
Chapter 196, ZONING

[HISTORY: Adopted by the Town Meeting by the Town of Boxford 10-1-1946 STM, Art. 9; readopted 10-26-1962 STM, Art. I. Amendments noted where applicable.]

ARTICLE I, Purposes and Authority

§ 196-1. Purposes and authority. [Amended 5-22-1996 ATM, Art. 51]

It shall be the purpose of this bylaw to lessen congestion in the streets; to conserve health; to conserve the integrity of the water supply; to secure safety from fire, flood, panic or other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, housing for senior citizens, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town; including consideration of the recommendations of the Master Plan; and to preserve and increase amenities by restricting, prohibiting, permitting or regulating the uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding, the uses of bodies of water, including water sources, and the development of the natural, scenic, historic and aesthetic qualities of the community, under the authority of MGL c. 40A, MGL c. 40C and Article 89 of the Amendments to the Constitution.

ARTICLE II, Establishment of Districts

§ 196-2. Classes of districts and Zoning Map. [Amended 5-14-1986 ATM, Art. 38]

The Town of Boxford is hereby divided as shown on the Zoning Map, dated May 10, 1977, and including subsequent amendments, filed with the Town Clerk and hereby made part of this bylaw, into nine classes of districts designated as follows:

Residence-Agricultural District

R-A Residence-Agricultural District (§ 196-13)

Business Districts

B-1 Retail Business District (§ 196-14)

B-2 General and Highway Business (§ 196-15)

Manufacturing or Industrial District

M Manufacturing or Industrial District (§ 196-16)

Special Districts

C Conservancy District (§ 196-17)

O Official or Open Space District (§ 196-18)

Special Uses

E-H Elderly Housing District (§ 196-20)

Pond Watershed Overlay District [Added 5-22-1991
ATM, Art. 51] (§ 196-21)

Wireless Communications Services District (§ 196-22)

§ 196-3. Boundaries of districts.

- A. Where the boundary lines are shown upon said Map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.
- B. Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- C. Boundary lines located outside of such street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and dimensions shown in figures placed upon said Map between such boundary lines and street side lines are the distances in feet of such boundary lines from such street side lines, such distances being measured at right angles

to such street lines unless otherwise indicated.

- D. In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said Map, by the use of identifications as shown on the Map, or by the scale of the Map.^{EN(1)}
- E. Contour lines are of indicated elevation above the datum mean sea level of the United States Geological Survey.

§ 196-4. Historic Districts.

Historic Districts established pursuant to the provisions of MGL c. 40C, as may be from time to time amended, shall be indicated on the Zoning Map by appropriate symbols.

ARTICLE III, Existing Uses Continued

§ 196-5. Continuation.

The lawful existing use or uses of all buildings, improvements and premises not conforming with the requirements for the district in which they are located at the time this bylaw was adopted on October 10, 1946, or when an amendment applicable to the property was adopted, or for which a variance or exception has been permitted by the Board of Appeals, may be continued as a nonconforming use, provided that:

- A. No increase in the extent of the nonconforming use of a structure or lot may be made.
- B. Wherever a nonconforming use has been changed to a more restricted use, it shall not again be changed to a less restricted use.

§ 196-6. Change, extension or alteration. [Amended 5-14-1986 ATM, Art. 37]

- A. (Reserved)^{EN(2)}
- B. Other nonconforming structures or uses may be extended, altered or changed in use on special permit from the Board of Appeals in accordance with the provisions of Article X if the Board of Appeals finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use.
- C. Once changed to a conforming use, no structure or use shall be permitted to revert to a

nonconformancy.

§ 196-7. Restoration, reconstruction, repair. [Amended 5-11-2004 ATM, Art. 27]

- A. Any legally nonconforming building or structure damaged by fire or other accidental or natural cause to the extent of not more than 3/4 of its value at the time of damage, as determined by the Inspector of Buildings, may be reconstructed if rebuilding is commenced within one year and completed within two years from the date of the occurrence, or else such reconstruction must comply with this bylaw. Any change or expansion in total square footage, footprint, or dimensions will require a special permit (or variance, if the proposed change or expansion does not comply with the zoning bylaws) from the Zoning Board of Appeals, upon a finding that such change or expansion will not be substantially more detrimental to the neighborhood than the existing structure.
- B. A residence in a district where residences are permitted, but on a nonconforming lot or with nonconforming yards, may be restored or repaired without change in the lot size or yards. Any change or expansion in total square footage, footprint, or dimensions will require a special permit (or variance, if the proposed change or expansion does not comply with the zoning bylaws) from the Zoning Board of Appeals, upon a finding that such change or expansion will not be substantially more detrimental to the neighborhood than the existing structure.

§ 196-8. Abandonment.

A nonconforming use which has been abandoned, or discontinued for a period of two years, shall not be reestablished, and any future use of the premises shall conform with this bylaw.

§ 196-9. Permits outstanding.

Construction or operation under a building or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through completion as continuously and expeditiously as is reasonable.

ARTICLE IV, New Construction and New Uses

§ 196-10. Conformity with bylaw required; prohibited uses.

Any and every new use and any and every new building, structure and premises shall be used for or occupied, and every building or structure shall be erected, constructed, established, altered, repaired, enlarged or moved exclusively and only with conformity with the requirements, character and conditions laid down for each of the several districts established by this bylaw. Any use not specifically listed herein or otherwise permitted in a district shall be deemed as prohibited.

§ 196-11. Authority of Board of Appeals to decide on special permits and variances.

The Board of Appeals, as provided in Article X below, is authorized to decide on special permits and variances from these requirements which will not be contrary to the general intent of this bylaw or to the public interest.

§ 196-12. Flood hazard areas. [Added 5-22-1991 ATM, Art. 43]

- A. No new construction or substantial improvement of an existing structure for residential, agricultural, business, manufacturing, industrial or elderly housing use shall be allowed in the designated special flood hazard areas as delineated on the Flood Insurance Rate Map as provided by the Federal Emergency Management Agency dated June 3, 1991, and as may be amended from time to time.
- B. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repairs is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

ARTICLE V, Use Regulations

§ 196-13. R-A Residence-Agricultural District.

- A. A Residence-Agricultural District is intended as a district of single-family homes and for

continuance of agricultural and accessory buildings customarily incidental for residential and agricultural uses upon one lot. [Amended 5-12-1982 ATM, Art. 32]

B. Permitted uses. The following shall be permitted uses in the R-A Residence-Agricultural District:

- (1) One single-family detached dwelling which shall have adequate access (which need not be used for a driveway) from the frontage to the dwelling site. Every driveway shall be located entirely within the lot that it serves and shall not serve another lot except as provided in Subsection B(11)(o) of this section. [Amended 5-20-1980 ATM, Art. 37; 5-12-1981 ATM, Art. 32]
- (2) Gardens; growing and storing fruits, berries, vegetables, hay, fodder and ensilage; orchards, wood lots and forestry; and greenhouse, nursery and similar activities in the field of agriculture. [Amended 5-12-1982 ATM, Art. 33]
- (3) Raising and keeping of farm animals and poultry for use of residents on the property and primarily not for profit, with barns, stables, chicken houses and similar buildings; on parcels of five acres or more, commercial greenhouses, the raising or keeping of horses, cattle, pigs, rabbits, fur-bearing animals or poultry for profit or other than for the use of the occupants of the residence. [Amended 5-11-2004 ATM, Art. 28]
- (4) Rooming or boarding house with not over four lodgers.
- (5) Church, parish house, religious or denominational school, not conducted for profit, and other religious uses exempted from prohibition by law.
- (6) Public schools, museums, libraries and parks, playgrounds, conservation areas, water supply areas or land owned and operated for the public enjoyment or service by a public or semipublic agency, and other educational uses exempted from prohibition by law.
- (7) Private golf courses, community clubs (not including miniature golf).
- (8) Customary home or professional occupation conducted in a dwelling or building accessory thereto by a person residing on the premises, provided that:
 - (a) Such use is clearly incidental and secondary to the use of the premises for residential purposes.
 - (b) Not more than two persons other than residents of the premises are regularly employed thereon in connection with such use.
 - (c) No offensive noise, vibration, smoke, dust, fumes, odors, heat, glare or unsightliness or unsafe condition is produced. [Amended 5-18-1988 ATM, Art. 48]

- (d) There is no public display of goods or wares and there are no signs except as permitted in § 196-27.
- (e) There is no exterior storage of material or equipment (including the parking of more than two commercial vehicles) and no other exterior indication of such use or variation from the residential character of the premises.
- (9) Accessory uses customarily incidental to any main permitted use on the same premises, and including but not limited to private garages and to activities associated with agriculture, such as barns, stables and other farm buildings.
- (10) Signs as provided in § 196-27.
- (11) Subject to the grant of a special permit by the Board of Appeals as provided in Article X below, the following:
 - (a) ^{EN(3)}Maintenance of commercial dog kennels, provided that no structure or operations are involved which are not in keeping with the residential character of the Town, all structures and operations are substantially screened from view with evergreen trees, shrubs, similar vegetation, fences or other means and no offensive noise, odors, unsightliness or unsafe condition is produced. [Amended 5-18-1988 ATM, Art. 50]
 - (b) Signs and displays concerning the products and goods raised or processed on the premises and not exceeding 12 square feet in total area.
 - (c) Dump operated by the Town for the exclusive use of the inhabitants of the Town subject to Board of Health regulations.^{EN(4)}
 - (d) The taking of more than four lodgers.
 - (e) Private school, cemetery, hospital, clinic, sanitarium nursing home, camps of an educational or charitable institution.
 - (f) Use of land for a public utility.
 - (g) Community club or golf club conducted for profit.
 - (h) Garage space for more than three automobiles.
 - (i) Recreation and amusement enterprises, including rental of saddle horses or boats, sale of bait, ski-tow and similar activities.
 - (j) Earth excavation, as provided in Article VII.

- (k) Certain accessory uses related to permitted scientific research or development, provided that the granting authority also finds that the proposed accessory use does not substantially derogate from the public good.
- (l) A shared driveway that serves up to three lots and shall only be located on one or more of the lots being served. Every such shared driveway must be regulated by a recorded maintenance agreement running in perpetuity with the land and satisfactory to Town Counsel. The Board of Appeals shall impose such conditions, to be made part of the special permit, as are necessary to provide adequate access, including conditions that assign responsibility for maintenance and snow removal. [Added 5-12-1980 ATM, Art. 38; amended 5-18-1981 ATM, Art. 33; 5-11-2004 ATM, Art. 29]

C. Accessory apartments in residence districts. [Added 5-14-1986 ATM, Art. 34]

- (1) Purpose and intent. It is the specific intent of this section to allow accessory apartments, including kitchens, within single-family properties in Residence-Agricultural Districts for the purpose of meeting the special housing needs of grandparents, parents, brothers and sisters, children and their respective spouses of families of owner-occupants of properties in the Town of Boxford, subject to the granting of a special permit by the Board of Appeals as provided in Article X. To achieve this goal and to promote the other objectives of this bylaw, specific standards are set forth below for such accessory apartment uses. [Amended 5-9-2006 ATM, Art. 34]
- (2) Owner occupancy required. The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. The special permit shall be issued to the owner of the dwelling units on the property. Should there be a change in ownership or change in residence of the owner, the special permit and the certificate of occupancy for the accessory apartment shall become null and void.
- (3) Apartment size. The gross floor area for an accessory apartment shall not exceed the lesser of: [Amended 5-11-1999 ATM, Art. 33; 5-10-2005 ATM, Art. 26]
 - (a) One thousand square feet; or
 - (b) Twenty-five percent of gross floor area of the sum total of the two dwelling units, as determined at the time of the special permit request. "Gross floor area" shall be defined as the sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls. This includes courts, decks or porches when covered by a roof, or finished portions of basements and excludes garages.
- (4) Code compliance. The accessory apartment must be determined to comply with current

safety, health and construction requirements before occupancy and at every change in occupancy.

- (5) Preservation of single-family characteristics. The accessory apartment shall not change the single-family characteristic of the dwelling, except for the provision of an additional access or egress.
- (6) Existing detached structures may continue to be used for the same purposes subject to special conditions imposed by the Board of Appeals.
- (7) There shall be no more than one accessory apartment for a total of two dwelling units permitted per lot.
- (8) Current apartment uses, effective date this bylaw, may be continued only as long as the present occupants of the accessory apartment remain in residence.
- (9) Under no circumstances shall the accessory apartment be detached from the main dwelling unit. [Added 5-10-2005 ATM, Art. 26]

D. Accessory Affordable Housing Program. [Added 5-8-2007 ATM, Art. 13]

- (1) Introduction. The purpose of this bylaw is to satisfy an immediate need for affordable rental property in the Town of Boxford that meets the guidelines of the Department of Housing and Community Development's ("DHCD") Local Initiative Program for so-called "local action units," pursuant to state regulations: 760 CMR 45.03. This bylaw also provides a means of renting of accessory apartments that are no longer used for family members, as defined in § 196-13C of this Zoning Bylaw. For a proposed unit to be eligible for consideration under this Accessory Affordable Housing Program, it must be a single unit, accessory to an owner-occupied single-family dwelling, and comply with the following requirements.
- (2) Special permit. A special permit from the Board of Appeals shall be required for an accessory affordable apartment and the applicant shall show to the satisfaction of the Board of Appeals that the applicant has complied with or will comply with the requirements set forth in Subsection D(3), below.
- (3) Eligibility of accessory affordable apartments.
 - (a) The accessory affordable apartment must be part of the primary residence structure of the property owner, and the primary living area of the residence may not be rented. The accessory affordable apartment must conform to the Boxford Code § 196-13C, Accessory apartments in residence districts, Subsection C(2) through (7). All parking for the accessory apartment must be on site and off street.

- (b) In keeping with the rural character of Boxford and the original intent of the accessory apartments, only single-bedroom accessory affordable apartments may be rented, and maximum occupancy shall be of two adults.
- (c) The owner must demonstrate that all the documentation is on file with the Town to show that the accessory affordable apartment meets the requirements of § 196-13C(2) through (7).
- (d) The owner(s) shall cooperate with all requirements for local action units pursuant to state regulation.
- (e) A condition of granting a special permit by the Board of Appeals shall be the execution by the owner(s) of a written regulatory agreement and declaration of restrictive covenants, in form approved by Boxford Town Counsel, with the Town detailing the terms and conditions stated herein. Said regulatory agreement and declaration of restrictive covenants shall further provide that, for as long as the special permit remains in effect, the property shall be subject to the terms, conditions and restrictive covenants contained therein.
- (f) Said regulatory agreement with the Town shall provide that, upon receipt by the owner(s) of a special permit from the Board of Appeals, the owner(s) shall execute and record in the Essex South District Registry of Deeds or file with the Registry District of the Land Court forthwith said regulatory agreement and declaration of covenants.
- (g) The special permit issued under this § 196-13D and all associated liabilities shall be binding on all the executors, administrators, heirs, successors and assigns of the permittee unless and until the special permit is either revoked, lapses or is otherwise ruled invalid.
- (h) The owner(s) shall agree that if the owner(s) receives a special permit, the accessory affordable apartment may be rented only to a person or persons 18 years of age or older selected from a list of eligible households that the local regulatory authority has generated, whose combined annual income is 80% or less than the Lawrence Metropolitan Statistical Area median income and whose assets do not exceed the amount set forth pursuant to DHCD's Local Initiative Program Guidelines. Accessory affordable apartments permitted under this § 196-13D shall be rented on an open and fair basis.
- (i) The owner(s) further agree that the rent (including utilities and any services) shall not exceed 30% of 80% of area median income for a household of two, or such lesser amount as may be required by 760 CMR 45.03.

- (j) The owner(s) shall require the tenant to sign an agreement, in form approved by Boxford Town Counsel, outlining the income restrictions for continued tenancy and limits to the number of occupants.

D . Farm stand activities. [Added 5-13-2008 ATM, Art. 20^{EN(5)}]

- (1) The purpose of this bylaw is to help protect increasingly scarce farmland in the Town, to enhance the economic viability of farming activities and related farm stand operations in the Town and to promote the public's understanding, knowledge and appreciation of the importance of local farms to the Town's rural character and environment.
- (2) The following uses are permitted, on farms having five acres or greater, pursuant to the agricultural site plan review, as described in Section D(3) below, only in conjunction with a farm stand which qualifies for protection under MGL c. 40A, § 3:
 - (a) Farm festivals during the harvest season of the subject farm;
 - (b) Agritourism activities, including but not limited to:
 - [1] Hayrides;
 - [2] Petting zoos;
 - [3] Play areas;
 - [4] Retail sale of food products and crafts, farm products, garden supplies, or other agriculture-related products (whether or not such products are produced on the farm);
 - (c) Customary food service, including seating and tables;
 - (d) Other activities accessory to and customarily performed on farms.
- (3) Agricultural site plan review for farm stand activities.
 - (a) In support of agricultural site plan review under this section, an applicant shall file with the Planning Board a plan designating:
 - [1] The areas on the subject property on which all proposed activities will take place;
 - [2] Parking facilities; and
 - [3] Anticipated pedestrian and vehicular traffic flows for all events held on the farm.

- (b) An Assessors' Map showing the information required by Section D.3.a shall be deemed adequate for this purpose.
 - (c) The Planning Board may impose reasonable conditions on the time and manner of such activities to mitigate their anticipated effect upon the neighborhood adjacent to the subject property.
 - (d) Agricultural site plan approval shall be valid for five years, unless the approved activities change in intensity, in which case the property owner or applicant shall return to the Board to amend their site plan.
- (4) An appeal of an agricultural site plan review decision by the Board shall be pursuant to the provisions of MGL c. 40A, § 17.

F. Small wind energy systems. [Added 5-12-2009 ATM, Art. 17]

- (1) The purpose of this bylaw is to allow for a streamlined and efficient permitting process to allow for small wind energy systems.
- (2) Small wind energy systems shall be those systems no greater than 60 kilowatts of rated name plate capacity proposed to be constructed after the effective date of this section.
- (3) Definitions.

HEIGHT -- The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

RATED NAMEPLATE CAPACITY -- The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a nameplate on the equipment.

SMALL WIND ENERGY SYSTEM -- All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines, which have a rated nameplate capacity of 60 kw or less.

WIND TURBINE -- A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

- (4) General requirements.
 - (a) Special permit. No small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a special permit from

the Zoning Board of Appeals.

- (b) All such wind energy systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the small wind energy system, should they occur.
 - (c) Compliance with laws, ordinances and regulations. The construction and operation of all such proposed small wind energy systems shall comply with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and FAA aviation requirements.
 - (d) Utility notification. No small wind energy system shall be installed until evidence has been given to the Building Inspector that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (5) General siting, design, lighting and sign standards.
- (a) Setbacks. Wind turbines shall be set back a distance equal to the total height of the wind turbine from all inhabited structures, overhead utility lines, public road or right of way and property boundaries. The Board may reduce the minimum setback distance if written permission is granted by the owners of the property or properties which abut the property line from which the setback would be reduced.
 - (b) Appearance, color and finish. The wind generator and tower shall remain painted or finished the nonreflective color or finish that was originally applied by the manufacturer, unless approved in the special permit.
 - (c) Lighting. Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the small wind energy system, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
 - (d) Signage and advertising. Signs and advertising shall be restricted to reasonable identification of the manufacturer or operator of the small wind energy facility and shall defer to the requirements of the Town sign regulations.^{EN(6)}
- (6) Safety, aesthetic and environmental standards.
- (a) Unauthorized access. Wind turbines or other structures part of a small wind energy system shall be designed to prevent unauthorized access. For instance, the tower

shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.

- (b) Noise. The small wind energy system and associated equipment shall conform with the provisions of the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the permit granting authority agree that those provisions shall not be applicable.
 - (c) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and is otherwise prescribed by applicable laws, regulations, and ordinances.
- (7) Monitoring and maintenance. The applicant shall maintain the small wind energy system in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and security measures. The applicant shall provide the Town with contact information, including emergency contact notification, to be used for all correspondence and communications regarding the wind energy system and the applicant shall ensure such contact information is accurate and updated.
- (8) Discontinuance and removal.
- (a) Any wind energy facility not used for a period of two years or more without written permission from the special permit granting authority, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. When an applicant intends to decommission and/or remove a wind energy facility, the applicant shall notify the Zoning Enforcement Officer and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind energy facility no more than 150 days after the date of discontinued operations. At the time of removal, the affected portion of the site shall be restored as near as possible to the state it was in before the facility was constructed, unless put to another legally authorized, active use. Decommissioning and removal shall consist of:
 - [1] Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
 - [2] Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
 - [3] Stabilization or revegetation of the site as necessary to minimize erosion. The Zoning Enforcement Officer may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption

to vegetation.

- (b) Upon request, the applicant shall provide evidence to the Zoning Enforcement Officer demonstrating continued use of the wind energy facility. Failure to provide such evidence within 30 days of a written request from the Zoning Enforcement Officer addressed to the contact address provided and maintained by the applicant as required above shall be conclusive evidence that the wind energy facility has been discontinued.
 - (c) If the applicant fails to remove the wind energy facility in accordance with the requirements of this section, the Town shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the facility at the expense of the facility owner and the owner(s) of the site on which the facility is located.
- (9) Permit process, requirements and enforcement.
- (a) The building permit application shall be accompanied by deliverables, including the following:
 - [1] A plot plan showing:
 - [a] Property lines and physical dimensions of the subject property within two times the total height from the tower location;
 - [b] Location, dimensions, and types of existing major structures on the property;
 - [c] Location of the proposed wind system tower, foundations, guy anchors and associated equipment;
 - [d] The right-of-way of any public road that is contiguous with the property;
 - [e] Any overhead utility lines.
 - [2] Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
 - [3] Tower foundation blueprints or drawings signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
 - [4] Tower blueprint or drawing signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts.
 - (b) Expiration. A permit issued pursuant to this ordinance shall expire if the small wind energy system is not installed and functioning within 24 months from the date the

permit is issued; or the small wind energy system is abandoned.

- (10) Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance.
- (11) Penalties. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by applicable law.
- (12) Severability. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

§ 196-14. B-1 Retail Business District.

A. A Retail Business District is intended for retail and local neighborhood shopping and for offices.

B. Permitted uses. The following shall be permitted uses in the B-1 Retail Business District:

- (1) All uses permitted in § 196-13B(2), (3), (5), (6), (9), (11)(h), (11)(i) and (11)(n), subject to the same restrictions and conditions as prescribed in the R-A Residence-Agricultural District, provided that no residential use will be permitted except that for an owner, employee or operator of a business or office on the premises.
- (2) Retail store or service establishment, the principal activities of which shall be the offering within the building of goods or services at retail for use or consumption within the building or off the premises.
- (3) Business or professional office, or bank.
- (4) Restaurant or other place for serving food.
- (5) Municipal, state or federal governmental buildings.
- (6) Nonprofit civic and fraternal building.
- (7) Parking area or garage for use of employees, customers or visitors under the condition specified in § 196-26 of Article VI for approval of site plans, etc.
- (8) Signs or display advertising goods or services available on the lot as provided in § 196-27 of Article VI.

- (9) Accessory buildings and uses customarily incidental to permitted uses.
- (10) Subject to the grant of a special permit by the Board of Appeals as provided for in Article X below, the following:
 - (a) Gasoline service station, provided that repairs shall be limited to minor changes and adjustments and that gasoline pumps and equipment shall be so located that vehicles to be served are entirely upon the service station lot.
 - (b) Rail or bus station or terminal.
 - (c) Store or service establishment, the principal activities of which shall be the offering of goods and services at retail by means of drive-in, open-air or other methods which require operations as much outside the building as within.
 - (d) Craft shop, provided that no more than five persons are employed.
 - (e) Commercial amusement enterprises, such as bowling, theater, clock golf, skating and similar enterprises.
 - (f) Multiple dwellings of not less than four and not more than 16 dwelling units; building lots to contain at least two acres for each dwelling unit and not more than one multiple dwelling unit to be placed on any single lot.
 - (g) Rest or nursing homes.

§ 196-15. B-2 General and Highway Business District.

- A. A General and Highway Business District is intended for buildings and uses providing goods and services to inhabitants of Boxford and neighboring towns, and to the traveling public.
- B. Permitted uses. The following shall be permitted uses in the B-2 General and Highway Business District:
 - (1) Any use permitted in B-1 Retail Business District under the conditions prescribed therein.
 - (2) Motel, hotel or inn.
 - (3) Repair shop for automobiles, appliances and other light equipment.
 - (4) Automobile salesroom.
 - (5) Retail establishment, the principal activities of which shall be the preparation, storage,

transfer or distribution of goods (such as building material, automobile parts, etc.).

- (6) Subject to the grant of a special permit by the Board of Appeals, as provided in Article X below, outdoor storage of fuel supplies and products under appropriate conditions for screening where such areas adjoin a Residence-Agricultural District.

§ 196-16. M Manufacturing or Industrial District.

A. A Manufacturing or Industrial District is intended as an industrial district for manufacturing.

B. Permitted uses. The following shall be permitted uses in the M Manufacturing or Industrial District:

- (1) All agricultural, business and commercial uses permitted in other districts, provided that no residential use will be permitted, except that one dwelling may be maintained for a watchman or caretaker and his family employed upon the premises of an industrial concern.
- (2) Research laboratories with incidental processing or pilot manufacture.
- (3) Office building.
- (4) Manufacturing enterprises, provided that, before any building permit may be granted, the Board of Appeals shall determine that such activities will not be offensive, injurious or noxious because of sewerage, refuse, noise, vibration, smoke, fumes, dust, odor, dangerous fire or explosion or other characteristics detrimental to a dominantly residential Town or which may tend to reduce property values in the same or adjoining districts, in accordance with the standards set forth in § 196-28 of Article VI below.
- (5) Agricultural, horticultural and floricultural uses, subject to § 196-31.
- (6) Religious and educational uses exempt from regulation by law.

§ 196-17. C Conservancy District.

A. A Conservancy District is intended for the preservation and maintenance of the groundwater table upon which the inhabitants depend for water supply; to protect the public health, safety, persons and property against the hazards of flood water inundation; for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along watercourses or in areas subject to floods; to preserve and increase the amenities of the Town; and to conserve natural conditions, wildlife and open space for the

education, recreation and general welfare of the public.

- B. The boundaries of the Conservancy District shall be based upon the elevations shown on the Zoning Map dated May 10, 1977. Conservancy District elevations extend onto all adjoining parcels, even if not shown on the Zoning Map. The Conservancy District shall encompass any adjacent bordering vegetated wetland, as defined in 310 Code of Massachusetts Regulations 10.55, and shall exclude any adjacent land which is not bordering vegetated wetland. [Amended 5-11-1999 ATM, Art. 40]
- C. Land in a Conservancy District contiguous and in single ownership with land in a R-A Residence-Agricultural District may be included in a residential lot for purposes of § 196-24B(1). Land in a Conservancy District contiguous and in single ownership with land in an Elderly Housing District may be included in the Elderly Housing District for the purposes of § 196-24B(4). [Amended 5-12-1981 ATM, Art. 34]
- D. Permitted uses. The following shall be permitted uses in the C Conservancy District:
 - (1) Conservation of water, plants and wildlife.
 - (2) Recreation, including play areas, nature study, golf, boating, fishing and hunting where otherwise legally permitted.
 - (3) Certain agricultural uses as follows:
 - (a) Grazing and farming, including truck gardening and harvesting of crops; forestry.
 - (b) Other agriculture, horticulture or floriculture on parcels of five acres or more, subject to § 196-31.
 - (4) Religious and educational uses exempt from prohibition by law.
 - (5) Telephone, telegraph, power and gas transmission.
 - (6) Subject to the grant of a special permit by the Board of Appeals under specified conditions as provided for in Article X below:
 - (a) Nonresidential buildings and structures, such as the following, provided that any such building or structure permitted by the Board of Appeals shall be designed, placed and constructed to offer a minimum obstruction to the flow of water and shall be firmly anchored to prevent floating away and thus threatening other buildings or blocking of openings in restricted sections of the watercourse below: [Amended 5-14-1986 ATM, Art. 38]
 - [1] Barns, stables or kennels for shelter, breeding, boarding, hiring or sale of

animals, and for storage for crops raised on the premises.

[2] Boathouses, duck walks and landings, including facilities for rental of boats or canoes and recreation equipment, and sale of bait.

[3] Temporary refreshment stand or stands for sale of produce raised on the premises.

(b) Amusement enterprises, such as golf range, pony rides, not including any permanent structure and subject to other Town bylaws and regulations.

(c) Dams, changes in watercourses or drainage works, only as part of an overall drainage basin plan.

(d) Temporary storage of materials or equipment.

(e) Driveway or road, provided that the Board of Appeals is satisfied that there will be adequate drainage and that such driveway or road will not interfere adversely with the natural flow of water in the area or with the general purposes for which Conservancy Districts are established.

E. Except as provided above, there shall be in the Conservancy District:

(1) No land fill or dumping in any part of the district; no drainage other than flood control works by any authorized public agency.

(2) No damming or relocating of any watercourses, except as part of an overall drainage basin plan.

(3) No building or structure, except as provided in Subsection D(6)(a).

(4) No permanent storage of materials or equipment.

§ 196-18. O Official or Open Space District.

A. An Official or Open Space District consists of those areas which have already been dedicated or used for public or semipublic uses, such as parks and recreation areas, public buildings, cemeteries, schools, churches, reservoirs and open space reservations, and which are not available for residential, commercial or other private uses. The purpose of this district is to show on the Zoning Map those areas which, because of their public or semipublic uses, are not appropriate for zoning in any other districts.

B. No building permit shall be issued for any new building or structure in the Official or Open Space District until plans showing proposed location, uses and external appearance shall have

been submitted to the Board of Selectmen for review, comment and suggestions with the advise of the Planning Board, and the Board of Selectmen shall have made such comment and suggestions or allowed three weeks to elapse after such submission without action.

§ 196-19. Special uses.

A building, structure and/or land and premises may be used for the following enumerated purposes only in a Manufacturing or Industrial District and then only if a special permit is granted, after referral to the Planning Board in each case, by the Board of Appeals in accordance with the provisions of Article X below and with such conditions as the Board of Appeals may impose to safeguard the district and the Town against injury to persons or property in the district and to conform to the intent and purpose of this bylaw:

- A. Tanneries, slaughterhouses or rendering plants.
- B. Junkyards.
- C. Automobile dismantling yards.
- D. Bulk station or storage of explosives.
- E. Steam laundries.
- F. Public dance halls.
- G. Airport or landing field (as defined by the Massachusetts Aeronautics Commission).

§ 196-20. Elderly Housing District. [Added 5-9-1984 ATM, Art. 24]

- A. In an Elderly Housing District, no building or land shall be used and no building shall be erected or converted except:
 - (1) To provide housing for the elderly, such housing to be owned and operated by a private nonprofit organization. A "private nonprofit organization" shall mean a corporation, foundation or other organization no part of the net earnings of which inures to the benefit of any private shareholder or individual and which has been organized pursuant to MGL c. 180, as amended.
 - (2) For any of the uses permitted in the R-A Residence-Agricultural District with the development regulations applicable to the R-A Residence-Agricultural District outlined in Article VI governing.

B. Accessory uses permitted in the Elderly Housing District shall include:

- (1) Garages.
- (2) One separate building, not exceeding one story in height, to house snow removal and mowing machines, garden and other tools and equipment required to maintain and service housing for the elderly.
- (3) One building which may be used as a common building by the residents of the District, which building may include central kitchen and dining facilities providing meals to residents thereof and their guests and may also provide lounge and meeting rooms for the common use of the residents and their guests.

§ 196-21. Pond Watershed Overlay District. [Added 5-22-1996 ATM, Art. 51]

- A. The Pond Watershed Overlay District consists of the mapped watersheds to Boxford's freshwater ponds. Long considered one of the Town's most significant natural resources, Boxford's numerous freshwater ponds are threatened by land-based activities within the pond watersheds, including residential development, removal of natural vegetative growth and waterfowl. Of particular concern are elevated levels of nutrients, such as nitrogen and phosphorus, present in the Town's surface waters. Excessive nutrients will cause pond water quality to decline, create noxious odors, increase growth of nuisance plants and reduce values of property within the ponds' watersheds.
- B. The purpose of this District is to identify land areas that provide recharge and runoff to Boxford's freshwater ponds by incorporating these contributing areas into the Town's Zoning Map, Zoning Bylaw and other regulatory tools, as amended.
- C. Permitted uses. In any lot created after the adoption of this amendment:
- (1) The Pond Watershed Overlay District shall be considered to be superimposed over any other district established in this bylaw. Land in a Pond Watershed Overlay District may be used for any purpose otherwise permitted in the underlying district, subject to the additional restrictions presented herein. Land located such that the site lies partially within an Overlay District shall be governed by the restrictions applicable to the zoning district in which the part of the land is located.
 - (2) Within a Pond Watershed Overlay District, no principal or accessory structure shall be constructed within 100 feet of the high-water mark of a pond. Excluded from this prohibition, subject to other applicable regulations in the Town of Boxford, are structures commonly referred to as "duck walks," landings, docks and piers.

- (3) Within a Pond Watershed Overlay District, no land area within 300 feet of a measured high-water mark of a pond shall consist of cultivated lawn greater than 5,000 square feet on any single lot.
- (4) For a distance of at least 25 feet from the high-water mark of any pond within a Pond Watershed Overlay District, natural vegetation shall be left in its natural state, except for a path, not to exceed seven feet in width. Dead or dying vegetation that poses a threat to persons or property may be removed, subject to other applicable regulations in the Town of Boxford.

§ 196-22. Wireless Communications Services. [Added 5-22-1997 ATM, Art. 51; amended 5-11-2004 ATM, Art. 31; 11-15-2005 STM, Art. 12; 5-9-2006 ATM, Art. 35]

Wireless communications services and the construction of towers shall be located according to the special permit provisions of the Zoning Bylaw.

A. (Reserved)

B. (Reserved)

- C. Use restrictions. A wireless communications facility (including antennas and accessory structures, if any), antenna or satellite dish may be erected upon the issuance of a special permit by the Zoning Board of Appeals pursuant to Article X, subject to site plan review and approval as set forth herein at § 196-30, subject to the following conditions:
- (1) The only wireless communication facilities allowed are freestanding monopoles, with associated antenna and/or panels to be installed internally within the monopole.
 - (2) To the extent feasible, all service providers shall collocate on a single facility. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.
 - (3) Any proposed extension in the height, addition of cells, antennas or panels or construction of a new facility shall be subject to a new application for an amendment to the special permit.
 - (4) New facilities shall be considered by the Zoning Board of Appeals only upon a finding by the Zoning Board of Appeals that the equipment planned for the proposed facility cannot be accommodated on any existing or already approved facilities.
 - (5) All facilities shall be designed to be constructed at the minimum height necessary to accommodate the anticipated present and future use but in no event to exceed 120 feet in

height as measured from the mean finished ground level at the base of the facility.

- (6) A facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished grade of the facility base.
- (7) Siting shall be such that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible. All facilities shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. The coloring scheme of the pole shall be at the discretion of the Board of Appeals based upon information provided during the public hearing.
- (8) Wireless communication facilities shall be suitably screened from abutters and residential neighborhoods.
- (9) Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town. Chain link is not acceptable.
- (10) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (11) There shall be no signs, except for announcement signs, no-trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis. All signs shall conform with § 196-27.
- (12) Night lighting of the facilities shall be prohibited unless required by the Federal Aviation Administration (FAA). Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
- (13) There shall be a maximum of one parking space for each facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
- (14) To the extent technologically feasible, all network interconnections from the facility shall be via underground land lines.
- (15) Applicants proposing to erect facilities on municipally owned land or structures shall provide evidence of contractual authorization from the Town of Boxford to conduct wireless communications services on municipally owned property.
- (16) Traffic associated with the facility and accessory facilities and structures shall not adversely affect abutting ways.
- (17) Satellite dishes and/or antennas may be located on structures or may be freestanding.
- (18) Satellite dishes and/or antennas shall be situated on a structure in such a manner that

they are screened, preferably not being visible from abutting streets. Freestanding dishes and/or antennas shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or landscape.

- (19) Antennas or dishes located on a structure shall not exceed 10 feet in height above the level of its attachment to the structure.
 - (20) Annual certification demonstrating continuing compliance with the standards of the Federal Communication Commission, Federal Aviation Administration and the American National Standards Institute and required maintenance shall be filed with the Building Inspector by the special permit holder.
 - (21) All unused facilities or parts thereof or accessory facilities and structures which have not been used for one year shall be dismantled and removed at the owner's expense.
- D. Procedure for a special permit. All applications for wireless communications facilities, antennas or satellite dishes shall be made and filed on the applicable application forms for site plan and special permit in compliance with the Boxford Zoning Board of Appeals application instructions. In addition to the requirements for site plan review under § 196-30 and the special permit requirements under §§ 196-45, 196-46, 196-47, 196-48 and 196-49, five copies of the following information must be submitted for application to be considered complete:
- (1) A locus plan at a scale one inch equals 200 feet, which shall show all property lines, the exact location of the proposed structure(s), street, landscape/topography features, residential dwellings and neighborhoods and all buildings within 500 feet of the facility.
 - (2) A color photograph or rendition of the facility with its antennas and/or panels. For satellite dishes or antennas, a color photograph or rendition illustrating the dish or antenna at the proposed location is required. A rendition shall also be prepared illustrating a view of the monopole, dish or antenna from the nearest street or streets.
 - (3) The following information must be prepared by a professional engineer:
 - (a) A description of the facility and the technical, economic and other reasons for the proposed location, height and design.
 - (b) Confirmation that the facility complies with all applicable federal and state standards.
 - (c) A description of the capacity of the facility, including the number and type of panels, antennas and/or transmitter receivers that it can accommodate and the basis for these

calculations.

- (d) If applicable, a written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and the Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.
 - (e) The applicable review and advertising fees as noted in the application guidelines.
- E. Exemptions. The following types of wireless communications facilities are exempt from this § 196-22:
- (1) Amateur radio towers used in accordance with the terms of the amateur audio service license issued by the Federal Communications Commission, provided that the tower is not used or licensed for any commercial purpose.
 - (2) Facilities used for the purposes set forth in MGL c. 40A, § 3.
 - (3) Satellite dishes and antennae for residential use.

ARTICLE VI, Development Regulations

§ 196-23. Height regulations.

- A. The height of any structure in all districts shall not exceed 35 feet or three stories. [Amended 5-12-1982 ATM, Art. 34]
- B. Building height shall be measured as the vertical distance from the average elevations of the finished lot grade at the front of the building to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof.
- C. Each story shall be deemed to be the portion of a building between the upper surface of any floor and the upper surface of any floor next above, having more than 1/2 of its height above the average elevation of the finished grade adjoining the building, provided that any part of a building between the topmost floor and the roof shall be deemed a half story.
- D. Limitations of height shall not apply to such structures as belfries, flagpoles, chimneys, radio and television antennas, windmills, silos, water tanks and similar noninhabitable structures.

§ 196-24. Area, frontage and yard regulations.

- A. Use of legally established lots. Nothing in this section shall prevent the use of land, which is not held in common ownership with any adjoining land, for the activities which comply with the permitted uses for the district in which the land is located, upon lots legally established preceding the adoption of any amendment and nonconforming as to width, area or frontage, provided that no such lot shall be changed in width, area or frontage, respectively, in such manner as to increase its nonconformity. Nothing in this section shall be construed to permit the use of any lot so affected without at least 50 feet of frontage. [Amended 5-12-1982 ATM, Art. 36; 5-14-1986 ATM, Art. 38; 6-9-1987 STM, Art. 4]
- B. Lot area. (Lot as defined in Article VIII.)
- (1) For each dwelling in any district, except for the Elderly Housing District, there shall be a lot area of not less than two acres.
 - (2) The minimum lot area within Business and Manufacturing or Industrial Districts shall have one acre and be in accordance with an approved site plan submitted pursuant to § 196-30 below, except as provided in § 196-14B(10)(f).
 - (3) Computation of lot area.
 - (a) In computing the area of any lot, no part of a public or private way, except a common driveway or other easement for nonmotorized recreational use, and no part of a pond or river shall be included. [Amended 5-14-1986 ATM, Art. 35]
 - (b) Every lot laid out for residential use shall have at least one acre of contiguous legally buildable area of naturally occurring land with soils not subject to flooding as defined in 310 Code of Massachusetts Regulation 10.57, and sufficiently dry to permit installation and use of facilities for disposal of sanitary waste. [Amended 5-11-1983 ATM, Art. 38; 5-15-1985 ATM, Art. 25; 5-2-1987 ATM, Art. 43; 5-18-1988 ATM, Art. 54]
 - (c) In any lot created after the adoption of this amendment, no land which is part of a Wetland Resource Area as specified in 310 CMR 10.02 (1)(a) subject to protection under the Massachusetts Wetlands Protection Act, MGL, c. 131, § 40, nor any land within 75 feet of such Wetland Resource Area may be counted towards the contiguous buildable area. [Added 5-10-1995 ATM, Art. 38]
 - (4) The minimum area of a lot within the Elderly Housing District shall be 24 acres.
 - (5) The maximum number of dwellings on any given lot within the Elderly Housing District

shall be 104. [Amended 5-9-1990 ATM, Art. 25]

- (6) The number of buildings containing dwellings on any lot within the Elderly Housing District shall not exceed one for every two acres of lot area.
- C. Lot coverage. All buildings, including accessory buildings, shall not cover more than 25% of the area of any lot, except that the Board of Appeals may grant a special permit for larger building occupancy in any district other than R-A.
- D. Lot frontage and width.
 - (1) Minimum lot frontage.
 - (a) For each dwelling in an R-A Residence-Agricultural District and for every building which includes a dwelling in any district, there shall be a minimum continuous lot frontage of 250 feet, except in the Elderly Housing District where the minimum continuous lot frontage shall be 100 feet. [Amended 3-2-1970 ATM, Art. 27]
 - (b) In Business and Manufacturing or Industrial Districts the minimum lot frontage shall be in accordance with an approved site plan submitted in accordance with § 196-30.
 - (c) Lot frontage shall be measured along the side line of a street or right-of-way not less than 50 feet in width, as shown on plans filed with the Planning Board, and such right-of-way shall thereafter be considered as a street for the purpose of this bylaw.
 - (2) Minimum width of lot.
 - (a) Each lot for residential use in an R-A Residence-Agricultural District shall contain a minimum diameter area of 200 feet within which any dwelling shall be built, which dwelling shall conform to all setback and other provisions of this bylaw. The diameter area of 200 feet shall be designated on any plans for the lot and need not conform to the said setback provisions. [Amended 5-15-1985 ATM, Art. 26; 5-14-1986 ATM, Art. 38; 5-2-1987 ATM, Art. 44; 5-10-2005 ATM, Art. 25]
 - (b) No lot laid out after adoption of this amendment shall have a lot width measured between side lot lines of less than 100 feet at any point in the buildable portion of said lot.
 - (c) Each lot for residential use in an R-A Residential-Agricultural District shall have a minimum depth of at least 50 feet along its minimum required frontage for a minimum of 200 contiguous feet along such frontage. [Amended 5-18-1988 ATM, Art. 55; 5-2-1987 ATM, Art. 45; 5-10-1995 ATM, Art. 39]
 - (3) Frontage exception for larger lots. [Added 5-13-1975 ATM, Art. 10; amended 5-20-1980

ATM, Art. 29; 5-10-1995 ATM, Art. 40]

(a) Notwithstanding the above provisions, a lot in an R-A Residence-Agricultural District need not have the specified amount of street frontage, provided that:

- [1] The area of the lot exceeds by at least four acres the minimum area required for such an R-A District;
- [2] The lot has a minimum continuous street frontage of not less than 50 feet and a width of not less than 50 feet at any point between the street and the site of the dwelling;
- [3] There is not more than one other such lot with frontage contiguous to it; and
- [4] It is not, in the opinion of the Planning Board, so located as to block the possible future extension of a dead-end street.

(b) Notwithstanding any other provisions, no such lot as described in Subsection D(3)(a) above on which a dwelling is located shall be hereafter subdivided, reduced in area. [Amended 5-14-1986 ATM, Art. 38]

E. Front yards. Every structure in all districts, except for the Elderly Housing District, shall be so located as not to extend within:

- (1) Fifty feet of the front lot line, except that no building need be set back more than the average setback of the buildings on either side, a vacant lot being counted as though occupied by a building set back 50 feet. [Amended 5-11-1999 ATM, Art. 35]
- (2) In case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.
- (3) Every structure in Elderly Housing Districts shall be so located as not to extend within 200 feet of the front lot line. [Amended 5-11-1999 ATM, Art. 36]

F. Rear and side yards.

- (1) Every main structure or part thereof in a residential district and every dwelling or part thereof in any district shall be so located as not to extend within 25 feet of a side or rear lot line or within 50 feet of any other building.
- (2) Structures, other than dwellings in a Business or Manufacturing or Industrial District, shall be located to provide rear and side yards in accordance with the site plan required under § 196-30 and Subsection H below.
- (3) The common building and every building in the Elderly Housing District shall be located

as not to extend within 100 feet of a side or rear lot line.

- G. Watercourse yards. There shall be a yard or setback between any building or structure in any district and a watercourse, stream, swamp or floodway of a width to leave the area subject to flooding free of obstruction.
- H. Appurtenant open space. No yard or other open space required for a building by these bylaws shall, during the life of such building, be occupied by or counted as open space for another building.
- I. Projections. Nothing herein shall prevent the projection of steps, unroofed porches, cornices, windowsills, built courses and other ornamental features into any required yard.
- J. Corner clearance. Within an area formed by the side line of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection, or in case of a rounded corner, from the point of intersection of their tangents, no structure shall be erected and no foliage maintained between a height of 3 1/2 feet and a height of eight feet above the plane through their curb grades.
- K. Irregularly shaped lots. [Added 5-14-1986 ATM, Art. 36; amended 5-12-1987 ATM, Art. 46; 5-22-1997 ATM, Art. 66]
 - (1) Following acceptance of this subsection, no lot for residential use shall be laid out which is irregular in shape:
 - (a) A lot with at least 250 feet of street frontage is substantially irregular in shape if the area of the lot is less than 50% of the area of a square lot of the same perimeter.
 - (b) A lot with less than 250 feet of street frontage is substantially irregular in shape if the area of the lot is less than 20% of the area of a square lot of the same perimeter.
 - (2) The aforementioned percentage standards may be applied to the entire lot or, at the discretion of the owner, to the minimum lot area which conforms to all other requirements of this bylaw.

§ 196-25. Accessory buildings and structures. [Amended 5-9-1990 ATM, Art. 23; 5-11-1999 ATM, Art. 37]

Accessory buildings and structures, including detached garages, shall not be closer than 50 feet from the front lot line, nor any closer to any side or rear line than the height of such accessory building above the ground or 20 feet, whichever is greater, except structures used for housing animals which shall be set back 50 feet from all lot lines. No accessory building shall be located closer than 20 feet from any dwelling or main structure on a lot unless both structures conform

with Building Code regulations relative to fire safety.

§ 196-26. Off-street parking and loading areas.

- A. Off-street parking spaces and loading areas shall be required in at least the ratio specified below for the following uses of land and buildings:
- (1) Dwellings: one parking space for each dwelling unit therein.
 - (2) Places of public assembly including churches: one parking space for each three seats therein.
 - (3) Schools: one parking space for each classroom therein, plus one space for each two employees or staff positions other than teachers; and where an auditorium is provided, one space for each three seats therein.
 - (4) Hotels, motels and lodger accommodations: one parking space for each room accommodation therein and loading space for all delivery trucks or sanitary collection vehicles.
 - (5) Other service establishments and retail businesses: the minimum required parking and loading spaces including driveways for these establishments shall be in proportion to at least one parking space of 300 square feet for each 100 square feet or fraction thereof of gross area, excluding basement storage area.
 - (6) Wholesale and industrial establishments: one parking space for each two persons employed on the largest shift, plus one space for each company-owned and -operated vehicle, plus spaces for customers' vehicles as appropriate, and loading spaces for all delivery or shipping trucks.
 - (7) Other uses requiring off-street parking and loading space: spaces in accordance with anticipated needs as determined by the grant of a special permit by the Board of Appeals.
 - (8) In an Elderly Housing District, no housing shall be constructed unless there is provided on the lot off-street parking totaling at least four parking spaces as defined below for each three units contained in such residence buildings. Parking spaces with a garage may be counted towards the required number of parking spaces. [Amended 5-14-1986 ATM, Art. 38]
- B. Required off-street parking and loading spaces shall be located on the same lot and in the same district as the building or use they are intended to serve, or, in the case of parking spaces, on other premises in the same district within 200 feet of such lot. [Amended

5-22-1991 ATM, Art. 42]

- C. Required off-street parking and loading spaces shall not hereafter be reduced, nor any loading space counted as or substituted for a parking space.
- D. Required off-street parking spaces shall each contain a minimum of 162 square feet (9 feet by 18 feet) of area for each vehicle suitable for parking; provided, however, that a driveway may be considered a required parking space for a dwelling. In addition, within a parking lot, there must be adequate space provided for the aisles and other accessways so that the minimum square footage required for each parking space is maintained. [Amended 5-11-1999 ATM, Art. 41]
- E. Required off-street parking and loading spaces shall all have adequate vehicular access to a street.
- F. No part of an off-street parking or loading space required for another building or use shall be included as part of an off-street parking area required for another building or use unless granted a special permit by the Board of Appeals upon its determination that the period of usage of such structures will not be simultaneous.
- G. All off-street parking areas and loading areas, other than those provided for dwellings, but including drives and other accessways, shall be paved with bituminous or other surfacing material and shall be provided where necessary with appropriate bumper and wheel guards. Illumination shall be so arranged as to deflect the light away from adjoining lots and abutting streets, and screening shall be provided where required by this bylaw.
- H. Parking areas and loading areas in Business and in Manufacturing or Industrial Districts shall be shown on site plans, as provided in § 196-30 below.

§ 196-27. Signs.

- A. In any and every district signs will be permitted in conformity with other provisions of this bylaw.
 - (1) One sign pertaining to the lease, sale or use of a lot or building on which such sign is placed not exceeding a total area of six square feet;
 - (2) One sign for identification of professional and home occupations or of occupant not exceeding a total of three square feet;
 - (3) For directional purposes, not exceeding a total area of three square feet.
- B. Subject to a grant of a special permit by the Board of Appeals for specified periods not

exceeding one year, other and larger signs, but in no case exceeding a total area of 36 square feet.

- C. No sign in any district shall be flashing or animated, nor shall be illuminated by other than white light directed within the area of the sign, and no illumination shall be allowed beyond 8:00 p.m. or after the business closes for the night, whichever is earlier, said sign allowed to be again illuminated when the business reopens the following morning. [Amended 5-22-1997 ATM, Art. 50]
- D. In Business and Manufacturing or Industrial Districts signs will be permitted:
 - (1) Advertising goods and services available on the premises, not exceeding one square foot for every linear foot of store frontage and in no case exceeding a total area of 36 square feet per lot.
 - (2) For identification of the business, company or agency on a wall or parapet of the main building not exceeding 30 square feet for each separate business in a Business District and not exceeding 300 square feet in a Manufacturing or Industrial District.
 - (3) For the purpose of identifying the business development or shopping center, one freestanding sign with a total of 36 square feet of area for each street on which the business development fronts.
- E. The Selectmen may grant permits for signs no larger than 50 square feet, relating to some nonprofit, charitable public event, to be erected for not more than 30 days at a location and in a manner approved by the Selectmen. [Added 12-4-1972 STM, Art. 10]

§ 196-28. Manufacturing or industrial standards.

Buildings and uses permitted in the Manufacturing or Industrial District shall be subject to the following minimum standards for construction, use and operation. Applicants shall submit such evidence as is necessary for the Inspector of Buildings to determine compliance, including detailed plans certified as to compliance by an architect or engineer. Refusal of a permit on the grounds of lack of sufficient documentation may be appealed to the Board of Appeals.

- A. Hazardous or detrimental effect to adjacent property: No fire and explosive hazards shall exist such as to produce dangerous exposure to adjacent property.
- B. Gases: No noxious, toxic or corrosive fumes or gases shall be emitted.
- C. Dust and smoke: No observable dust or smoke shall be exhausted into the air.
- D. Heat and glare: No heat or glare shall be evident beyond the property line.

- E. Exterior lighting: No exterior lighting, other than properly shielded streetlighting, shall shine directly on adjacent properties or towards any street.
- F. Noise: No noise shall be detectable beyond the property line in excess of the average level or street and traffic noise generally heard at the point of observation, and no noise below such level shall be objectionable with respect to intermittence, beat frequency or shrillness. No external loud speakers will be permitted, except emergency alarms. [Amended 5-14-1986 ATM, Art. 38]
- G. Vibration: No inherent and recurrently generated vibration shall be perceptible at the property line.
- H. Radiation: No dangerous radiation shall be detectable at the property line.
- I. Waste disposal and water service: Water service, and waste and refuse disposal methods shall comply with pertinent health regulations and shall be in accordance with the approved site plan.
- J. Screening: Screening by fences, walls and/or evergreen planting, in accordance with the approved site plan, shall be provided, erected and maintained to shield the business, industrial and manufacturing uses of land and buildings from any adjoining residential property.
- K. Storage: Fuel, raw or partially processed or finished material, machinery and equipment, including company-owned or -operated vehicles, shall not be stored between the street line and the front line of structures on the subject lot, or if there be no structure within 50 feet of the street line, and in no case to be visible from the street.

§ 196-29. New driveways. [Added 5-13-2008 ATM, Art. 19]

It shall be unlawful to install, construct, or relocate any driveway without first obtaining a driveway permit from the Planning Board. Normal maintenance, repair and repaving shall be exempt.

- A. Driveways for detached single-family houses shall comply with the following:
 - (1) Layouts and configurations shall avoid excessive curves, switchbacks, and slopes to provide optimal safety for access to and from the dwelling site.
 - (2) To the extent possible, the driveway apron shall be aligned at 90° to the road and have curved flare radii of six feet between the road and drive.
 - (3) No person or persons shall cut or destroy any tree on Town property (right-of-way along

side of the road) without first obtaining the approval of the Boxford Planning Board and the Boxford Tree Warden. No person or persons shall remove, alter, or destroy any stone wall on or bordering Town property (right-of-way along side of the road) without first obtaining the approval of the Boxford Planning Board in accordance with the Scenic Road Bylaw.

B. Single driveways shall meet the following standards.

- (1) All single driveways shall have a finished width no less than nine feet.
- (2) The first 25 feet in from the paved portion of the public way shall have a maximum slope of 3%; the maximum driveway slope along the centerline shall be 12%; any slopes over 8% shall be paved. To preserve the stability of the existing natural topography, no cut or fill in excess of eight feet of the natural topography shall be allowed within the limits of the driveway cross section.
- (3) The slope grade shall allow rapid emergency access during normal weather conditions. No physical barrier shall be located on the inside of the curves that could impede fire truck or emergency vehicle access.
- (4) The rate of runoff during construction and post-development shall not exceed the rate of pre-development runoff.
- (5) After driveway completion, water runoff from the new driveway shall not be allowed to enter onto the public right-of-way and abutting property at any time.
- (6) The Planning Board may impose conditions on the construction, re-construction or relocation of a driveway at their discretion to ensure safe access onto public roads and to prevent any damage or dangerous situation(s) due to drainage, icing, or other hazards. The conditions may incorporate recommendations made by the Fire Chief, Police Chief and Superintendent of Public Works.
- (7) The Superintendent of Public Works and Fire Chief and may impose other conditions at their discretion to ensure safe access and to prevent any damage or dangerous situation(s) because of drainage, icing, etc. onto public roads.
- (8) Sight distance entering the public way shall be 50 feet in either direction to the best extent possible.
- (9) During construction, no debris shall be left on the road or shoulder; nor shall drainage structures, culverts, or ditches be blocked or impeded at any time.
- (10) All driveways longer than 500 feet shall have a turnaround location within 25 feet of the dwelling for large vehicle turnaround or as appropriate to be determined by the Planning

Board.

(11) Driveways shall conform to all other rules and regulations of the Town of Boxford.

C. Shared driveways shall conform to all the regulations as set forth in Subsection B and § 196-13B(11)(m)^{EN(7)} of the Zoning Bylaw, plus the following:

- (1) The shared driveway shall not enter the roadway at a point separated by less than 100 feet (centerline to centerline) from any other driveway or intersection.
- (2) The shared portion of the driveway shall have a finished width no less than 12 feet plus a one-foot level shoulder on either side.

D. Application.

- (1) The driveway location, layout, slopes, drainage, and associated improvements shall be shown on a plan prepared by a professional architect, engineer, or landscape architect. The Planning Board at its sole discretion may waive the requirements for a driveway site plan.
- (2) Four copies of the plan shall be submitted to the Planning Board for review. The Planning Board may circulate the copies to the Fire Chief, Police Chief, and the Superintendent of Public Works.
- (3) The Fire Chief, Police Chief and the Superintendent of Public Works may return recommendations within 14 days to the Planning Board. If no recommendations are received within 14 days, the official failing to submit a report shall be deemed to have approved the proposed work on the driveway.

§ 196-30. Site plans. [Amended 5-14-1986 ATM, Art. 38; 5-11-1999 ATM, Art. 39]

A. For the purpose of reasonably protecting the legitimate interests of adjoining property owners and occupants, ensuring the most advantageous use of all properties and administering the provisions of this bylaw relating to parking and loading spaces, no permit shall be issued for any new building or structure in a Business, Manufacturing, Industrial, Official or Open Space District; nor for an addition to or alteration of an existing building for commercial use in any district; nor for any new building or structure in an Elderly Housing District until a site plan, prepared by a professional architect, engineer or landscape architect, has been approved for a special permit by the Board of Appeals. Prior to the grant of any such special permit, the Board of Appeals shall refer such plans to the Inspector of Buildings and to the Planning Board for their respective review and recommendation.

B. The site plan shall provide for:

- (1) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this bylaw.
- (2) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
- (3) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off site can reasonably be expected to be substantially affected by on-site changes.
- (4) Adequacy as to the arrangement and, where not herein specified, the number of parking and loading spaces in relation to the proposed uses of the premises.
- (5) Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping.
- (6) Adequacy of water supply, method(s) of waste disposal, surface and subsurface drainage and lighting.

C. To the extent that any change on site can reasonably be expected to substantially affect the neighborhood adjacent to the site, the Board of Appeals shall impose such restrictions as are reasonably related to mitigating any such negative impact. In assessing potential negative impact on the adjacent neighborhood, the Board of Appeals shall consider all of the factors set forth in Subsections B(1) through (6) hereof, as well as the potential for increased litter, noise or light pollution.

D. The Planning Board may from time to time adopt rules prescribing reasonable minimum regulations under this section.

E. Site plans shall indicate existing and proposed:

- (1) Boundaries.
- (2) Structures.
- (3) Parking and loading spaces.
- (4) Driveways and driveway openings.
- (5) Service areas and other open areas.
- (6) Facilities for lighting, for water supplies, for sewage, refuse and other waste disposal, for drainage and for screening.

(7) Landscape features.

§ 196-31. (Reserved)

§ 196-32. Phased growth. [Added 5-22-1997 ATM, Art. 40]

- A. Purpose. The purposes of phased growth are to protect and promote the public health, safety and welfare of the Town of Boxford by phasing the growth of the Town at a manageable rate to ensure that the Town has adequate time to expand its resources and to provide the necessary services to meet the educational, infrastructure and public safety needs of its residents in accordance with its Master Plan.
- B. Applicability. This section shall apply to every new residential development except housing for the elderly, as defined in § 196-35, within an Elderly Housing District. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership, regardless of form, at any time on or after the effective date of this section for which one or more building permits will be sought. [Amended 5-13-2003 ATM, Art. 25]
- C. Phasing schedule. [Amended 5-11-1999 ATM, Arts. 31 and 32]
- (1) Building permits for each development shall be granted at an annual rate not greater than that permitted by the following schedule:

Number of New Dwellings Projected in Total Development	Maximum Number of Building Permits for New Dwellings Per Year, Beginning with the Filing Date with the Registry of Deeds of the Definitive Subdivision Plan
1-10	5
11-20	6
21-30	7
31-40	8
41-50	9

Number of New Dwellings Projected in Total Development	Maximum Number of Building Permits for New Dwellings Per Year, Beginning with the Filing Date with the Registry of Deeds of the Definitive Subdivision Plan
More than 50	10 plus 5% of number Over 50

- (2) The phasing schedule shall be set forth on the definitive recorded subdivision plan.
- D. Subsequent changes in the shape or ownership of lots shall not affect the applicability of this section. Lots can be sold at any time for construction of dwellings in future years; however, any lots covered by the provision, hereafter sold or otherwise transferred, shall include in the deed the earliest date on which construction may be commenced.
- E. This section shall be effective until May 1, 2014. This section shall be necessary to permit and facilitate orderly development and predicted growth. [Amended 5-9-2006 ATM, Art. 33]

ARTICLE VII, General Regulations

§ 196-33. Soil stripping.

- A. The removal of sod, loam, sand, gravel or quarried stone forming a part of the real estate in the Town of Boxford, except when necessarily incidental to or in connection with the construction, at the site of removal, or a building for which a permit has been issued, or for grading or otherwise improving the premises of which such building is a part, shall not be permitted unless a special permit from the Board of Appeals be first obtained. To be considered incidental, the total volume of material removed may not exceed 500 cubic yards. [Amended 5-22-1997 ATM, Art. 64]
- B. Any person desiring to obtain a special permit from said Board for such purpose shall make written application therefor, and said Board shall hold a public hearing thereon, of which public notice shall be given, and render a decision. The applicant shall show to the satisfaction of said Board that such use of the premises for which such application is made shall not constitute a nuisance because of noise, vibration, smoke, gas fumes, odor, dust or other objectionable features; shall not be hazardous because of fire or explosion; shall not adversely affect the economic status of the district or the Town; and shall not be injurious or dangerous to the public health and the welfare of the district or Town. The Board may grant a

permit upon condition especially designed to safeguard the district or Town against permanent and temporary injury to the stabilized values in the district after operations are completed, or because of the methods of handling such materials at the site or because of transporting such material through the Town. The Board may, after a hearing and proof of violation of such conditions or any of the terms of the permit withdraw the permit, after which the use shall be discontinued.

§ 196-34. Trailers.

Trailers and other movable structures shall not be occupied as dwellings, except as provided in MGL c. 40A, § 3, and, except that for reasons of necessity or hardship, the Board of Appeals, after public notice and a hearing, may grant a special permit for temporary occupancy of such structures for dwelling purposes for not more than one year at a time in any part of the Town.

ARTICLE VIII, Definitions

§ 196-35.

In this bylaw, the following terms shall have the meanings described below:

ACCESSORY USE OR BUILDING -- A use or building which is subordinate and customarily incidental to and located on the same lot with the principal use or building to which it is accessory.

AUTOMOBILE REPAIR SHOP -- A shop or garage for the repair of motor vehicles, other than a private garage or service station.

BUILDING -- A structure having a roof or cover and forming a shelter for persons, animals or property.

DWELLING -- A building or part thereof designed, erected and used for continuous and permanent habitation for one family or individual, but not including trailers, however mounted, or commercial accommodations offered for periodic occupancy.

FAMILY -- Any number of persons living together as a single economic unit and ordinarily using a single cooking facility.

GASOLINE SERVICE STATION -- A structure or lot used for the sale of gasoline and oil or servicing or storing motor vehicles, other than a private garage.

HOTEL, MOTEL or LODGING HOUSE -- A building or part thereof, or group of buildings on a single lot, where space is used for sleeping or eating by more than three persons as paying guests, regular or transient.

HOUSING FOR THE ELDERLY -- Multifamily dwellings which contain no less than four nor more than 10 independent units consisting of a room or suite of rooms, its own bath and toilet facilities and its own kitchen facility. In one building, a unit may be included for occupancy by the manager of the project and his/her immediate family, one room of which may be used as an office, and except for the unit to be occupied and used as aforesaid by the manager, no unit in any building shall be occupied unless at least one of the tenants is a person who is 60 years of age or over.

LOT -- The area of a single parcel of land under single ownership, whether the tenure be joint, in common or by entirety. Whenever such parcel is on a plan which has been recorded or filed at the Essex County Registry of Deeds the term "lot" as used in this bylaw shall mean a single parcel on the plan. Further the description of a lot set forth in an application shall not be changed in any future application unless such future application conforms to this bylaw, and no new description including part of an old lot shall be permitted unless the remaining part of the old lot shall conform to the yard and area regulations of this bylaw.

PRIVATE GARAGE -- Covered space for the housing of motor vehicles, no more than two of which belong to others than the occupants of the lot on which such space is located.

RECONSTRUCTION -- Rebuilding within the same footprint and total square footage and having similar dimensions. [Added 5-11-2004 ATM, Art. 32]

ROOMING OR BOARDING HOUSE -- A dwelling in which the family resident therein provides eating and/or sleeping accommodations for not more than four paying guests who use only the cooking facility ordinarily used by the resident family.

STREET -- A public way, a way opened or dedicated to public use or a way plotted and laid out for ultimate public use, whether or not constructed.

STREET LINE -- The sideline of a street or way, as determined by deeds and plans recorded at the Registry of Deeds; where no line is thus legally established, then a line parallel with and 25 feet distant from the center line of a traveled way.

STRUCTURE -- Any construction, erection, assemblage or other combination of materials upon the land made in such a manner as to indicate a purpose that it remain in position indefinitely but excluding fences, signs and driveways. [Amended 5-9-1990 ATM, Art. 24]

WIRELESS COMMUNICATION FACILITY -- A wireless communications monopole, including antennas and accessory structures, if any, which facilitates the provision of wireless

communications services. [Added 5-22-1997 ATM, Art. 51]

WIRELESS COMMUNICATIONS SERVICES -- The following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service. [Added 5-22-1997 ATM, Art. 51]

ARTICLE IX, Administration

§ 196-36. Inspector of Buildings.

- A. The provisions of this bylaw shall be administered and enforced by the Inspector of Buildings. On any question of interpretation the officer or officers administering these provisions shall consult with the Planning Board. The Inspector of Buildings, with the approval of the Selectmen may, and if required by them, shall institute appropriate legal proceedings to enforce this bylaw and restrain by injunction any violation thereof.
- B. The Board of Selectmen shall appoint in June of each year an Inspector of Buildings, who shall hold office for the term of one year until such time as his successor is appointed. His compensation shall be regulated by the Selectmen unless determined by a vote of the Town at the Annual Town Meeting preceding his appointment. He shall not be interested in any contract or in the furnishing of materials for any building.
- C. The Board of Selectmen shall have the power to discharge the Inspector of Buildings for failure to perform his duties and fill the vacancy in the office and appoint such assistant inspectors as they deem necessary.
- D. The Inspector of Buildings may, so far is necessary in the performance of his duties, enter any building or premises within the Town at any reasonable hour.
- E. He shall keep a record of all business of the department, which record and all other books and papers relating to the transactions of the department shall be open at all times to the inspection of the Selectmen, and shall submit to them a yearly report on such business and such other reports as they may require.

§ 196-37. Permit required.

After the passage of this bylaw, it shall be unlawful to erect, alter, reconstruct or relocate any structure or to institute a new or altered use of land or structure without first obtaining a permit from the Inspector of Buildings. Whenever such permit is refused because of some provision of

this bylaw, the reason therefor shall be clearly stated in writing.

- A. Application for permit. Any application for a new or altered use of land or structure shall be accompanied by a specific reference to the subject lot as recorded in the Registry of Deeds, and by copies of a recorded plan of the lot, drawn to scale, showing the entire recorded ownership, all existing structures, all abutting streets and the exact area and boundaries of the parcel assigned to the subject use. [Amended 5-11-1999 ATM, Art. 38]
- B. Approval of applications. The Inspector of Buildings shall approve no application of any kind or plans or specifications or intended use which are not in all respects in conformity with this bylaw, or unless the applicant has secured a variance or special permit if required from the Board of Appeals pursuant to Article X below and recorded at the Registry of Deeds. [Amended 5-14-1986 ATM, Art. 38; 5-11-1999 ATM, Art. 38]

§ 196-38. Occupancy permit.

No building erected, altered or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without an occupancy permit, signed by the Inspector of Buildings, which permit shall not be issued until the building and its uses, and the uses incident thereto, comply in all respects with this bylaw.

§ 196-39. Appeals. [Amended 3-2-1970 ATM, Art. 22; 5-14-1986 ATM, Art. 38]

Parties aggrieved by the orders or decisions of the Inspector of Buildings or other Zoning Administrative Officials may within the following 30 days appeal to the Board of Appeals.

§ 196-40. Complaint of violation. [Amended 3-2-1970 ATM, Art. 23]

Any person may make a complaint to the Inspector of Buildings that a provision of this bylaw is being violated. Such complaint shall be in writing to the Inspector of Buildings with a copy to the Board of Selectmen and shall clearly specify the alleged violation(s). Within 14 days of receipt, the Inspector of Buildings shall render a decision in writing to the person making the complaint stating whether there is or is not a violation and shall send a copy of said decision to the Board of Selectmen.

§ 196-41. Violations and penalties.

Whoever violates any provision of this bylaw shall be punished by a fine not exceeding \$50 for each offense. Each day or portion thereof that such violation continues shall constitute a separate

offense.

ARTICLE X, Board of Appeals

§ 196-42. Organization. [Amended 5-14-1986 ATM, Art. 38]

There shall be a Board of Appeals consisting of three persons, citizens of the Town. The members shall be appointed by the Board of Selectmen. They shall hold office for a term of three years, except that, when the Board of first established hereunder, one member shall be appointed for term of one year; and one shall be appointed for a term of two years; and one shall be appointed for a term of three years. The Board of Selectmen shall also appoint three persons, citizens of the Town, associate members of said Board of Appeals, who shall hold office for a term of three years, except that, when associate members are first appointed hereunder, one shall be appointed for a term of one year; one shall be appointed for a term of two years; and one shall be appointed for a term of three years. In case of vacancy, inability to act or interest on the part of any member of the Board of Appeals, his or her place shall be taken by an associate member. The Board established hereunder shall act as the Board of Appeals under the Building Code and Zoning Bylaw, respectively, and under MGL c. 41, § 81.

§ 196-43. Powers and duties.

The Board of Appeals shall have and exercise all the powers granted to it by MGL c. 40A, c. 40B and c. 41, and by this bylaw, including the power to hear and decide applications for special permits upon which the Board is empowered to act under this bylaw; to hear and decide petitions for variances; to hear and decide other appeals from any aggrieved person, officer or board of the Town or any abutting Town or the Regional Planning Commission.

§ 196-44. Rules and procedures.

The Board of Appeals shall adopt rules and procedures consistent with MGL c. 40A. Such rules of procedures shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision and for notifying the parties of interest, including the Inspector of Buildings and the Planning Board, as to each decision.

§ 196-45. Special permits. [Amended 3-2-1970 ATM, Art. 24]

- A. Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Temporary uses. The Board of Appeals may grant a special permit, limited to one year at a time and not to exceed a total of three years, for nonconforming uses or buildings incidental to construction operations on a site, and for signs as provided in § 196-27 of this bylaw, if in each case the Board of Appeals finds that the granting of such special permit will not be injurious to persons or to adjacent property. In any case, the applicant shall file with the Inspector of Buildings a bond or other security in such sum as may be required by the Board of Appeals, effective in case any use, building or structure is not removed prior to the expiration of the permit.
- C. Hearings. Special permits shall only be issued following public hearing held within 65 days from the transmittal by the Town Clerk to the Board of Appeals of such application for a special permit.
- D. Considerations. Special permits shall be granted only upon written determination by the special permit granting authority that the use for which such special permit is requested is in harmony with the intent and purpose of this bylaw.
- E. Lapse. Special permits shall lapse if a substantial use thereof or construction has not begun, except for good cause, within 12 months of special permit approval (plus such time as is required to pursue or await the determination of an appeal from the grant thereof).

§ 196-46. Planning Board review. [Amended 3-2-1970 ATM, Art. 25; 5-14-1986 ATM, Art. 38]

The Planning Board shall be requested to make a report and recommendation on each appeal, application or petition before the Board of Appeals, which report and recommendation shall be filed as soon as practicable and not later than 21 days after the final public hearing or 10 days before the Board of Appeals is required to make a decision, whichever is sooner.

§ 196-47. Conditions. [Amended 3-2-1970 ATM, Art. 26]

In carrying out the provisions of §§ 196-43 and 196-44 above, the Board of Appeals may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and

safety of the public, and conform to the intent and purpose of this bylaw and such restrictions to be stated in writing by the Board of Appeals and made a part of the permit.

§ 196-48. Reconsideration.

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be again considered except as provided by MGL c. 40A, § 16.

§ 196-49. Cost of proceedings.

Wherever proceedings under this bylaw require the giving of notice by publication in a newspaper, mailing or service by a civil officer, the costs thereof shall be borne by the applicant, and the Board of Appeals shall require estimated costs to be advanced by the applicant.

ARTICLE XI, Miscellaneous Provisions

§ 196-50. Amendments.

This bylaw may be amended from time to time as provided in MGL c. 40A, § 5.

§ 196-51. Validity and conflict of laws.

Where this bylaw imposes greater restriction upon the use of premises than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

§ 196-52. Previous laws.

The provisions of the existing bylaw shall continue until this amendment shall become effective, and thereafter all provisions of the existing bylaws so far as they are consistent with this amended bylaw are hereby repealed.

Endnotes

1 (Popup - Popup)

Editor's Note: Original Section IIB, Subsection 5, which immediately followed this section and dealt with district boundary lines dividing existing lots, was deleted 5-22-1997 ATM, Art. 65.

2 (Popup - Popup)

Editor's Note: Former Subsection A, which provided that in certain circumstances the Inspector of Buildings could require a special permit, was removed at the direction of the Town.

3 (Popup - Popup)

Editor's Note: Former Subsection B(11)(a), concerning farm stands, amended 5-17-1989 ATM, Art. 41, and 5-11-1999 ATM, Art. 34, which immediately preceded this subsection, was repealed 5-13-2008 ATM, Art. 20. Article 20 also provided for the redesignation of former Subsection B(11)(b) through (m) as Subsection B(11)(a) through (l), respectively. For farm stand activities, see now § 196-13E.

4 (Popup - Popup)

Editor's Note: See Division 2 of the Code.

5 (Popup - Popup)

Editor's Note: This subsection was adopted as Subsection D but will be relettered to Subsection E at a forthcoming Town Meeting.

6 (Popup - Popup)

Editor's Note: See § 196-27, Signs.

7 (Popup - Popup)

Editor's Note: See now § 196-13B(11)(l).