter 140, section 32Q which reads "a structure, built in conformance to the National Manufactured Home Construction and Safety Standards Act, [HUD Standards: CFR 3280] which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems therein and in conformance with MA state fire code. (Amended 5/03/1999)

manufacture, small scale: manufacture in which total production and assembly space is no more than 2000 square feet.

public way: A right-of-way that has been established by public authority as a Town or County Road, or State or Interstate Highway. (5/11/96)

residence: a lot containing a house or manufactured home.

Current as of April, 2009

riverbank: the upper bank boundary, defined as the mean annual flood level or the first observable break in the slope, which ever is lower, as specified in 310 CMR 10.5(2) (a&c).

road: a right of way which has been prepared for vehicular traffic.

satellite receiving system (includes dish antenna): an apparatus capable of receiving signals from a transmitter or transmitter relay located in planetary orbit.

stable: raising or keeping more than two horses on a lot for other than agricultural use.

street: a road which is certified by the Town Clerk as a public way or which has been constructed as shown on an approved definitive plan of subdivision.

street frontage: The continuous length (in feet) of a lot line which abuts a road or street that has either been accepted as a town way or approved as a subdivision road (whether public or private). All corner lots must have sufficient frontage on one road to satisfy zoning requirements. Frontage for a single use on two or more lots shall be the sum of the individual lot frontages. (05/01/2006)

structure: a combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, antenna mast, satellite receiving system, swimming pool, windmill, dam, or the like, including a part or parts thereof.

use, accessory: a use which is subordinate or incidental to another use on the same lot.

use, occasional: a use on a lot which is carried on no more than fourteen consecutive days and no more than thirty days in all in any one year.

use, principal: a use on a lot which is not accessory and is more than occasional. Where not otherwise indicated, the term 'use' in this By-Law shall mean 'principal use and uses accessory thereto'.

use, variety: two or more business uses combined in an integrated operation, e.g., grocery plus package store plus gasoline service. Possibly includes residential use by owners or proprietors.

uses, compatible: two or more uses on a lot such that no use interferes with, detracts from, or is inappropriate to any other use.

uses, complimentary: two or more uses on a lot which enhance each other or which fit together harmoniously and in such a way as to make it natural and appropriate that they be carried out on the same lot.

aquifer; hazardous material; impervious surfaces; leachable materials; primary aquifer recharge areas; secondary recharge areas:

see Zoning Map, Aquifer Protection District.

## SECTION II. ZONING DISTRICTS

### A. Types of Districts

The Town of Huntington is hereby divided into the following districts for the purposes of this By-Law: Residence 25, Residence 45, Residence 90, Residence 135, Business, Central Business, Industrial, Conservation, Aquifer Protection (5/17/86), Floodplain (5/9/88).

### B. Location of Districts

The location and boundaries of the zoning districts are shown on the Zoning Map of Huntington, dated May 1985 (as amended 5/17/86 and 5/22/88), which shall be on file in the Office of the Town Clerk. The Zoning Map, with explanatory matter thereon, is hereby made part of this By-Law.

### C. Interpretation of District Boundaries

1. For the purposes of determining district boundaries, the line of a right of way, street, railroad, or watercourse shall be the centerline.
2. District boundaries shown approximately parallel to the line of a right of way, street, railroad, waterway, or Town line shall be deemed parallel to said line at the distance indicated on the Zoning Map.
3. District boundaries which are defined by existing property or lot lines shall be fixed as of the date of their adoption, and unaffected by subsequent changes in such lines.

### **SECTION III. DIMENSIONAL REQUIREMENTS**

#### **A. General**

1. **Obstructions:** No trees, fences, or other obstructions are allowed within street lines except mail and newspaper boxes.
2. **Corner Clearance:** Where street lines meet at an angle of less than 135° the intersection shall be kept clear to a distance of at least ten feet of anything which might impede the visibility of approaching vehicles.
3. **Coverage Limit:** Except for the central business district, no more than 25% of the area of a lot may be occupied by structures.
4. **Setbacks:** Setback requirements apply to swimming pools and all structures more than three feet high which are installed for more than thirty days in any one year, except for mail and newspaper boxes, flagpoles, lawn ornaments, lampposts, permitted signs, fences, and walls. In residential districts, fences and walls more than four feet high must have a front setback of at least ten feet.
5. **Application:** Except as provided in III A 4 above, dimensional requirements apply to all buildings and structures.

#### **B. District Requirements (see Appendix A) (Numbering changed 5/13/1995)**

1. The dimensional requirements for uses and structures in each district shall be as shown on Appendix A, except as otherwise provided in this Section.
2. Special permit for conversion of a single-family house to a two-family house on lots which do not meet dimensional requirements for two-family houses may be granted, provided that:
  - a. The house has been in existence, and has contained at least eight rooms ever since January 1, 1930,
  - b. The lot, in its present dimensions, has been in existence ever since June 30, 1974, and
  - c. The general requirements set forth in Section V B are met.

### **SECTION IV: USE REGULATIONS**

See also Aquifer Protection District (Sect. IV L) Floodplain District (Sect. IVM), and River Protection District (IV P).

#### **SECTION IV A: GENERAL**

The following four categories are permitted in all districts.

IV A 1a Uses exempted from zoning regulations by MGL 40A, Sec. 3 and other State laws, to the extent of such exemption. Includes many agricultural, educational, public and religious uses.

IV A 1b Public uses under the authority of the Town of Huntington.

IV A 1c Non-commercial outdoor recreational uses.

IV A 1d Agricultural uses other than animal husbandry. (For which see S. IV G) Includes sale of agricultural goods the majority of which have been produced on premises by such uses.

The following two categories require special permit in all districts.

IV A 2a Any structure not a building (see definitions) and more than 25 feet high. For example: flagpole, antenna, wind mill.

IV A 2b Accessory scientific uses, as provided in MGL 40A, Sec.9.

The following two categories are prohibited in all districts.

IV A 3a Junkyard, commercial racetrack, radioactive waste disposal site, manufactured home park.

IV A 3b Any use which results in the production of noises, odors, or emissions which are unsuitable or inappropriate to the neighborhood.

## **SECTION IV B: RESIDENTIAL USES**

All residential uses require two off-street parking spaces per dwelling unit except in the Central Business District, for which see Sec. IV F.

IV B 1a One single-family house. Permitted in all districts.

IV B 1b One two-family house. Requires special permit in all districts.

IV B 1c Multi-family house(s): for example, apartment building(s), condominium. Requires special permit in all districts.

IV B 1d Manufactured home. Requires special permit in residential districts. Prohibited elsewhere. Manufactured home installations must meet State health and building code standards as to sanitary facilities and permanent foundation. (Changed to 'Manufactured' May 3, 1999) [MGL

40A Sec. 3 provides that the building inspector shall on request issue a temporary permit of no more than one year for a manufactured home to the owner of a residence which has been destroyed by fire or other disaster.]

IV B 1e Accessory Family Dwelling Unit: requires special permit in all districts. (See Section IV S ) (Added May 3,2004)

## **SECTION IV C: NON-RESIDENTIAL USES ON RESIDENTIAL LOTS**

**Category 1:** No effect on the residential character of the neighborhood. The following two uses are permitted in all residences, provided conditions are met.

IV C 1a Any customary home occupation.

IV C 1b Pursuit of an occupation which is mainly carried on elsewhere.

Conditions for the above two uses:

- a. No exterior indication of use, customers or clients may be received no more than occasionally. (See definition of occasional use.) (5/11/96)
- b. No more than three non-residential vehicles may be parked regularly on the lot.
- c. Employment of non-residents (2 maximum) shall not exceed a total of 35 hours a week.
- d. All work and storage, including regular parking of non-residential vehicles, must be conducted within a building.

**Category 2:** Slight effect on the residential character of the neighborhood.

IV C 2a Renting space to lodgers, boarders, or tourists. Permitted in single and two-family houses only.

Conditions: No separate cooking facilities. No more than three persons accommodated per dwelling unit. One extra parking space for each room offered for rent. No non-resident employees. Sign permitted (see IV I).

IV C 2b Sale of foodstuffs cooked, baked, or otherwise prepared on premises for off-premises consumption.

Permitted on single-family residential lots only. See conditions below.

IV C 2c Professional services, except barbershop, beauty shop, medical or health services, veterinarian. Includes attorney broker, architect, consultant, computer services, and the like. Permitted on single-family residential lots only. See conditions below.

Current as of April, 2009

IV C 2d Dressmaker; alteration, maintenance, or renovation of consumer goods, for example upholstery, furniture refinishing; repair of appliances, including lawnmowers, chainsaws, and snowblowers. Permitted on single family residential lots only. See conditions below.

Conditions for the above three uses (IV C 2b, 2c, & 2d).

- a. No more than three non-residential vehicles may be parked regularly on the lot.
- b. Employment of non-residents (2 maximum) shall not exceed a total of 35 hrs./wk.
- c. No exterior indication of use except for permitted sign. (see IV I).
- d. No exterior display of merchandise.
- e. Two extra parking spaces shall be provided, plus a third extra space if there is employment of non-resident(s).
- f. All work and storage, including regular parking of non-residential vehicles, must be conducted within a building.

**Category 3:** Moderate effect on the residential character of the neighborhood. The following four uses require special permit in all districts and are restricted to single family residential lots only. See below for conditions.

IV C 3a Gift shop, antique shop, bookstore, art gallery.

IV C 3b Medical or health services, barber shop, beauty shop, veterinarian, day care center.

IV C 3c Sale of handicraft items or fine art produced or restored on the premises by residents. For example, woodwork, metal work, leatherwork, clothwork, jewelry, pottery, ceramics, and furniture, but not manufactured items.

IV C 3d Professional services which employ non-residents.

Conditions for the above four uses.

- a. No exterior indication of use except for permitted sign. (see IV I).
- b. No more than two full time (or equivalent part time) non-resident employees. Three extra parking spaces, plus one for each full-time (or equivalent part time) employee, unless otherwise provided by the SPGA.
- c. All work and storage, including regular parking of non-residential vehicles, must be conducted within a building.
- d. Required findings for special permit (in addition to those set forth elsewhere): The non-residential use must be complementary to the residential use and not inappropriate to the neighborhood. In making its findings, the SPGA shall take into account the size, character, and number of buildings to be employed in the proposed use, or if within a residence the amount of space to be used; the nature of the goods or services sold or offered; the suitability of the use for the neighborhood; the intensity of the use in relation to that generally prevailing in the neighborhood; and the availability of adequate off-street parking (may be waived in the Central Business District.)

#### **SECTION IV D: NON-RESIDENTIAL USES ON LOTS NOT ALSO USED FOR RESIDENCE**

For the four following categories, if there are three (3) or less full-time (or equivalent part time) employees, special permit is required in residential districts and the use is permitted without special permit in all other districts. A special permit is required in all districts if there are four (4) or more full-time (or equivalent part-time) employees. See Sect. IV H for off-street parking requirements and IV I for permitted signs. (ATM 05/01/2006)

IV D 1a Any office, retail business, trade, bank, or non-professional service establishment except those covered under IV D 3d, 3e, 3f, & 3g.

IV D 1b Any professional service, including but not limited to medical and health offices, barber or beauty shop, veterinarian, attorney, broker, architect, consultant, computer services.

IV D 1c Dressmaker, repair, alteration, maintenance or renovation of consumer goods, including but not limited to furniture refinishing, upholstery, repair of appliances including lawnmowers, chainsaws, and snow blowers.

IV D 1d Production or restoration, for on or off premises, sale, of handicraft or art items, including but not limited to wood work, metalwork, clothwork, jewelry-work, pottery, ceramics, handcrafted furniture. Does not include manufactured items.

IV D 1e Commercial telephone facility.

**For the five following categories, special permit is required in all districts.** See Sec. IV H for off-street parking requirements and IV I for permitted signs.

IV D 2a Restaurant, motel, inn, resort, hotel, cafe, bar, boarding house. These uses may be combined with single-family residential use by owners or employees, via special permit. A required finding for such permit (in addition to those under V B) is that the uses would be complementary. Special permit under this category shall contain provisions for adequate off- street parking (may be waived for central business district.)

IV D 2b Utility use except telephone; power facility except hydroelectric; railroad or bus station.

IV D 2c Schools (including nursery) not exempted under IV A 1a; day care center retirement home, medical or health care facility such as hospital, sanitarium, clinic, nursing home.

IV D 2d Camp for children or adults, camping area, cemetery, marina, zoo, any outdoor recreational or amusement facility which charges a fee for admission or use.

IV D 2e Private club or association, place of assembly, any indoor amusement, recreational, or educational facility not exempt under IV A 1a.

**For the following category, the use is prohibited in residential districts, permitted in business and industrial districts, and requires special permit in the central business district.**

IV D 3a Production for on or off premises sale of items other than handicraft, fine arts, or manufacturing, with no more than four full-time (or equivalent part time) employees.

**The following categories are prohibited in residential districts and require special permit elsewhere.**

IV D 3b Same as IV D 3a, but with more than four full-time (or equivalent part time) employees.

IV D 3c Small scale manufacturing (see definitions).

IV D 3d Any automotive sales, service, or repair. Includes body shop, sales, service or repair of trucks, tractors, motorcycles, trail bikes, snowmobiles, powerboats, and outboard motors.

IV D 3e Sales, service, or repair of firearms, ammunition, or explosives.

IV D 3f Variety use (see definitions). The special permit shall state explicitly which uses are allowed without further special permit. The provisions of IV E and V B shall apply.

IV D 3g Multiple non-residential use with more than one proprietor or tenant on a lot, e.g. office building, shopping center. The special permit shall state explicitly the uses and categories of uses and the maximum number of uses allowed without further special permit. The special permit may provide for a combination of residential and non-residential uses: for example an apartment building with a storefront on the ground floor. Uses under this category which are exempted under MGL 40A, Sec. 6 (preexisting non-conforming uses) nevertheless require special permit for substantial extension or alteration of use, for example an increased number or units or uses, or initiating a use, which ordinarily require special permit.

IV D 3h Lumber yard. Sale of feed or fuel. (changed 5/13/1995)

**The following two categories require special permit in industrial districts and are prohibited in all other districts.** A required condition is that there shall be no adverse effect on existing or expectable uses on adjacent lots

.IV D 4a Any manufacturing, warehouse, or service use not covered under IV D 3a-3h or prohibited elsewhere in this By-Law. Includes processing, fabrication, assembly and storage. A required condition is that there shall be no adverse effect on existing or expectable uses on adjacent lots.

IV D 4b Permanent sawmill. A required condition is that there shall be no adverse effect on existing or expected uses on adjacent lots.

IV D 5a Portable sawmill. Requires special permit in residential districts, prohibited in all other districts. Special permit may be issued for no more than one year and no more than once in any ten-year period. Only lumber cut

Current as of April, 2009

from the lot or abutting lots may be processed. Sawmill must be operated at least 500 feet from any dwelling unit of an abutter, or more if the SPGA so provides.

IV D 5b Hydroelectric power facility. Requires special permit in all districts.

#### **SECTION IV E: MULTIPLE USES ON A LOT**

1. More than one use on a lot in a business, central business, or industrial district is permitted via special permit if requirements are met, and provided that the uses are separately permitted or permitted under special permit in the district. The required findings, in addition to those set forth in V B and elsewhere in this By-Law, are that the uses are compatible with each other and do not involve an intensity of use inappropriate to the neighborhood or the lot. Where dimensional requirements for the proposed uses differ, the more restrictive dimension(s) shall apply.
2. Any substantial change in an existing conforming multiple use for which special permit has been granted requires another special permit. Required findings shall be as in IV E 1 above.
3. Multiple uses in residential districts are permitted only as specifically provided elsewhere in this By-Law.

#### **SECTION IV F: CENTRAL BUSINESS DISTRICT.**

1. In the central business district all construction, reconstruction, or exterior alteration of buildings requires a special permit, except for alterations to single-family houses, which require only a building permit. Interior alterations do not require special permit. (Last sentence added May 13, 1995)
2. In considering applications for special permit in the central business district, the SPGA shall take into account the following factors in addition to those set forth in V B and elsewhere:
  - a. the effect of the proposed structure or use on the development of the district.
  - b. the compatibility of the proposed structure or use with adjacent structures and uses.
  - c. the availability of adequate on or off street parking space for the proposed use. (See V H for the authority of the SPGA to waive off-street parking requirements.)

#### **SECTION IV G: ANIMAL HUSBANDRY**

1. Special permit is required for all non-agricultural animal husbandry (e.g., kennel, stable, mink farm), and one or two horses kept on lots of less than one acre.
2. On lots of five acres or more, agricultural animal husbandry is allowed without special permit.
3. On lots of less than five acres:
  - a. agricultural animal husbandry where the majority of the animals are raised or kept for commercial purposes requires a Special permit, with a finding by the SPGA that the proposed use would not endanger public health, be detrimental to the neighborhood, or create a nuisance.
  - b. agricultural animal husbandry where the majority of the animals are not raised or kept for commercial purposes is allowed without special permit in all districts except business, central business, and industrial, where special permit is required.

#### **SECTION IV H: OFF-STREET PARKING**

Current as of April, 2009

1. The following regulations apply to uses for which off-street parking regulations are not provided in the Table of Use Requirements (IV A-D).
  - a. Uses which sell, dispense, or provide goods or services on the premises shall provide a parking area not less than twice the total floor area devoted to the service of customers or clients, except that at least three parking spaces plus one for each full-time (or equivalent part-time) employee shall be provided.
  - b. Non-residential uses which do not sell, dispense, or provide goods or services on the premises shall provide parking spaces not less in number than one and a half times the maximum number of persons employed or otherwise regularly occupied on the premises simultaneously.
2. Where more than three parking spaces are required on a lot, an access lane shall be provided to the parking area, which shall otherwise be bounded by a curb or other barrier.
3. The minimum size for a parking space shall be 9 x 12 feet.
4. In granting special permit for any use, the SPGA may require off-street parking spaces, standards, or conditions in addition to those set forth in this By-Law, if it deems these needed for the use.
5. In granting special permit for uses in the central business district, the SPGA may waive off-street parking requirements in those cases where it seems their application to be unfeasible and not in the public interest.

#### **SECTION IV I: SIGNS. (5/11/96)**

1. This section pertains to sign uses on a lot. It does not pertain to signs protected by federal or state law. Every such use is entitled to a sign. Signs shall be flat, not flashing and non-rotating. On premises signs may be illuminated.
2. A reasonable number of direction signs of no more than four square feet on each face may be placed off-premises with the permission of the owner. All other signs shall pertain to uses on the lot on which the sign is placed.
3. No signs or illumination of signs that are a hazard or impediment to pedestrians or vehicular traffic shall be installed or maintained.
4. Special Permit shall contain provisions for signs appropriate to the neighborhood and the use. Standards for uses which do not require special permit, or where a special permit has not set standards are as follows:
  - a. Signs for residential use shall consist of a nameplate of no more than two square feet per face affixed to a mailbox or a building. Home occupations under IV C 1a and 1b above may also be indicated on this sign, which in that case may be no more than four square feet per face.
  - b. Non-residential uses other than home occupations under IV 1a and 1b are permitted one sign, which may be free standing or affixed to a building. The sign shall not exceed six square feet per face in residential, aquifer protection and river protection districts, and sixteen square feet per face elsewhere.
  - c. Signs unattached to buildings shall be no more than four feet high. Signs affixed to buildings shall be no higher than the building at any point. Neon signs are prohibited.
  - d. Signs that do not conform to the provisions of a., b., or c. above, require a permit from the ZBA, issued by the affirmative vote of all three members (or alternates) after a public hearing of which notice has been given by regular mail at least ten days in advance to all those owning property within 300 feet of the sign. Such permit shall be granted only if in the judgement of the ZBA the proposed sign or signs are appropriate to the use and the character of the neighborhood.
5. In granting permits or special permits for signs on or within 100 feet of the Jacob's Ladder Trail (Route #20), the ZBA shall set such reasonable conditions as it deems needed to preserve and enhance the traditional, scenic and aesthetic values associated with the Trail.
6. Commercial or use signs not provided for above are prohibited.

**SECTION IV J: EARTH REMOVAL** (amended May 14, 2001) (includes gravel pits)

**I. Purpose** - To protect the safety, health and well being of the citizens of the Town of Huntington by regulating earth disturbance, either commercial, public or private.

**II. Intent** - To eliminate or minimize harmful soil erosion and sedimentation caused by activities and operations which result in land disturbance in the Town of Huntington. Cultivation of land for agricultural use is exempt from the provisions of this bylaw. Silviculture performed according to a plan approved under the Forest Cutting Practices Act (M.G.L. Ch.132, sec.40-46) is also exempt from these provisions.

**III. Definitions**

*Earth Removal Operations:* The processing and/or removal of sand, gravel, clay, mineral deposits, quarried stone or sod, or any action that causes the alteration of earth, sand, rock, gravel, vegetation, or similar material, on land not covered under another permit, within the legal limits of the Town of Huntington. Earth Removal Operations shall include all land impacted by the operation (e.g.: pits, fill or storage piles, access ways and/or structures). Topsoil and/or loam are not to be included as acceptable commercial products for earth removal operations and must remain on site.

*Erosion:* The process by which the ground surface is worn by natural forces such as wind, water, ice, gravity, or by artificial means.

*Fill:* 1. Soil, earth, sand, gravel, rock, or other similar material which is deposited, placed, pushed, pulled, or transported, and includes the conditions that result from that act. *Note:* Construction waste such as asphalt or rubble is not permitted as fill for the purpose of this bylaw.

2. Any act by which soil, earth, sand, gravel, rock, or other similar material is deposited, placed, pushed, pulled, or transported.

*Overburden:* Compostable vegetation, leaf mold, humus, subsoil and any other organic material to a depth of eleven inches.

*Reclamation:* The process of grading and restoring soil and vegetation to a disturbed area.

*Sediment:* Organic material or minerals transported or deposited into any body of water, by the movement of wind, water, ice, gravity, or by artificial means.

*Slope:* An area that is more or less steep, as measured by vertical rise over a horizontal distance, expressed as a percentage or ratio. For example, a rise of ten feet over thirty horizontal feet is a slope of 33% or a ratio of one to three.

Current as of April, 2009

*Test Dig:* Any removal of earth with the intention of determining its composition and/or market value.

**IV. Exceptions** - Exceptions to this bylaw are as follows:

- A. Agriculture or forestry (sec. II).
- B. Excavation for Title V (septic system) compliance, building sites, sidewalks, driveways or roads if approved under Town of Huntington Subdivision Control Regulations.
- C. Removal of less than 12 cubic yards of earth in a calendar year in the course of normal gardening or landscaping, not including test digs.

**V. Test Digs** - Dimensions of test digs shall be such that a fifty pound sample can be obtained at depths specified by an engineer. In no case shall the depth of the pit be more than twelve feet (Mass Highway Dept. Standard Specifications 190.73). No test pit shall exceed 12 cubic yards of total earth disturbance.

Anyone proposing to do test dig(s) shall file a Test Dig Notification Form with the Planning Board, at least 14 days prior to the proposed dig. Notification Forms will be made available from the town's Administrative Assistant. The Notification Form shall contain the signature(s), name(s) and address(es) of the applicant(s), the legal owner(s) of the property, and corporate officers, if different. Any Notification Form shall be submitted to the Planning Board by certified mail or hand delivery. The Notification Form shall include a non-refundable filing fee of \$50.00, payable to the Town of Huntington. A Notification Form shall not be considered complete unless the filing fee is included. Upon receipt of the Notification Form, the Planning Board shall arrange a pre-dig site inspection. The applicant will be notified in advance of the time of inspection and will be encouraged to participate in that inspection. Upon completion of the dig(s), the applicant shall notify the Planning Board, who shall schedule a post-dig inspection to determine site condition. (Amended May 5, 1999)

Following the completion of the post-dig inspection, the Planning Board shall provide the applicant, the Conservation Commission and the Zoning Board with a statement of their findings. Any further digging will require a new application process. The applicant shall have a period of six months to file a Special Permit Application, or to reclaim the site. In the event that the Special Permit Application is denied, the applicant shall reclaim the site within six months.

**VI. Special Permit Application Requirements** - In addition to the general conditions and procedures established in Section V.B. of the Zoning Bylaw for all special permits, the following requirements and procedures shall apply:

All earth removal operations, other than test digs, of 12 cubic yards or more per year, are permitted within the Town of Huntington, with a special permit issued by the Special Permit Granting Authority (SPGA). That permit shall be effective for a period of up to five years. All permits for earth removal operations shall be limited to five acres. The SPGA for earth removal shall be the Zoning Board. The applicant shall submit six complete sets of documents to the SPGA.

Applications for a special permit shall provide a description of the area and of the proposed activity including, at a minimum, the information specified below. Plans shall be drawn by a registered environmental engineer or other qualified professional and shall show compliance with accepted procedures and standards for erosion and sedimentation control. The applicant shall submit any additional information requested by the SPGA during review of the application. Additional information may include studies such as geological soundings to determine level and drainage patterns of underlying bedrock. The SPGA may reschedule or adjourn a public hearing in order to provide time for the applicant to submit such additional information. Credible anecdotal evidence of the presence of an endangered or threatened species and/or archeologically or historically significant features may require study by appropriate consultants. The results of these studies may be considered in the approval process and the SPGA may stipulate protective measures.

The application shall include the following:

- A. Locus map including legend and north arrow.
- B. Plans of appropriate scale including.
  - 1. Location of proposed work area in relation to parcel boundaries.
  - 2. Abutters and abutters to abutters on all sides.
  - 3. Existing streets, roads and ways, public and private.
  - 4. Main topographical features of the parcel and surrounding area.
  - 5. Existing vegetation characteristics within 300 feet of proposed work area.
  - 6. Wetland areas, including perennial and intermittent streams, rivers, lakes, swamps, vernal pools and ponds within 200 feet of proposed work area (any proposed excavation within wetland resource areas or buffer zones shall require submission of plans to the Conservation Commission according to provisions of MGL Ch.131, Sec.40, The Wetlands Protection Act).
  - 7. Delineation of the 100-year flood plain.

Current as of April, 2009

- C. Plans at a scale of one inch equals forty feet, showing existing conditions in the proposed work area, including
1. Delineation of total land area to be disturbed.
  2. Contours showing existing elevations at two foot intervals.
  3. General vegetation characteristics within 300 feet of proposed work area.
  4. Delineation of wetland areas, including perennial and intermittent streams, rivers, lakes, swamps, vernal pools and ponds within 200 feet of proposed work area.
  5. Streets, roads and ways, public and private.
  6. Level of the estimated seasonal high water table using the definition set forth in 310 CMR 15.00, Title V of the State Sanitary Code. The elevation of the estimated seasonal high water table as established from test pits and the levels related to permanent bench mark monuments which shall be set on the property.
- D. Plans at a scale of one-inch equals forty feet, showing proposed work. These plans shall be shown on an overlay. The plans shall include:
1. Contours showing finished elevations at two-foot intervals.
  2. Buildings, access ways and parking areas to be constructed.
  3. Temporary and permanent erosion and sediment control measures, including drainage systems.
  4. Temporary and permanent seeding and other vegetative controls.
- E. Plans at a scale of one-inch equals forty feet, showing reclamation. These plans shall be shown on an overlay. The plans shall include:
1. Contours showing finished elevations at two-foot intervals.
  2. Disposition of buildings, equipment or other fixtures and access ways.
  3. Erosion and sediment control measures, including drainage systems.
  4. Seeding and other vegetative controls.
- F. A performance bond shall be required in an amount equal to a documented, verifiable estimate of cost to reclaim work site according to the site plan submitted. The estimate shall include an adjustment for projected inflation or other predictable factors, as determined by the SPGA, over the term of the permit plus one year. Funds received by the SPGA for this purpose shall be managed as in VI.G.3. of this bylaw and shall be expended and/or returned to the applicant according to any applicable terms of this bylaw. Status of this bond shall be certified in writing to the SPGA annually.
- G. As allowed under MGL Ch.44, sec.53G:
1. When reviewing an application for, or when conducting inspections in relation to a permit, the SPGA may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of the project's potential impacts, or because the Town of Huntington lacks the necessary expertise to perform the work related to the permit. The SPGA may require the applicants to pay a "project review fee" consisting of the reasonable costs incurred by the SPGA for the employment of outside consultants, engaged by the SPGA, to assist in the review of a proposed project.
  2. In hiring outside consultants, the SPGA may engage engineers, planners, lawyers, urban designers or other appropriate professionals, who can assist the board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the SPGA's decision or regulations, or inspecting a project during construction or implementation.
  3. Funds, received by the SPGA pursuant to this section, shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the SPGA, without further appropriation. Expenditures from this special account shall be made only for the services rendered in connection with a specific project or projects, for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of the applicant to pay a review fee shall be grounds for denial of the application or permit.
  4. At the completion of the SPGA's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the SPGA with documentation establishing such a succession in interest.
  5. Any applicant may take an administrative appeal from the selection of an outside consultant to the Selectboard. Such an appeal must be made in writing and may be taken only within 20 days after the

Current as of April, 2009

SPGA has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the SPGA shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Selectboard within one month following the filing of the appeal, the selection made by the SPGA shall stand.

(Zoning Board of Appeals Operational Standards)

H. All documents shall be reviewed by the SPGA, followed by an on-site inspection prior to initial public hearing. The applicant and/or property owner shall be notified and their presence, at the inspection, encouraged.

**VII. Required Recommendations** - No special permit shall be issued without a recommendation any more than thirty days following the public hearing, from the Planning Board and the Conservation Commission. The SPGA may require recommendations from other authorities that they deem appropriate. Failure of these authorities to submit recommendations within thirty (30) days shall constitute no objection to the terms of the application. (Last sentence changed 5/5/1999)

**VIII. Minimum Standards** - The following minimum operation standards, plus any other(s) that the SPGA deems necessary, shall be attached to the Special Permit Application and shall become requirements for the continuation of any earth removal operation within the Town of Huntington:

- A. No earth removal operation shall be closer than 250 feet to any public road, street or way, nor any closer than 250 feet to the nearest property line before, during or after excavation, measured in a straight, level line from the thoroughfare or property line to the site of the earth removal. This buffer shall be left in its natural state except for a reasonable access way. Access ways shall be constructed in such a way as to not disrupt drainage or cause unreasonable environmental damage. Exceptions may be made in the case of reclamation, where the minimum final setback, after grading, may be as little as 100 feet from streets, roads, ways or property lines.(Amended May 5,1999)
- B. No equipment for earth removal and/or processing shall be closer than 250 feet to any public road, street or way or to any abutting property line.
- C. Before granting approval, the SPGA shall find that the proposed operation will be in harmony with the purpose of this bylaw and will not be injurious or dangerous to public health; will not produce noise, dust or other effects observable from adjacent property in amounts sufficient to be a nuisance to normal day-to-day use of the adjacent property. Proposed work will not result in changes which are disadvantageous to the appropriate future use of the land on which the operation is conducted. No digging shall be allowed within 10 feet above ground water, at seasonal high water table, as defined under VI.C.6 of Section IV J: Earth Removal.(Last sentence added May 11, 2001) Work shall not have an adverse affect on the water supply, health, or safety of persons living in the neighborhood or on the useful social purposes of abutting land.
- D. No applications shall be approved on parcels with pre-existing violations or that are under litigation.
- E. No permit for earth removal shall be issued if such removal will result in traffic hazards in residential areas or congestion or physical damage to streets, roads or ways.
- F. The SPGA may require a treed “buffer” or fencing, where applicable.
- G. Overburden shall be stripped to a depth of eleven inches, with topsoil and subsoil stored separately on site, and seeded to prevent erosion for use in the restoration of the site. A minimum of three feet of natural till shall be left undisturbed above bedrock.
- H. All areas of excavation and access to earth removal operations shall be clearly marked with legally posted no trespassing signs. Areas of steep slope or grade, as judged by the SPGA, shall additionally be fenced and clearly marked “DANGER- KEEP OUT”.
- I. No excavation shall be larger than five (5) acres for earth removal, storage and/or processing at one time.(Amended May 5, 1999)
- J. If, in the course of operation, evidence of an endangered or threatened species, its habitat or a historically or archeologically significant feature is discovered, operation in that area shall cease until a determination can be made on how to proceed.
- K. The SPGA shall determine hours of operation based on location and neighborhood characteristics. Hours of operation shall not exceed 7 a.m. to 6 p.m. Monday through Friday and 7 a.m. to 2 p.m. on Saturday.

Current as of April, 2009

- L. Parking shall be restricted to areas designated in sec. VI.D.2 of this bylaw or as approved.
- M. Unless the alteration of drainage patterns is specifically approved, the land shall be left so that natural drainage shall leave the property at its original points during all stages of operation; and so that changes in peak flow are minimized. There shall be no resultant standing water unless the formation of a pond is permitted in writing by the Planning Board, the Conservation Commission and the SPGA.
- N. The use of explosives shall not be permitted without at least 14 days notice. A notice of intent shall be publicly posted and abutters and the SPGA shall be notified by certified mail at least 14 days prior to proposed use. Said use shall be done in accordance with regulations for storage or handling of explosives as published by the Commonwealth of Massachusetts (MGL Ch. 148, sec. 9).

**IX. Reclamation** - Immediately following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or on completion of removal on a substantial area, that entire area shall be reclaimed according to the following conditions. Reclamation must be consistent with existing municipal plans at the time that the permit is granted. All reasonable efforts should be made to be consistent with municipal plans that are in existence at the time of reclamation regardless of whether they existed at the time the permit was granted.

- A. Written notice may be filed with the SPGA, six months prior to cessation of operation, for monitoring of reclamation, to initiate bond return. Bond shall not be returned until certified reclamation has been completed and one full growing season or one year has passed, demonstrating satisfactory results, as judged by the SPGA.
- B. Reclamation must be carried out in a manner that is consistent with plans approved by the SPGA in VI.E. The following conditions shall also be applied:
  - 1. Site shall be graded so that no slope exceeds one foot vertical rise in two horizontal feet (one to three preferred) or as approved by the SPGA in VI.E. Grading shall be carried out in a manner that eliminates threats to public safety and leaves the site with drainage patterns substantially unchanged.
  - 2. All boulders larger than one-half cubic yard shall be removed or buried.
  - 3. A minimum of three feet of undisturbed natural till shall be retained between level of reclamation and bedrock/ledge.
  - 4. Overburden shall be spread with subsoil a minimum of seven inches deep and topsoil a minimum of four inches deep.
  - 5. The area shall be seeded with a grass mix suitable to prevent erosion (hydro- seeding is preferred), such as:
    - a. Switch grass and redtop grass mixture at a rate of twenty pounds switch and two pounds of redtop per acre or
    - b. Tall fescue and perennial rye grass mixture at a rate of forty pounds of tall fescue to fifteen pounds perennial rye per acre or
    - c. A “Soil Conservation Mix” blended to control soil erosion spread at 100 lbs. per acre or as recommended or
    - d. Other erosion control measures as approved by the SPGA.
  - 6. Stumpage and “slash” shall be removed or converted to wood chip mulch (limited slash piles for wildlife habitat may be acceptable as approved by the SPGA).
  - 7. Additional plantings of shrubbery and/or trees may be required by the SPGA either to control erosion or to screen the site from roads, streets, ways or private property.
  - 8. All access ways, buildings and/or fixtures as per VI.E.2. shall be removed unless otherwise exempted by the SPGA.
  - 9. In the event that an earth removal operation is abandoned, after a period of six months, the Town of Huntington shall be empowered to use the performance bond to reclaim the site. If the site presents a public danger, the reclamation may be expedited at the discretion of the SPGA.
  - 10.

**X. Existing Operations** -- Operations under permit as of the adoption of this bylaw, shall have the right to continue under the terms of that permit until its expiration. The permit for any legally existing gravel operation may be renewed for up to 5 years, using the plans submitted for the active permit, provided that the application for renewal

Current as of April, 2009

remains in the footprint of the work area originally agreed upon and the rate of removal or traffic flow will not be substantially increased. The amount of the performance bond may be adjusted to reflect the current cost of reclamation and the SPGA may change previously attached conditions to reflect changes to the neighborhood character and infrastructure.

Existing operations which have never been required to hold a permit will be exempt from the terms of this bylaw so long as they continue to be operated at a volume consistent with their operational history. Functional cessation of operation for A period of twenty-four months or longer, unless consistent with operational history, or a measurable sustained increase in volume of operation shall invalidate the exemption and the operation shall be subject to the permitting process outlined herein.

#### **XI. Renewal**

- A. Any earth removal permit shall be in force for a period of no more than five years and shall apply to only the worked area (five acre maximum) identified in the application site plan. Any extensions beyond five years or expansion beyond the Special Permit Granting Authority (SPGA) -approved site shall require the permittee to submit a new application for a special permit. A special permit may be issued only after a public hearing and a finding by the SPGA that the proposed use complies with the general provisions set forth in Section V: SPECIAL PERMITS of this By-Law and Section IV J: EARTH REMOVAL of this By-Law. Renewals of permits for any reason will be subject to any new standards that have become applicable during the term of the original permit.(Amended May 3, 2004)
- B. An operator may file an application for renewal with the SPGA six months prior to the expiration of an active permit to allow for identification and remediation of noncompliance.
- C. Noncompliance with any portion of the expiring permit, or of any other permits granted by the Town of Huntington, violations of any state or federal laws, or of town bylaws or regulations shall be grounds for denying any further permit(s). (Amended May 5, 1999)

**XII: Enforcement/Noncompliance** – Any earth removal operation found to be in violation of this bylaw shall be subject to a fine not to exceed \$300.00 per violation per day and suspension of permit until proof of compliance is submitted. In the case of persistent noncompliance, the permit may be revoked and immediate restoration of the site may be required. The town may restore the site, using the owner’s performance bond if the demands are not met within a reasonable time as judged by the SPGA. Violations may be determined in the course of normal inspections carried out by the SPGA or as a result of a complaint filed in writing with the SPGA and found to be factual by the Zoning Enforcement Officer. (Amended May 5, 1999)

**XIII. Severance** - If any part of this bylaw is found not to be legal, the rest shall remain intact.

#### **SECTION IV K: COMMON DRIVEWAYS.**

1. **Permits**- A special permit is required for construction and/or use of a common driveway. The Special Permit Granting Authority for all common driveways shall be the Planning Board.
2. **Limitations**- No special permit shall be issued for a common driveway that proposes to provide access onto more than two lots. (ATM 5/03/93). A common driveway shall have, in all respects except the number of lots it provides access to, the same legal status as any other driveway. The Town of Huntington accepts no liability or maintenance responsibility.
3. **Prohibition**- Each lot served by a common driveway shall have sufficient frontage on a public way or a way that has been approved as a subdivision road to satisfy the frontage requirements for the district in which it resides. All common driveway curb-cuts shall be subject to approval by the Selectboard under the General By-laws, Ch.40 and 40-A.
4. **Existing Common Driveways**- Any common driveway in existence and use at the time of adoption of this amendment will not be subject to these conditions, except that no driveway may be considered as frontage to satisfy zoning dimensional requirements (MGL Ch.41, Sec.81N). Such pre-existing common driveways

Current as of April, 2009

may not be changed unless such expansion, extension, or change is not substantially more detrimental to the neighborhood than the existing driveway, as determined by the Planning Board.

5. **Design and Construction Standards-** The Planning Board may adopt regulations establishing design standards for common driveways. In the process of adopting such regulations, the Planning Board shall consult with the Selectboard. The maximum length of any common driveway shall not exceed 500 feet, unless in the opinion of the special permit granting authority, topography or other local conditions necessitate a greater length.

(ATM 5/02/2005)

#### **SECTION IV L: AQUIFER PROTECTION DISTRICT (RESIDENTIAL ADP)**

(Established May 19,1986; also Map, same dates)(amended 12/12/2001)

1. Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town of Huntington and the region from any use of land or buildings which may reduce the quality and quantity of its water resources.

2. District Delineation

- a. The Aquifer Protection District is herein established to include all lands within the Town of Huntington, lying within delineated Zone II areas of public water supply wells and designated Interim Wellhead Protection Areas for all public water supplies which now or may in the future provide public water supply for town residents. The map entitled, "Aquifer Protection District", Town of Huntington, prepared by Pioneer Valley Planning Commission March 2001, on file with the Town Clerk, delineates the boundaries of the district.(ATM 5/7/2007)

- b. Where the bounds delineated are in doubt or in dispute, during the permit application process, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s) the Town may engage a professional hydrogeologist to determine more accurately the location and extent of a primary aquifer recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

3. Permitted Uses

The following uses are permitted within the Aquifer Protection District, provided that they comply with all applicable restrictions in this bylaw, including but not limited to the Performance Standards in Section IV.

Current as of April, 2009

L.6.:

- a. single family residences;
- b. residential accessory uses, including garages, driveways, private roads, utility rights of way, and onsite wastewater disposal systems;
- c. agricultural uses such as farming, grazing and horticulture to those parcels with an area of five acres or more
- d. forestry and nursery uses;
- e. outdoor recreational uses, including fishing, boating, and play areas;
- f. conservation of water, plants, and wildlife; wildlife management areas;
- g. day care centers, day care homes, and school age child care programs;
- h. structures for educational or religious purposes;
- i. maintenance and repair of any existing structure, provided that there is no increase in impervious surfaces.
- j. Land uses which result in the rendering impervious of no more than fifteen percent (15%) or two thousand five hundred (2,500) square feet of any lot, whichever is greater.

5. Prohibited Uses

Within the Aquifer Protection District, the following uses are prohibited:

- a. Any earth removal requiring special permit under Section IV J.
- b. Facilities that generate, treat, store, or dispose of hazardous wastes, except for the following:
  - i. Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended;
  - ii. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 as amended;
  - iii. waste oil retention facilities required by M.G.L. C.21, §52A, and;
  - iv. treatment works for the remediation of contaminated water supplies, which are approved by Massachusetts Department of Environmental Protection and designed in accordance with 314 CMR 5.00 as amended.
- c. business or industrial uses, not agricultural, which dispose of process wastewater on-site;
- d. petroleum, fuel oil and heating oil bulk stations and terminals, commercial fuel oil storage and sales;
- e. solid waste combustion facilities and landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and seepage, with the exception of the disposal of brush or stumps;
- f. storage of liquid petroleum products, except for the following storage which is incidental to:
  - i. normal household use, outdoor maintenance, or the heating of a structure;
  - ii. emergency generators required by statute, rule or regulation;
  - iii. waste oil retention facilities required by statute, rule, or regulations;
  - iv. treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;
  - v. provided that storage, listed in items i-iv above, shall be in a free standing, above ground container within a structure or within the basement of a structure, with secondary containment designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater. The storage tank and piping must comply with all applicable provisions of 527 CMR 9.00 Massachusetts Board of Fire Prevention regulations.
- g. Replacement of all storage tanks for liquid petroleum products must be above ground, in accordance with Section IV.L.5.f.v. above.
- h. outdoor storage of salt, de-icing materials, pesticides or herbicides; dumping or disposal of any hazardous material or hazardous waste on the ground, in water bodies, in septic systems or in other drainage system. This shall include the use of septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane.
- j. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Aquifer Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other

Current as of April, 2009

chemicals used for snow and ice removal;

k. wastewater treatment works subject to a groundwater discharge permit under 314 CMR 5.00  
except the following:

- i. the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
- ii. treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

6. Performance Standards

All uses, whether allowed by Special Permit or by right, must meet the performance standards herein:

a. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.

b. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located in a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.

c. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.

d. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation and escape of contaminated run-off or leachate.

e. Animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.

f. All hazardous materials, as defined in M.G.L. Chapter 21E, must be stored either in a free standing container within a building, or in a free standing container above ground level with protection to contain a spill the size of the container's total storage capacity.

g. Run-off impervious surface shall be recharged on the site by stormwater infiltration basins or similar systems covered with natural vegetation. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s). Infiltration systems greater than 3 feet deep shall be located at least 100 feet from drinking water wells, and shall be situated at least 10 feet down-gradient and 100 feet up-gradient from building foundations to avoid seepage problems. Infiltration basins and trenches shall be constructed with a three-foot minimum separation between the bottom of the structure and maximum groundwater elevation.

h. Excavation for removal of earth, sand, gravel and other soils shall not extend closer than four (4) feet above the historic high ground- water table. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on-site sewage disposal or wetland restoration work conducted in accordance with a valid Order of Conditions issued pursuant to M.G.L. c. 131 § 40.

7. Exempt uses:

a. Those engaged in uses which are exempted from this By-Law are referred to the regulations of the Board of Health which prohibit the use, storage, or disposition of toxic or hazardous materials in such a way as to create a danger of groundwater contamination.

b. With respect to applications for special permit to extend or alter a use which is exempt under Sec. VI A 1 of this By-Law (lawful non-conforming uses), any proposed use which in the judgment of the Board of Health or the SPGA would increase the danger of groundwater contamination shall be deemed substantially more detrimental to the neighborhood under the

Current as of April, 2009

meaning of MGL 40A, Sec. 6.

8. Special Permit Uses

Uses allowed by Special Permit obtained from the Special Permit Granting Authority:

a. commercial, industrial, governmental or educational uses which are allowed in the underlying district, and which are not prohibited in IV.L.5.;

b. with respect to pre-existing non-conforming uses, any of the following changes in an existing business, commercial or industrial use:

i. increase in generation of hazardous wastes above quantities permitted in the Special Permit for the use;

ii. increase in impermeable surfaces to greater than 15% of lot area or 2,500 square feet, whichever is greater;

iii. enlargement in the building footprint greater than 25% of the existing footprint.

c. The rendering impervious of greater than 15% of the area or 2,500 square feet whichever is greater, provided that a system for artificial recharge of precipitation is developed. The management of stormwater and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater.

i. For commercial uses, a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater, where feasible. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of stormwater infiltration basin, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.

ii. For residential uses, recharge shall be attained through site design that incorporates natural Drainage patterns and vegetation. To the extent possible, stormwater runoff from rooftops, driveways, roadways and other impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches or similar systems. Infiltration practices shall be utilized to reduce runoff volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Soil Conservation Service. A combination of successive practices may be used to achieve the desired control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the stormwater management plan.

e. The Special Permit Granting Authority (SPGA) under the Aquifer Protection District shall be the Zoning Board of Appeals (ZBA).

e. Requirements for Special Permit in the Aquifer Protection District

The applicant shall file nine (9) copies of a special permit application prepared by a qualified professional with the SPGA. The special permit application shall at a minimum include the following information where pertinent.

i. A complete list of chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.

ii. Those businesses using or storing such toxic or hazardous materials shall file a hazardous materials management plan with the SPGA, Hazardous Materials Coordinator, Fire Chief, and Board of Health which shall include:

(a) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism including spill containment and clean-up procedures.

(b) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

Current as of April, 2009

iii. The applicant will submit evidence of compliance with the Regulations of Massachusetts Hazardous Waste Management Act 310 CMR 30 and information on anticipated hazardous waste generation rates. Copies of Massachusetts Hazardous Waste Reporting forms shall be made available to the Zoning Enforcement officer upon request.

iv. Drainage recharge features and provisions to prevent loss of recharge.

v. Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.

vi. Periodic water quality monitoring may be required by the SPGA, including sampling of wastewater disposed to on-site systems and sampling from groundwater monitoring wells to be located and constructed as specified in the Special Permit with reports to be submitted to the SPGA, the Board of Health, and the Board of Water Commissioners. The Costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.

f. Additional Procedures for Special Permit in the Aquifer Protection District:

i. The SPGA shall follow all special permit procedures contained in Section V of this Bylaw. In addition the SPGA shall distribute copies of all application materials within five (5) business days of receipt to the Board of Health, the Planning Board, the Conservation Commission, and the Water Commissioners, each of which shall review the application, and following a vote, shall submit recommendations and comments to the SPGA. Failure of boards to make recommendations within 45 days of distribution of the applications shall be deemed to be lack of opposition. One copy of the applications materials shall be transmitted to or retained by the Town Clerk for viewing by the public during office hours.ii. The SPGA may determine that the assistance of outside consultants is warranted due to the size scale or complexity of a proposed project, because of the project's potential impacts, or because

the Town of Huntington lacks the necessary expertise to perform the work related to the permit. The SPGA may require the applicants to pay a "project review fee" consisting of the reasonable costs incurred by the SPGA for the employment of outside consultants, engaged by the SPGA, to assist in the review of a proposed project. The use of the review fees shall be consistent with Section IV.J.VI.G. of this bylaw.

iii. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards and those specified in Section V of the bylaw. The proposed use must:

(a) in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Aquifer Protection District; and,

(b) be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

iv. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the Board's opinion, sufficiently detailed, definite and credible information to support positive findings in relation to the standards given in this section.

9. Enforcement/Noncompliance

Any operation found to be in violation of this bylaw shall be subject to a fine not to exceed \$300.00 per violation per day and suspension of permit until proof of compliance is submitted. In the case of persistent noncompliance, the permit may be revoked and immediate restoration of the site may be required. Violations may be determined in the course of normal inspections carried out by the SPGA or as a result of a complaint filed in writing with the SPGA and found to be factual by the Zoning Enforcement Officer.

10. Severance

If any part of this bylaw is found not to be legal, the rest shall remain intact.

**SECTION IV M: FLOODPLAIN DISTRICT.** (adopted 5/9/88)

1. Purpose: The purpose of this section (in addition to those of Sec.I B) is to preserve the natural flood control characteristics and flood storage capacity of the flood plain.
2. Application: The flood plain district is an overlay district. Except as provided below, the requirements of the underlying district shall apply.

Current as of April, 2009

3. Delineation: The district boundaries are those of the 100 year flood plain, shown on the Huntington Flood Insurance Rate Map (FIRM), dated 8/12/87, as Zones A & AE. The FIRM also shows the floodway within Zone AE. The district and floodway boundaries are further defined by the 100 year flood elevations shown on the FIRM, and the Flood Profiles and Floodway Data Tables contained in the Flood Insurance Study, dated 8/12/87. The FIRM and the Flood Insurance Study are hereby made part of the Zoning Map, and copies shall be on file with the Town Clerk, the Planning Board, and the Building Inspector. Where the 100 year flood elevation or floodway data is not provided on the FIRM, the developer/applicant shall supply these from the best available Federal, State, local, and other sources, and they shall be reviewed by the Town Engineer. If the data is deemed sufficiently detailed and accurate, it shall be relied on to require compliance with this by-law and other applicable laws and codes.
4. Requirements: All uses, work, and structures within the district must be in compliance with the National Flood Insurance Program regulations, including S.60.3d, the Mass. Wetlands Protections Act, including 310 CMR 10.00, the Mass. Building Code, including 780 CMR 744.0, and the Mass. Health Act, including Title 5 requirements for sub-surface sanitary sewage disposal.
5. Special Permit: Within the district, no structure or building shall be erected, constructed, substantially improved (by 50% or more in market value), or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, without special permit. Such permit shall be subject to the following provisions in addition to those set forth elsewhere in this By-Law:
  - a. Application for special permit shall include plans showing all proposed work, with certification by a registered professional engineer that these plans show full compliance with subsection 4 above. If any of the work shown on the plans is within the floodway, the engineer shall certify that this work would not result in any increase in flood levels within the community during the base 100-year flood discharge.
  - b. Within 10 days of receipt of application, a copy shall be transmitted to the Conservation Commission, Board of Health, Planning Board, Building Inspector, and Town Engineer. Final action shall not be taken until reports have been received from all of the above, or until 35 days from the date of transmission.
  - c. Special permit shall not be granted unless the issuing Board finds, on review of the application, submitted reports, and testimony before it, that the application shows full compliance with S. 4 above, and that the proposed use would not create increased flood hazards which would be detrimental to the public health, safety, or welfare.
6. Prohibited Uses:
  - a. Within the floodway, any encroachments, including fill, new construction, substantial improvements, and other development that would result in any increase in flood levels in the community during the occurrence of the base 100-year flood discharge.
  - b. Open storage on a lot of a total of more 3 cubic yards any materials within the floodway.
  - c. Manufactured homes, manufactured home subdivisions and parks.

## **SECTION IV N: Context-Sensitive Developments** (ATM 05/07/2007)

(Formerly known as OPEN SPACE COMMUNITIES (adopted 5/9/88))

### General Description and Purposes:

A Context-sensitive development (henceforth “CSD”) is a single-family development which may be allowed under this section. The primary purpose of this section is to retain the traditional rural character of the Town by allowing creative design that takes into account the characteristics of the surrounding neighborhood and preserves and enhances those characteristics. The secondary purpose is to encourage the permanent preservation of open space for agricultural, recreational, or conservation purposes. This section shall be applied in addition to the Subdivision Rules and Regulations (henceforth, “the Rules”) of the Town of Huntington for eligible developments. This section sets out additional provisions that are intended to be used in conjunction with those in the Rules to encourage future

Current as of April, 2009

developers to build residential developments in a manner that will preserve the rural characteristics associated with the Town of Huntington. This section, except as specifically provided herein, may not allow a development that would be inconsistent with that permitted under the Rules.

1. Procedures: These procedures apply to all applications for approval of a new subdivision under the Rules.
  - a. An preliminary plan is required for an CSD proposal. The preliminary plan is intended to identify potential issues prior to the development of the definitive plan, both for the benefit of the developer and the Planning Board. As described in the Rules, a preliminary plan can be quite rudimentary, but there should be sufficient documentation (maps, etc.) to make a preliminary determination of appropriateness of a CSD on the proposed site. Any determination resulting from a preliminary plan is subject to change, pending examination of the definitive plan and subsequent site visits.
  - b. A definitive plan for a CSD may, where appropriate to the surrounding neighborhood, allow for increased housing density. This increase in density may be in the form of reduction in set-back requirements and/or in frontage requirements. Increased density of a CSD shall not allow any decrease in combined total acreage for the houses proposed, although it may allow, under certain circumstances, for a reduction in acreage *deeded* per house (see subsection 4, below).
  - c. In drawing up a definitive plan for a CSD, the developer should, in consultation with the Planning Board, determine the local conditions of the neighborhood in which the proposed development will be located, regarding frontage and set-back. The Planning Board may allow relaxation of set-back, frontage or both, and resulting increased housing density, only if it finds that the proposal meets all the requirements set forth below and is consistent with the purposes of this section, as set forth in subsection 1, above. The burden shall be on the developer to demonstrate that any proposed increase in density is consistent with the neighborhood or that adherence to dimensional requirements would be incongruous with the neighborhood. The Planning Board *shall* require that all dimensional requirements set forth in these bylaws be adhered to, *unless* it has been proven by the developer that the proposal is in harmony with the surrounding neighborhood and in the best interests of the Town.
  - d. The submission requirements for a CSD are the same as for any subdivision and are detailed in the Rules.
3. General Requirements:
  - a. Any CSD shall be restricted to single-family dwellings, with deed restrictions placed on each lot prohibiting the right to special permit for a multi-family dwelling. The right to apply for a special permit for an AFDU (Accessory Family Dwelling Unit) shall remain intact.
  - b. The total ‘effective area’ of the parcel (prior to subdivision) which is proposed for the CSD shall be at least 5 acres, and the parcel must be in single ownership or control at the time of application. If the parcel is not in single ownership, the owners must designate a single person to act on behalf of all the owners regarding the CSD development. ‘Effective area’ of the parcel shall mean the total area less the area shown on the definitive plan as wetland and/or as having a slope of 25% or more.
4. Open Space Area:
  - a. The applicant may propose that a certain portion of the total parcel be designated as open space for recreation and conservation, or for agricultural uses (“the Open Space Area”). With the approval of the Planning Board, the Open Space Area may be subtracted from the required area of the proposed residential lots, resulting in smaller lots being created than would be required in the zoning district in which the proposed CSD is located. In approving such plan, the Planning Board must find that the combined area of the residential lots and the designated Open Space Area is equal to or greater than the area that is required in the district for an equivalent number of residential lots under the Town’s Zoning Bylaw, Appendix A, Table of Dimensional Requirements, and the Regulations  
For Example:  
Traditional-Ten house lots in R-45 requires 45,000 sq. ft. X 10 (450,000 sq. ft.).  
CSD in R-45-Ten house lots at an average of 30,000 sq. ft. (300,000 sq. ft.) plus 150,000 sq. ft. of designated open space = 450,000 sq. ft.  
This reduction in area may be combined with a reduction in required frontage and/or setback, as long as the Planning Board finds that the requirements laid out in subsection 2c (above) have been met. In no case shall the area of any residential lot be smaller than 25,000 sq. ft.
  - b. Except for roads shown on the site plan and common utility facilities such as piping associated with public water supply or extensions to the Town sewer system servicing the development thereto, the entire Open Space Area shall be preserved permanently, in an open or natural state, for recreation, conservation, or for

Current as of April, 2009

agricultural uses. Built features such as swimming pools or tennis courts are prohibited on open space designated for recreational use. Other uses and small structures shall be permitted only as accessory to recreation, conservation or agriculture. Further division or subdivision of the Open Space Area shall be prohibited.

- c. . The Open Space Area shall be preserved as such by means of a permanent conservation or agricultural restriction and conveyed to one of the following:
  - i. The association of homeowners of the lots in the CSD (see the Rules).
  - ii. A non-profit organization, such as a land trust, the principal purpose of which is the conservation or preservation of open space or agricultural land.
  - iii. The Town, at no cost to it, and accepted by it for a park or open space use at a Town Meeting.
- d. If the Open Space Area is not conveyed to the Town, a restriction enforceable by the Town shall be recorded to ensure that such land be kept in an open or natural state or for agricultural uses and not developed for residential use or uses accessory thereto, such as parking or roadways. Such restrictions shall also provide for maintenance of Open Space Area in a manner suitable to its use, proper maintenance of drainage, utilities, appearance, and cleanliness. (ATM 05/07/2007)

#### **SECTION IV 0: OPEN PUBLIC LAND DISTRICT (OPL).** (adopted 2/3/93)

The Open Public Land (OPL) District, shall consist of the lots designated as such on the Zoning Map. These lots are owned or managed by public authority, and they consist primarily of open space on which private development is restricted or prohibited. Uses and structures in this District shall be confined to those conducted, authorized, or permitted by the owning or managing public authority.

#### **SECTION IV P: RIVER PROTECTION DISTRICT (RPD).** (adopted 2/3/93)

1. The purposes of this district are to preserve, protect and enhance the scenic beauty, wildlife habitat, and natural resources of the Westfield River and adjacent land, to prevent pollution of its waters, and to minimize erosion and sedimentation. To achieve these purposes, structures and uses within the district shall be installed and conducted with the minimum feasible disturbance of existing terrain, vegetation, and wildlife.
2. This District is an overlay district. Except as provided below, the provisions of the underlying district, including the dimensional requirements, shall continue to apply. Where the RPD overlaps the Floodplain District, which is also an overlay district, the provisions for the two districts shall be combined as provided in Sec. F below.
3. The RPD shall consist of all land within 150 feet of the riverbank (see definitions) of the Main, West, Middle, and East Branches of the Westfield River, except for land in the Open Public Land District, and certain other lots in Huntington Center, or owned by the Town of Huntington, all as shown on the Zoning Map. The RPD shall also not extend beyond any street line (see definitions) which is less than 150 feet from the riverbank.
4. Use regulations in the River Protection District:
  - a. Permitted uses and structures:
    - i. Use categories IV A 1a, 1b, & 1c (uses exempt under MGL 40A, to the extent of the exemption, public uses under authority of the Town of Huntington, non-commercial outdoor recreation, and agriculture other than animal husbandry).
    - ii. Conservation of water, plants, and wildlife; wildlife management areas.
  - b. Uses requiring special permit:
    - i. One single family house, and structures and uses accessory thereto, as provided in the use table, IV B 1a, IV C 1a and IV C1b. If a portion of the lot lies outside the RPD, the required finding, in addition to those set forth in Sect. V B, is that in the judgment of the issuing Board it is unfeasible, or would involve a substantial hardship, financial or otherwise to place the structures applied for wholly on such portion outside the RPD. "In granting special permit the issuing Board shall attach such conditions as it deems warranted by the purposes set forth in A. above, including provisions concerning the siting of the house, accessory structures, State Environmental Code

Current as of April, 2009

Title V, waste disposal permissible construction methods and allowable landscaping (if any).” (Last sentence amended 5/3/1999.)

- ii. Hydroelectric power facilities under Sect. IV D 5b.
  - i. After special permit has been granted, the expansion of the footprint of a principal structure by more than 15% in area, or of an accessory structure by more than 50% in area shall require further special permit.
- c. Use Restrictions:
- i. [The Massachusetts Wetlands Protection Act provides that no person may remove, dredge, fill or alter terrain or vegetation within 100 feet of a riverbank without a Negative Determination of Applicability or Order of Conditions from the Conservation Commission.] In issuing such a determination or order with respect to a non-exempt activity within the RPD, the Commission shall, in addition, impose such restrictions or conditions as it deems needed to minimize the removal of vegetation and disturbance of terrain consistent with the use, and to prevent a significant adverse effect on the scenic quality or wildlife habitat of the area.
  - ii. No commercial forest cutting shall occur within 50 feet of the riverbank. In the remaining area of the district, no more than 50% of the existing forest shall be cut.
- d. Nonconforming uses and structures:
- Nonconforming uses and structures which are protected under MGL 40A Sec. 6 (the so-called 'grandfather clause') may continue; however, any new structure, or the enlargement of the footprint of a lawfully nonconforming principal structure by more than 15% in area, or of an accessory structure by more than 50% in area shall constitute a "substantial extension" under the meaning of MGL 40A Sec. 6, and require a special permit as provided in Sec. VI A below.
- e. Prohibited uses and structures:
- All uses and structures not provided for above are prohibited. Specifically forbidden is the excavation of land except as incidental to work for which permit or special permit has been granted under Sections 2, 3, or 4 above.
5. Procedures for special permit (in addition to those set forth elsewhere). On receipt of an application for special permit, a copy shall be sent to the Conservation Commission, and the issuing Board shall not act on the application until written report has been received from them or until 35 days have elapsed.
- 6.. Overlap with the floodplain district:
- Where the River Protection and the Floodplain District overlap:
- a. Use regulations shall be as in the RPD. (See Sec. D above.)
  - b. Requirements, required findings and procedures for permits and special permits shall combine the provisions of both districts. (See Sections D 2a & 2c, and D 4 above, and Sections 4, 5, & 6 in IV J.

#### **SECTION IV Q: WIRELESS COMMUNICATIONS FACILITIES** (amended May 14, 2001)

Authority to write and enact this bylaw is granted under the Telecommunications Act of 1996 and the Home Rule Amendment to the Constitution of Massachusetts and M.G.L. Chapter 40-A. This bylaw is intended to serve the best interests of the citizens of Huntington.

The express purpose of this bylaw is not to restrict the construction or use of wireless communication facilities within the Town of Huntington but rather to govern their placement, construction and appearance, thereby

Current as of April, 2009

lessening their impact upon the environment and character of the town. It is the intent of this bylaw to require any and all companies to seek reasonable and viable alternatives to tower construction.

Wireless communication facilities shall include any and all materials, equipment, storage structures, towers and antennas, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services. *This bylaw does not apply to the construction or use of facilities by a federally licensed amateur radio operator as protected by Mass. General Law Chapter 40-A Section 3.*

4Q 1. No wireless communication facility shall be built in the Town of Huntington without the issuance of a special permit granted by the Selectboard under the following conditions:

- A. Any wireless communication facility shall minimize, to the extent feasible, adverse visual effects on the environmental landscape, as well as historic viewsheds, structures and State or Nationally designated scenic byway(s). (Last of sentence added 5/14/2001) The Selectboard, with the advisement of the Planning Board, may impose reasonable conditions to ensure this result, including denial of a site, as well as painting and lighting standards. (Some of sentence added 5/14/2001) The S.P.G.A. reserves the right to specify style(s) and/or colors(s). No tower shall exceed a height of 190 feet above grade, measured at the center of the proposed facility. Applicant shall demonstrate the need for the elevation requested and shall not be allowed to construct a tower taller than the demonstrated need. There shall be a minimum of 2.5 miles, measured in a straight, level line, between towers. (Sentence added 5/14/2001). Shared use of a wireless communication tower is encouraged. (This sentence changed 5/14/2001) Contracts for co-location by another (competing) provider must be reasonable by industry standards, not to exceed the cost of erecting a new facility. Visible siting in a historic district is prohibited, but siting in or on a non-residential structure within that district, which, is hidden or adequately blended with architectural details, is encouraged, as is siting on town-owned property, with the exception of facilities , (this previous phrase added 5/14/2001) which would be visible from State or Nationally designated Scenic Byway(s). Applicant must provide such information as may reasonably be required by the Selectboard, demonstrating that the following low-impact options are unworkable before a special permit will be granted for a conventional tower:
  1. Co-location in or on an existing structure. Prior to construction of any tower, applicant shall provide proof that comparable coverage cannot be obtained on any available, suitable, existing tower/structure. (Last sentence added 5/14/2001)
  2. Custom structure designed to blend with surroundings (i.e. disguised as a tree or similar).
  3. Least obtrusive and/or lowest height of currently available technology.
- C. Topographical site plan, including contour lines at intervals no greater than two (2) feet and in an appropriate scale showing entire fall zone, proposed access way, plus 40 feet on each side and any other areas to be altered, prepared by a professional engineer licensed to practice in the Commonwealth, shall be provided to the Planning Board for any proposed wireless communication facility. The plan shall include the following (Amended 5/14/2001)
  1. North arrow, date, scale and the seal(s) of the licensed professional(s) who prepared the plans.
  2. All access roads.
  3. The placement of any proposed towers and structures as may be necessary.
  4. Night lighting shall be prohibited unless required by federal authorities and shall be the minimum necessary.
  5. A “fall zone” which shall be equal to the height of the proposed tower plus twenty-five feet. Fall zone radius must be contained entirely within the boundaries of the parcel of land on which the facility is located. It shall not contain structures unrelated to the telecommunications facility, but should contain “buffer” trees. Clearing of natural vegetation should be limited to that which is necessary for the construction, operation and maintenance of the facility.
6. A setback from any residential structure equal to a minimum of 250 feet. Said tower shall be a minimum of 230 feet away from all abutters’ property lines. A second topographical site plan shall be submitted showing a minimum 500-foot radius centered on proposed facility with contour lines at 10-foot intervals. (Last two sentences added 5/14/2001)
  7. Adequate drainage to prevent erosion.
  8. Pre-existing conditions.
- C. A map of appropriate scale showing the location and orientation of the proposed site and the areas

Current as of April, 2009

covered by proposed device(s) of different signal strengths and their interface with adjacent service areas, both existing and proposed, shall be submitted. (Amended 5/14/2001) (The following last paragraph added 5/14/2001) Applicant shall provide individual propagation charts for the proposed facility as well as all known facilities, either proposed or existing, in Huntington and all abutting towns. Propagation charts shall be provided in overlay format which allows comparison as both individual and overlapping footprints at typical transmission range for PCS, cellular and any other signal type likely to apply. Overlays shall clearly demonstrate signal interface/overlap. The applicant shall float an 8 foot minimum diameter, brightly colored balloon, at the height of the proposed tower. The balloon should be flown over a 2-day period, one of the days being a weekend day, with an inclement weather 2-day contingency plan. The balloon tests shall be publicized in the Country

Journal, with any costs being borne by the applicant. Publication shall be in each of 2 weeks prior to the first balloon test date.

D. A minimum non-refundable application fee of \$150.00 shall be submitted to the Planning Board. (Previous sentence added May 13, 2001) All other plans and/or documents required under the zoning law shall be submitted to the appropriate officials. If the facility is not in operation for a period of one year, it shall be removed and the site shall be returned to pre-existing condition, by the owner, within 180 days of notice by the town, unless special circumstances can be proven by same, which are deserving of an extension in the judgment of the Selectboard, under the advisement of the Planning Board. A plan shall be submitted, as part of the application for a special permit for any wireless communication facility, to return the site to pre-existing condition (plantation of replacement trees, grading and removal of all structure and waste or any other work that may be required) with a bond to be held by the Town in the amount of an applicant-provided estimate (R.H. Means or Equivalent) for such work. If the facility is not removed within 180 days, the Town shall be empowered to use the bond posted by the owner for the removal of said facility.

#### 4Q 2. Regulatory Compliance

- A. Annual certification demonstrating structural integrity and continuing compliance with current standards of the FCC, FAA and the American National Standards Institute shall be filed with the Building Inspector by the Special Permit Holder, and shall be reviewed by a licensed professional engineer hired by the Town and paid for by the Special Permit Holder (MGL 44/53G).
- B. If the FCC or the FAA regulations are changed, the owner or operator shall bring the facility into compliance within six months or earlier if a more stringent compliance standard is included in the regulation.
- C. Failure to comply with any regulations shall be grounds for removal of non-complying structures, buildings or devices at the owner's expense.
- D. The removal of obsolete structures and equipment in a timely manner will be encouraged.

4Q 3. Any special permit for wireless communications facilities shall be subject to review for renewal at five-year intervals. Upon renewal, S.P.G.A. may require replacement of facility with least obtrusive and/or lowest height facility available at the time of renewal. The topographical site survey shall be reviewed and any necessary adjustments shall be made to the bond as part of the renewal process. (Middle sentence added May 14, 2001)

4Q 4. If any part of this bylaw is found not to be legal, the rest will remain intact.

## **SECTION IV R: ADULT BUSINESS BYLAW** (adopted 11/4/98)

The authority to write and enact this bylaw is granted in the Home Rule Amendment to the Commonwealth of Massachusetts Constitution and the State Zoning Act, M.G.L. Chapter 40-A. This bylaw is intended to serve the

Current as of April, 2009

best interests of the Town of Huntington in limiting and preventing the clustering of adult entertainment.

The purpose of the Adult Entertainment bylaw is to address the secondary effects that adult businesses would have on the Town of Huntington. These secondary effects have been shown to include: increased crime, negative effects on public health, negative impact on the business climate and negative impacts on business and residential property values. All of the above mentioned secondary effects are adverse to good health, safety and well-being of the citizens of the Town of Huntington.

It is not the intent of this bylaw to limit in any way, any form of free speech, written, spoken or visual, including sexually oriented materials. It is also not the intent of this bylaw to deny access to any material protected by the United States Constitution and the Constitution of the Commonwealth of Massachusetts. It is not the purpose of this bylaw to legalize the sale, rental, distribution or exhibition of any material judged by law, to be obscene or otherwise illegal.

IV. R. Definitions:

Adult Entertainment as defined in MGL Chap. 40A-9A are:

- A. Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section 31 of chapter 272.
- B. Adult Motion Picture Theater: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.
- C. Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.
- D. Adult Video Store: An establishment having a substantial or significant portion of its stock in trade videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.
- E. Establishment which has live nudity for its patrons: Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in section thirty-one of chapter two hundred and seventy-two.

IV. R1. All Adult Use Businesses are prohibited in the Town of Huntington in all zones except those which are labeled "Industrial". These Adult Use Businesses shall require a Special Permit to be issued by the Selectboard under these conditions:

- A. The application for this Special Permit shall contain the names and addresses of the legal owner of the property, or the names and addresses of corporate officers (if different) as applicable.
- B. No one shall be issued a special permit for an Adult Use Business who has been convicted of violating any provisions of (MGL Chap. 199-63) Contributing to the Delinquency of a Minor, or (MGL Chap. 272-28) Dissemination of Obscene Material to a Minor.
- C. No Adult Use Business shall be less than
  - 1. 750 feet from the nearest residential zone.
  - 2. 1000 feet from the nearest school, day care center, day camp, church school or;
  - 3. 1000 feet from any church or cemetery.
  - 4. 750 feet from any park, playground or playing field.
  - 5. 250 feet from the nearest licensed business under MGL 40A-9A.
  - 6. 250 feet from the nearest licensed business under MGL 138-12.

All the above distances are to be measured in a straight line from property line to property line.

D. No exterior public display of sexually explicit material or words as defined by MGL 272-31 shall be permitted. No Adult Business will disseminate or offer to minors any adult-oriented material or paraphernalia or allow minors to enter into, loiter or linger about the premises.

D. No Adult Entertainment Use Business shall be established without submission of a site plan to the Planning Board. This plan shall clearly show all existing and proposed structures, parking places, driveways and service areas. The site plan shall clearly demonstrate the distances from proposed Adult Use Business to the nearest residential zone and the property line of each of the uses set in subsection IV. R1 (3) above.

Current as of April, 2009

- IV. R2. An Adult Use Special Permit shall be good for two calendar years from the date of issue, upon which time it is subject to review by the Selectboard, and may either be renewed or denied.
- IV. R3. This Special Permit may be revoked at any time if the licensee is found to be in violation of any of the above mentioned conditions.
- IV. R4. If any part of this bylaw is found not to be legal the rest will remain intact.

## **IV S ACCESSORY FAMILY DWELLING UNIT BYLAW**

### **I. Introduction**

As allowed in Section IV B, 1e of this bylaw, accessory family dwelling units shall be permitted in single-family residential districts by Special Permit. The SPGA shall be the Zoning Board of Appeals which will apply the standards specified herein and may attach other conditions it deems appropriate.

### **11. General Description**

1. An Accessory Family Dwelling Unit (AFDU) shall mean a second dwelling unit within a single-family structure.
2. The legal owners of the single-family structure/ AFDU must be year-round residents of the premises.
3. The AFDU shall mean a separate housekeeping unit, complete with its own sleeping, cooking and sanitary facilities, that is designed to maintain the appearance of a single-family dwelling with a separate entrance located on the side or rear of the building. An AFDU shall have not more than one bedroom.
4. An AFDU shall have the same street address as the single family dwelling from which it is created. A waiver to this requirement shall be allowed if 911 compliance requires it to be distinguished. When a separate street address must be allowed, it should be in a diminutive form (i.e. 109 Main Street for the main dwelling and 109A Main Street of 109 Main Street (rear) for the AFDU.)
5. Occupancy of an AFDU shall be restricted to a maximum of two persons.

### **III. Intent**

The intent of this bylaw is:

1. To provide homeowners with a means of obtaining, through tenants in AFDU's companionship, independence, security and services, and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. To provide homeowners alternatives for caring for elder relatives while allowing them independence.
3. To create opportunity for increased affordable housing;
4. To protect stability, property values and the residential character of a neighborhood by ensuring that AFDU's are installed only in owner-occupied houses and under such additional conditions as may be appropriate to further the purposes of this bylaw; and
5. To regulate compliance with the State Building Code in so-called in-law apartments.

### **IV. Standards and Requirements**

The Zoning Board of Appeals may grant a Special Permit to allow an AFDU in an existing or new single family dwelling, provided the following standards and requirements are met:

1. The AFDU must be a separate housekeeping unit from the original unit. The units may, however, share some utilities such as heat, water, sewer, sanitary disposal, electricity, etc.
2. Only one AFDU will be allowed on a single-family house lot.
3. The lot on which the single-family house is located must meet the minimum lot size requirement and must comply with other applicable zoning requirements for its district. The SPGA may allow an AFDU on a legally non-conforming lot with a finding that doing so would not increase the non-conformity.
4. The AFDU shall be designed so that the appearance of the building remains that of a single-family residence as much as possible. Any new entrances should be located on the side or rear of the building. Any exterior changes made should be consistent with the character of the neighborhood.
5. Adequate provision shall be provided for ingress (entrance) and egress (exit) for each unit. An interior doorway may be provided between dwelling units as a means of access for purposes of supervision and emergency response.

Current as of April, 2009

6. Any AFDU shall be limited to 750 square feet in floor area or one-third of the total livable area of the original dwelling in which it is to be contained, whichever is greater. An addition to the original building may be permitted, subject to SPGA approval.
7. The AFDU shall clearly be subordinate to the single-family dwelling. IT shall have no more than one (1) bedroom.
8. The SPGA may allow deviation from these conditions to facilitate access and mobility for disabled persons.
9. The construction of any AFDU must conform with all State Building and Health Code requirements, as well as the bylaws of the Town of Huntington.

#### **V. Application Procedure**

1. The procedure for the submission and approval of a Special Permit by the Zoning Board of Appeals for an AFDU in an Owner-Occupied Single-Family Dwelling shall be the same as prescribed in the Special Permit section of this bylaw (Section V), except it shall include a notarized letter from the owner (s) stating that he/she/they will occupy one of the dwelling units on the premises, and that he/she/they will occupy the dwelling unit on a year-round basis.
2. A non-refundable fee shall be included with the application for an AFDU to cover the cost of processing the application. The applicant shall be responsible for the costs of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Section 11 must be notified.

#### **VI. Recording of Special Permit**

No building permit shall be issued for construction of an AFDU until a Special Permit has been granted and recorded in the Registry of Deeds by the applicant and evidence of such recording has been submitted to the Building Inspector .

#### **VII. Severance**

If any part of this bylaw is found to be illegal, the balance shall remain in force.

(Adopted ATM May 3, 2004)

### **SECTION V: SPECIAL PERMITS**

#### **A. Authority**

1. As authorized by MGL 40A, Section 9, this By-Law provides that certain structures and uses require a special permit, to be issued only after a public hearing and a finding by the Special Permit Granting Authority (SPGA) that the proposed structure and/or use complies with the general provisions set forth below and the special provisions set forth elsewhere in this By-Law.
2. Special permits may, and where so provided in this By-Law shall, impose such conditions, safeguards, and limitations on time or use as in the judgement of the SPGA will serve to insure compliance with the general and specific provisions for special permit set forth in this By-Law. Where appropriate to the use and in accord with the purposes of this By-Law, the SPGA may provide that a special permit is non-transferable.
3. The Planning Board shall be the SPGA for common driveways under VI K and VI A, and for open space communities under IV N. For all other special permits, the SPGA shall be the Zoning Board of Appeals.(1/24/90), (amended 5/6/95)
4. The Selectboard shall appoint an associate member to the Planning Board, who shall sit on the Planning Board at the request of its Chair for the purposes of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Board or in the event of a vacancy on the Board. The term of the first such appointment shall expire on July 1, 1992, and the term of appointment thereafter shall be three years.(1/24/90)

#### **B. General Provisions for Special Permit**

1. The proposed structures and uses shall be in harmony with the general purpose and intent of this By-Law and the public interest and shall conform to the provisions of this By-Law and all other applicable laws and legally binding regulations.
2. No substantial grievance, nuisance, or hazard shall be created for any person owning or residing on an abutting lot or an abutting-to-abutting lot within 300 feet of the lot-site of the special permit.
3. The appearance of the proposed structures shall be in substantial harmony with the general character of the neighborhood.
4. The proposed use shall be in substantial harmony with the uses prevailing in the neighborhood and for which the site is zoned.
5. Existing public facilities shall be adequate for the proposed use.
6. Existing streets shall be adequate in width and design for the traffic which would be created by the proposed use.

Current as of April, 2009

7. The proposed use shall not be such as to create traffic on access streets to the site which would be a hazard or substantial nuisance to those owning property on or using such streets.
8. Provisions shall be made for adequate off-street parking, as provided in Sec. IV H.
9. The proposed structures and uses shall not involve a density of population or intensity of use substantially beyond what is generally characteristic of and appropriate to the neighborhood.
10. The proposed structures, facilities, and uses shall not have a significant adverse environmental impact.
11. Special permit shall not be issued for a lot on which there is an existing violation .(Amended May 14, 2001)

### **C. Procedures for Special Permit**

1. Procedures for special permit shall be as provided in MGL 40A, Sections 9 & 11, and the rules and regulation of the SPGA. [Some of these provisions are: Applications shall be filed with the Town Clerk and then the SPGA. An advertised public hearing must be held within 65 days of the filing of the application. Parties in interest must be notified. These include petitioner, abutters, and abutters to abutters within 300 feet, (without regard to street or road lines), the Planning Board, and others. Applicant is charged a fee sufficient to cover the cost of advertisement and notice. The Planning Board must submit a report within 35 days of receipt of a copy of the application. The SPGA may not act on the application until this report has been received, or until 35 days have passed. Decision on the application must be made and filed with the Town Clerk within 90 days of the public hearing on the application. Applicant and parties of interest must be notified of the decision and informed of their right to appeal. For full details see MGL 40A, Sections 9 & 11 and ZBA rules and regulations.]
2. A special permit shall lapse if a substantial use thereof has not occurred within two years of issuance, subject to the provisions of MGL 40A, Sec. 9.

## **SECTION VI: EXEMPTIONS**

### **A. Non-conforming Uses, Structures, and Lots**

1. [In brief summary, MGL 40A, Sec. 6 provides that uses, structures, and lots which do not conform to the provisions of this By-Law are exempt from such provisions if they were lawfully in existence when the provisions went into effect. Any substantial alteration, extension, or change of such a preexisting non-conforming use or structure requires a special permit. The only required finding is that the new use or structure would not be substantially more detrimental to the neighborhood than the existing one. In granting special permit under this section, the SPGA may impose such conditions, safeguards, and limitations on time or use as it deems needed to insure that the new use of structure will not be substantially more detrimental. Non-conforming buildings destroyed by fire may be rebuilt on the same site without special permit. For full details see MGL 40A, Sec. 6.]
2. For the purposes of this By-Law, any alteration, reconstruction, extension, or structural change in a lawfully Non-conforming single or two-family house which is within the existing footprint of the house, or which itself is conforming, shall be deemed not to increase the nonconforming nature of the house. (Amended 5/13/1995)
3. Exemption under MGL 40A, Sec. 6 shall lapse if a non-conforming use or structure is abandoned or discontinued for two years or more.
4. Construction or operations under a building or special permit shall conform to any subsequent amendment of this By-Law, except as provided in MGL 40A Sec.6 par. 2.

(Above numbers changed 5/13/1995)

## **B. Variances**

1. A variance is a license to do something contrary to law. Variances shall be granted only as provided in MGL 40A, Sec. 10. [MGL 40A, Sec. 10 provides that a variance may be issued only if all four of the following findings are made:
  - a. There are circumstances relating to soil conditions, shape, or topography which especially affect the land or structure in question, but which to not affect generally the zoning district in which the land or structure is located.
  - b. Due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of this By- Law would involve substantial hardship, financial or otherwise, to the petitioner or applicant.
  - c. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this By-Law.
  - d. Desirable relief may be granted without substantial detriment to the public good.]
2. [MGL 40A, Sec. 10 also provides as follows:
  - a. The ZBA may impose conditions, safeguards, and limitations both of time and of use on a variance, but none based on continuous ownership of the land or structure to which the variance applies.
  - b. Variances granted prior to January 1, 1976 which were limited in time may be extended on the same terms and conditions.
  - c. Rights granted by a variance but not exercised within a year of the date of granting shall lapse.]
3. The permit granting authority for variances shall be the Zoning Board of Appeals.
4. No use variances shall be granted.
5. Procedures for variances shall be as provided in MGL 40A, Sections 10 & 11.[& 14]

[Procedures for variances are much the same as for special permit (VC), except that the decision must be filed with the Town Clerk within 100 days of the filing of the application with the Town Clerk.]

## **SECTION VII: OFFICERS, POWERS, AND ENFORCEMENT**

### **A. The Zoning Board of Appeals (ZBA)**

1. The ZBA shall consist of three members and two alternate members, who shall be appointed by the Selectboard, as provided in MGL 40A, Sec. 12.
2. The ZBA shall adopt rules of procedure and act in matters within its jurisdiction as provided in this By-Law and MGL 40A.
3. The ZBA shall have the following powers:
  - a. To hear and rule on appeals as provided in MGL 40A, Sec. 8. [This includes appeals by those aggrieved by an action of the Zoning enforcement officer.]
  - b. To issue, renew, modify or extend all special permits except as provided in Sect. V A 3 [common driveways and open- space communities].
  - c. To hear and rule on application for variance.
- c. [The ZBA is also the Planning Board of Appeals, with powers and duties as provided in MGL Chapter 41, Sections. 81Y, 81Z, & 81AA.]
- d.

### **B. The Zoning Enforcement Officer (ZEO)**

1. The ZEO (who may also be the building inspector) shall be appointed by the Selectboard and shall serve at their pleasure and under their authority and supervision. Enforcement of this By-Law is vested in the ZEO. (2/11/87)

Current as of April, 2009

2. As provided in MGL 40A, Sec. 7, and Chapter. 41, Sec. 81Y, issuance of a building permit shall be withheld if the ZEO finds that any of the proposed structure(s), use(s), or work would be in violation of this By-Law or an approved definitive plan of subdivision. (2/11/87).
3. The ZEO shall act on requests for enforcement of this By-Law as provided in MGL 40A, Sec. 7. [Sec. 7 provides that on receipt of a written complaint alleging violation and requesting enforcement, the ZEO shall, within 14 days:
  - a. Inspect the site of the alleged violation.
  - b. If a violation is found, notify the person responsible in writing that such violation exists and that action to remove the violation must begin within five days of receipt of the notification and must proceed expeditiously thereafter, and that failure to comply may result in imposition of a fine of \$100 per violation, with each day such violation continues constituting a separate offense.
  - c. Notify the complainer and the Selectboard in writing as to what findings were made and what findings were made and what action taken.
  - d. Notify the complainer and the violator or alleged violator that action by the ZEO is appealable to the ZBA, and that such appeal must be filed with the Town Clerk, with reasons therefor, within 30 days of receipt of notice of action.]
4. If a person who has been notified of a violation under B 3 b above fails to act to remove the violation within five days, or fails to proceed expeditiously thereafter to remove the violation, the ZEO shall so notify the Selectboard, and if the violation concerns a special permit, the issuing board shall also be notified, and the ZEO shall commence appropriate legal proceedings.
5. If the ZEO fails to respond within 14 days to a request for enforcement, the request is deemed to be denied, and appeal may be taken to the ZBA, as provided in VIII A.

**6.**

**SECTION VIII: APPEALS**

**A. Appeals to the ZBA**

Appeals to the ZBA shall be made and acted on as provided in MGL 40A, Sections 8,11,14 & 15. [Those who may take appeal include anyone aggrieved by reason of inability to obtain a permit or enforcement action from a Town officer or board, including the Building Inspector or ZEO, acting under MGL 40A or this By-Law. Appeals must be filed with the Town Clerk within 30 days of notice of the decision being appealed, or, if notice is not given, within thirty days of the date that the decision shall be deemed to have been made, and shall specify the decision being appealed and the reason for the appeal. Thereafter the ZBA shall hold a public hearing within 65 days. The hearing shall be advertised and parties in interest notified. Decision must be made within 100 days of the filing of the appeal with the Town Clerk. Within 14 days thereafter copies of the decision shall be filed with the Town Clerk and sent to the appellant, who, along with parties in interest, shall be notified of their right to appeal under MGL 40A, Sec. 17. For full details, see MGL 40A, Sections 8,11,14,15,&17.]

**B. Appeals of Decisions by Town Boards or Officers**

Appeals of decisions by Town Boards or Officers, including the ZBA or other SPGA, shall be made to the appropriate Court, as provided in MGL 40A, Sec. 17 and MGL Chapter 41, Sec. 81BB. [Appeal must be made, and notice of appeal filed with the Town Clerk, within 20 days of the date the decision was filed with the Town Clerk. For full details see MGL 40A, Sec. 17 and MGL Chapter 41, Sec. 81BB.]

**SECTION IX: AMENDMENTS.**

Amendments to this By-Law are made as provided in MGL 40A, Sec. 5. [In brief summary: Initiative may be made by the Selectboard, the ZBA, the Planning Board, the regional planning agency, any ten voters registered in Huntington, any individual owning land to be affected by change or adoption, or by request of registered voters of a town pursuant to MGL Chapter 39, Sec. 10. Thereafter an advertised Planning Board hearing is held, followed by a Town meeting, at which a two-thirds affirmative vote is required for passage. The amendment is then submitted to the Attorney General for review, and, if approved, posted by the Town Clerk, at which time the amendment becomes law, effective as of the date of the Town meeting vote. For full details see MGL 40A,S.5.]

**SECTION X: REPEAL.**

All previously passed Zoning By-Laws are hereby repealed.

Current as of April, 2009

**SECTION XI: VALIDITY.**

The invalidity of any section or provision of this By-Law shall not affect the validity of any other section or provision.

The corrections of 9/27/89 rectify some typographical errors, including a change from 5% to 25% in IV N 3c, and update the bracketed material (not a part of the By-Law).]

## APPENDIX A

**TABLE OF DIMENSIONAL REQUIREMENTS<sup>a</sup>**

J DIMENSION	USE <sup>b</sup>	DISTRICT							
		R-25	R-45	R-90	R-135	Bus.	C-Bus.	Ind	APD
Minimum Lot Size (1000 sq.ft.)	1-fam. (c)	25	45	90	135	25	5	40	90
	2-fam	35	60	90	270	35	5	40	--
	3+fam	45 (d)	135 (d)	270 (d)	305 (d)	45 (d)	5	45 (d)	--
	Bus. (e,g)	25	45	90	135	15	5	40	--
	Ind. (f)	--	--	--	--	--	--	40	--
Street Frontage	All	125ft	200ft	200ft	300ft	125ft	50ft	200ft	300ft
Front Setback (h)	All	30ft	30ft	30ft	30ft	30ft	5ft	50ft (j)	30ft
Side (+rear) Setback (i)	All	20ft	20ft	20ft	20ft	20ft	10ft	50ft (k)	20ft

(Above 'j' by dimension-ATM 05/07/2007)

**NOTES:**

- a. See Sec. I F for definitions of terms and Sections III A & B for additional requirements, applications, and exceptions.
- b. Single-family dimensional requirements shall apply to religious, educational, public, and agricultural uses to the extent not exempted under MGL 40A, Sec. 3, and to any uses not covered elsewhere in this table.
- c. Includes manufactured home (residential districts only).
- d. Additional lot size required for each dwelling unit beyond three in number: business and industrial districts, 7500 sq. ft.; R-25, 10,000 sq. ft. (5/19/87); R-45, 45,000 sq. ft.; R-90, 90,000 sq. ft. (5/9/88); R-135, 135,000 sq.ft.
- e. Includes IV D 1a through IV D 3h in the Table of Use Regulations.
- f. Includes IV D 4a and IV D 4b in the Table of Use Regulations.
- g. Motel dimensional requirements: R-90 districts, 90,000 sq. ft.; all other districts, 45,000 sq. ft. An additional 1000 sq. ft. is required for each unit beyond ten in number.
- h. Where consistent with adequate reception, satellite receiving systems should be located in the rear yard (first priority) or side yard (second priority). Front yard location is permissible if necessary to adequate reception. Setback provisions apply.

Current as of April, 2009

- i. Accessory buildings and structures less than 15 feet high may be located as close as 10 feet from lot side or rear lines if they are at least 50 ft. from the lot front line.
- j. Thirty feet for non-industrial use.
- k. Twenty feet for non-industrial use.