

# TOWN OF WAREHAM



## Zoning By-Laws

Revised January 22, 1979

\$2.00 per copy

WAREHAM ZONING OR PROTECTIVE BY-LAWS

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- T O W N    O F    W A R E H A M -

Zoning or Protective By-Laws

A By-Law to promote the health, safety, convenience, morals and welfare of the inhabitants of the Town of Wareham by dividing the Town into districts and by regulating the use and construction of buildings and premises, therein, to wit:

TITLE: This by-law shall be known and may be cited as the "Zoning By-Law of the Town of Wareham, Massachusetts" herein-after referred to as "this by-law".

AUTHORITY: This by-law is adopted pursuant to the Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts and amendments thereto, herein called the "Zoning Act".

PURPOSE: This by-law is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, 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 comprehensive plans of the Planning Board and the Regional Planning Agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

## SECTION I

### Districts

A. In accordance with Section 4 of Chapter 40A of the General Laws, the Town of Wareham is hereby divided into fifteen (15) types of districts designated as: Residential A, Single Residential B, Single Residential C-1, Single Residential C-2, Single Residential C-3, Commercial D, Village Commercial D-1, Resort Commercial D-2, Village Development D-3, Industrial E, Marine G, Institutional F, Agricultural Watershed, Rural-Residential, and Flood Plain.

B. Lots in two Districts: Where a district boundary line divides a lot in a single or joint ownership at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district; otherwise, there shall be no extension.

C. Billboards of a general advertising nature in excess of 120 square feet in area are prohibited in all zoning districts within the Town of Wareham.

Description of Residential A: All of that part of the Town of Wareham not hereinafter described as being within the limits of Single Residential B, Single Residential C-1, Single Residential C-2, Single Residential C-3, Commercial D, Village Commercial D-1, Resort Commercial D-2, Village Development D-3, Industrial E, Marine G, Institutional F, Agriculture Watershed, and Rural Residential. The location and boundaries of these districts are described hereinafter and shown on a map entitled "Town of Wareham, Massachusetts, Zoning Map" dated November 19, 1951, and on file in the office of the Town Clerk, which map with all explanatory matter thereon and including all amendments thereto is declared to be a part of this by-law.

Description of Flood Plain District: The Flood Plain District is herein established as an overlay district and includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Wareham Flood Insurance Rate Maps FIRM, dated May 21, 1976, on file with the Town Clerk, Planning Board and Building Official. These maps as well as the accompanying Town of Wareham Flood Insurance Study are incorporated herein by reference.

## SECTION II

### Use Regulations

A. In Residential Districts A, buildings, structures and premises may be used for any lawful residential, municipal, religious, educational, non-profit recreational purpose, any agricultural use, except piggeries and fur farms, and for uses customarily necessary thereto, and for the following commercial purposes but no others:

(a) The display and sale at a roadside stand of products the major portion of which are raised on the farms or produced in the homes of the Town.

(b) The use of a room or rooms in a dwelling or accessory building for a customary home occupation including the taking of boarders or lodgers, or the practice of a profession or trade conducted by a resident of the premises, provided there is no external evidence of any business other than permitted signs.

(c) The display of not more than two (2) signs pertaining to a permitted use or advertising the sale or rental of only the premises on which they are located with a total area of not more than twelve (12) square feet.

(d) Any of the following uses, provided that it is not injurious, noxious or offensive and only if authorized by the Board of Appeals subject to appropriate conditions, where such are deemed necessary to protect the neighborhood and the Town:

1. Greenhouse, nursery, cidermill, ice house, or temporary sawmill.
2. Aviation field, golf course, boat livery, or riding stable.
3. Gravel, loam, sand, or stone removal from the Town.
4. Veterinary hospital
5. Hospital, cemetery, boys' or girls' camp.
6. Neighborhood grocery store.
7. Structures for public utility corporation, not including repair stations or outside storage of supplies.
8. Multiple family dwellings subject to the following

(I) Multiple family dwellings shall contain a maximum of four family dwelling units. Each such unit shall contain a minimum of 650 square feet of liveable floor area, exclusive of closets and bathrooms.

(II) Where adequate public water and public sewerage service is provided, the minimum lot size for the first unit shall be 30,000 square feet and each unit thereafter shall require an additional 10,000 square feet.

(III) Where adequate public water service is provided and private on-lot sewerage disposal is provided, the minimum lot size for the first unit shall be 40,000 square feet and each unit thereafter shall require an additional 15,000 square feet.

(IV) Paved off-street parking shall be provided in the ratio of one and one-half spaces per dwelling unit, exclusive of driveways, such spaces to be located not less than 25 feet from the front property line and 20 feet from the back or side property lines. Where multiple family housing is subsidized housing for the elderly, the parking spaces provided shall be one space for each unit. For purposes for this subparagraph, one parking space shall have an area of 200 square feet, plus an additional 100 square feet for maneuvering.

(V) The practice of home industries trades or professions shall not be permitted in multiple dwellings.

(VI) Multiple family dwellings shall have minimum street frontage of 250 feet; minimum front yard setback shall be 30 feet. Side yards and rear yards shall be a minimum of 20 feet.

(VII) Maximum building height shall be 2½ stories.

(VIII) Plans showing location of the multiple family dwellings, roads, parking areas, watermains, sewer mains, or leaching beds if no sewage disposal is available, all conforming to Section IV and V of the Planning Board Rules and Regulations, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

(IX) At least 80 percent of the lot shall be buildable land or land not wetlands, not subject to flooding, not over 5 percent slope (in final grade) and with a depth of at least 4 feet to the seasonally high water table.

(X) The development shall be served by a public water system adequate in terms of fire protection and domestic use. The development shall also be served by an adequate public sewerage system, if such is accessible as provided in Section 2:10 of Article XI of the State Sanitary Code. If the public sewerage system is not accessible as afore-

said, then the development may be served by an individual on-lot septic system which meets the minimum requirements of Article XI of the State Sanitary Code and the Rules and Regulations of the Board of Health.

(XI) Screening and buffers shall be required between the development and adjacent properties. Such a buffer strip shall be at least 20 feet in width, and it shall contain a screen of plantings in the center of the strip. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50 percent of the plantings shall consist of evergreens. A solid wall or fence not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Board of Appeals. The strip may be part of the yard.

(XII) The proposed multiple family development shall be compatible with adjacent land use.

(XIII) The proposed multiple family development shall not overload any public water, drainage or public sewer system, or any other municipal system to such an extent that the requested use of any developed use in the immediate area or for any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.

(XIV) The proposed multiple family development shall not create undue traffic congestion, or unduly impair pedestrian safety.

(XV) The proposed multiple family development shall not be located closer than 200 feet from a coastal wetland.

(XVI) In addition to the specific requirement of this subsection, the proposed multiple family development shall meet all other applicable provisions of this by-law.

9. Apartments subject to the following:

(I) Apartment houses shall be defined as a building containing five or more separate family dwelling units. Each such unit shall contain a minimum of 650 square feet of livable floor area, exclusive of closets and bathrooms.

(II) No apartment houses shall be built on a lot of less than one and one-half acres of land. The density of the family units in any such apartment house shall be limited to 30,000 square feet of land for the first such unit and 10,000 square feet for each additional unit thereafter.

(III) The proposed apartment development shall be served by both a public water system, adequate in terms of fire protection and domestic use, and an adequate public sewerage system.

(IV) The proposed apartment development shall be subject to the same provisions of subparagraph 8 (IV), (V), (VI), (VII), (VIII), (IX), (XI), (XII), (XIII), (XIV), (XV), and (XVI) above for multiple dwellings.

(V) For apartment units of two or more bedrooms, where the total number of dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units, there shall be constructed and equipped an outdoor recreation area with a minimum size of 500 square feet per unit for each two-bedroom unit, and 1,000 square feet per bedroom for each unit of three or more bedrooms. Specifically exempt from this requirement are one-bedroom units and housing for the elderly.

Description of Single Residential B:

1. Weweantic Shores, bounded as follows:

Northerly by a line shown on the County Commissioner's layout of Hathaway Street, Decree No. 904, as being the division line between land of Hills Brothers Company and Alice Tobey Jones Estate.

Easterly by Hathaway Street, Southerly by the Southerly line of Lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 14a in said Weweantic Shores; westerly by the Weweantic River so-called.

2. Briarwood Beach, bounded as follows:

Northerly by a straight line that extends from Marion Road to Beaver Dam Creek, said line being the division line or its extension thereof in an Easterly direction between the sub-division known as Briarwood Beach and land of Peter LeSage formerly of John W. Dodge, Easterly by Beaver Dam Creek and Lazy Harbor.



Southerly by the Weweantic River; Westerly and Northwesterly by the Weweantic River and the Southeasterly line of said Marion Road.

3. Cromesett Point, Cromesett Park, Swift's Beach, Swift's Neck, Hamilton Beach and adjoining areas, bounded as follows:

Northwesterly by the Southeasterly right of way line of the Marion to Wareham 22KV electric transmission line now or formerly owned by the New Bedford Gas & Edison Light Company;

Northeasterly by Broad Marsh River;

Easterly by the Wareham River; Southerly and Southwesterly by the Weweantic River; Northwesterly and Westerly by the bounds of the Weweantic River Marine District.

4. Pinehurst Beach, Pine Point and area South of Church Avenue bounded as follows:

Northeasterly by Church Avenue and Warr Avenue; Northwesterly by Fourth Street or its extension to Wareham River;

Northeasterly and Easterly by the Wareham River;

Southerly and Southwesterly by Broad Marsh River;

Northwesterly by the Southeasterly side line of Kennedy's Lane and its extension in a Southwesterly direction to said Broad Marsh River.

5. Tempest Knob Terrace and vicinity, bounded as follows:

Northerly by Narrows Road; Northeasterly and Southeasterly by land now known as the Town Forest;

Southerly by land of Jeremiah Murphy;

Southwesterly and Westerly by the Wareham River.

6. Parkwood Beach, bounded as follows:

Northerly by Crab Cove and land of Jeremiah Murphy;

Easterly by Indian Neck Road;  
Southerly by Crooked River;  
Westerly by Wareham River.

7. Riverside and Kenmere Beach, bounded as follows:  
Northerly by land of the New York, New Haven and Hartford  
Railroad Company;  
Easterly by Long Neck Road;  
Southeasterly by land of Smith Hammond Company and Broad  
Cove;  
Southwesterly and Westerly by Muddy Cove or Swift's River.

8. O-ne-set Heights and adjacent area, bounded as follows:  
Northerly by land of the Smith Hammond Company;  
Easterly by Long Neck Road and Cahoon Road Extension;  
Southerly by Town Road shown on the Harry C. Gleason plan  
recorded with Plymouth County Plans Book, Page 458;  
Westerly by land of the Hammond Estate;  
Southerly again by land of the Hammond Estate;  
Westerly again by Broad Street and Broad Cove.

9. Indian Heights, Cohasset Park, Buzzards Bay Terrace, Buz-  
zard's Bay Highlands, Jefferson Shores and adjacent areas,  
bounded as follows:

Northeasterly by Red Brook;  
Easterly by Buttermilk Bay;

Southerly by a line 200 feet Northerly of and parallel to  
the Northerly line of the Massachusetts State Highway  
Route No. 28 sometimes known as Sawyer Road;

Westerly by Cedar Street and Cohasset Road;  
Northwesterly by Red Brook Road.

10. Wareham Shores (now Standish Shores), bounded and described as follows:

Northwesterly by Wareham River;

Northerly by Crooked River;

Easterly by Indian Neck Road;

Southerly by Indian Neck Road, Long Beach Road, and the Southerly lines of Lots 93, 94, 95, 96, 97, and 98;

Southwesterly by the Southwesterly lines of Lots 99, 100, 101, 102, 103, the Southwesterly line of Eldredge Road and the Southwesterly lines of Lots 136, 137, 138, and 139.

Southerly again by the Southerly line of Lots 140, 141, 142, 143, 144, 145, 146, 147, Covell Road and the Southerly line of Lot 166;

Southwesterly again by land of Joseph A. Locke.

11. Rose Point, bounded as follows:

Westerly by Sippican River and Cohackett Brook;

Northerly by Route I-195;

Easterly and Southerly by the Weweantic River.

B. In Single Residential Districts B, buildings, structures and premises may be used for any lawful, religious, educational, municipal or non-profit recreational purpose, for one family detached residential purposes, and for uses customarily necessary thereto, and for the following commercial purposes but no others.

(a) The use of a room or rooms in a dwelling or accessory building for a customary home occupation, including the taking of boarders or lodgers, or the practice of a profession or trade conducted by a resident of the premises, provided there is no external evidence of any business other than permitted signs.

(b) The display of not more than two (2) signs pertaining to a permitted use or advertising the sale or rental of only the premises on which they are located with a total area of not more than twelve (12) square feet.

(c) Any of the following uses, provided it is not injurious, noxious or offensive and only if authorized by the Board of Appeals subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town:

1. Greenhouse or nursery.
2. Neighborhood grocery store but not for the sale of alcoholic beverages.
3. Public service or other passenger stations.
4. Boys' or girls' camp.
5. Structures for public utility corporations, not including repair stations or outside storage of supplies.

Description of Residential Districts C-1, C-2, and C-3

Residential District C-1:

Land reserved by Henry M. Channing, Jr. adjacent to the Town Forest, bounded as follows:

Northerly by a line 150 feet Southerly of and parallel to the Southerly line of Minot Avneue;

Northeasterly by the Town Forest;

Southeasterly by land of Frank Lane et al;

about parallel to the northeasterly line of Indian Neck Road leading from said Indian Neck Road to the Agawam Cemetary.

Residential District C-2:

Indian Neck and Great Neck, bounded and described as follows

Northerly by Crooked River;

Westerly by Indian Neck Road;

Northerly again by Crooked River Road;

Westerly again by Great Neck Road;

Northerly again by a brook draining out of the cranberry field of Frank Laine et al and running through Broad Marsh;

Northeasterly by Sunset Cove sometimes called Shell Point Bay and Onset Bay;

Easterly and Southerly by Buzzards Bay;

Westerly by the Wareham River; except that portion now known as Wareham Shores owned by Resort Properties, Inc. and bounded as described in Section B-10.

Residential District C-3:

Sias Point, Robinwood, Nemasket Park, Long Neck and that portion of Butlerville, bounded as follows:

Northwesterly by Onset Avenue;

Northerly by Onset Avenue and land of the New York, New Haven and Hartford Railroad Company;

Easterly by Cohasset Narrows and Buzzards Bay;

Southerly by Onset Bay;

Westerly by Pleasant Harbor, Lot H-4 shown on Land Court Plan 2433L and Powers Avenue;

Southerly again by Lot H-1B, J-18, Wild Rose Avenue and Lot J-13 as shown on Sheet 3 of the Wareham Assessor's Plans;

Westerly again by land of Constantimos Goulopoulos et al, formerly of Abbie M. Ramsdell.

C. In single Residential Districts C-1, C-2 and C-3, buildings, structures and premises may be used for any lawful religious, educational, or non-profit recreational purpose, for one family detached, residential purpose, any agricultural use except piggeries or fur farms, for the office of a professional person located in the dwelling in which he resides, and for uses incidental thereto and any of the following additional uses, provided it is not injurious, noxious, or offensive, and only if authorized by the Board of Appeals subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town;

1. The display of not more than two (2) signs pertaining to a permitted use or advertising the sale or rental of only the premises on which they are located with a total area of not more than twelve (12) square feet.

2. Golf course or tennis club.
3. Convalescent Home, hospital or cemetery.
4. Structures for public utility corporations, not including repair stations or outside storage of supplies.

Description of Commercial "D":

1. Route No. 28 North:

All of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route No. 28 extending from County Road on the West, Easterly to the Town Park or the extension of its Westerly boundary line in a Northerly direction at Tihonet Road; also all of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route No. 28 extending from the Easterly side of Parker Mills Pond Easterly to Maple Spring Road; also all of the area within the limits of a strip of land 200 feet in width on the Northerly side of Route No. 28 extending from Maple Spring Road on the West; Easterly to Dick's Pond sometimes called Swift's Pond; also all of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route No. 28 extending from said Dick's Pond on the West, Easterly to Red Brook Road; also all of the area within the limits of a strip of land 200 feet in width on the Northerly side of Route No. 28 extending from Red Brook Road on the West, Easterly to the waters of Buttermilk Bay at Cohasset Narrows.

Except that area North of Route 28 zoned Industrial and described under Section II, "Description of Industrial E".

Also the area bounded Southerly by Route 28, Westerly by Carver Road, Northerly by Route 25, and Easterly by the Westerly boundary of the Industrial Zone.

Also the area bounded on the South by Route 28, on the North by proposed layout of Route 25, Westerly by Glen Charlie Road, and Easterly as follows: by the Westerly shore of Dick's Pond, the Easterly boundary of Lake Breeze, Inc., Lot 47, and the Westerly boundary of land now or formerly of Charles E. Whitlock and Helen E. Rice.

2. Route No. 28 South:

All of the area between the Southerly line of Route No.

28 and the following described line, said line beginning at a point in the Easterly line of County Road and situated 500 feet Southerly of the Southerly line of said Route No. 28, thence running Easterly and Southeasterly by a line parallel to and 500 feet Southerly of said Southerly line of Route 28 to the Intersection of said line with the Northerly Right of Way line of the New York, New Haven and Hartford Railroad Company near Mackies Bridge; thence running Easterly and Southeasterly by said Railroad Right of Way line to the Wareham River;

thence turning and running Northwesterly and Northerly by the Wareham River to a point 500 feet Southerly of the Southerly line of Route No. 28;

thence turning and running Easterly and Southeasterly by a line parallel to and 500 feet Southerly from the Southerly line of said Route No. 28 to the Northerly line of Sandwich Road;

thence turning and running Easterly along the Northerly line of Sandwich Road, crossing the new By-Pass for South bound traffic at East Wareham to a point in the Northeasterly sideline thereof;

thence turning and running Southeasterly crossing Sandwich Road and by the Northeasterly sideline of said By-Pass to the Easterly line of Tyler Avenue;

thence turning and running Southerly by the Easterly line of Tyler Avenue and by a line, being the extension of the Easterly sideline of Tyler Avenue in a Southeasterly direction to the intersection of said line with the Northerly Right of Way line of the New York, New Haven and Hartford Railroad Company; thence turning and running Easterly and Southeasterly in said Northerly Right of Way line of the New York, New Haven and Hartford Railroad Company to the waters of Buttermilk Bay at Cohasset Narrows.

Except that portion of the above described area lying between Weaver Street on the North and Gault Road on the South; and that said area be included under the Residential "A" District.

Also except that area South of Route 28 zoned Industrial and described under Section II, "Description of Industrial E."

3. West Wareham or Tremont:

Northwesterly by Tremont Pond;

Northerly by Main Street;

Easterly by Lots L, T, U, S, R, a Private Way and Main Street as shown on plans of the Bass River Land Co. Situated in West Wareham;

Southerly by land formerly of Alice Tobey Jones;

Southwesterly by land of New York, New Haven, and Hartford Railroad Company.

4. Main Street, North:

Northwesterly by land of Florence M. Waters;

Northeasterly by Wareham River;

Southeasterly by Agawam or Sandwich Road;

Southwesterly by the Northeasterly line of Main Street;

Lot 4A Agawam Road North Southerly by Agawam Road;

Westerly by Wareham River;

Northerly by a line 300 feet from and parallel to the centerline of Agawam Road;

Easterly by the Easterly sideline of the property formerly known as Anderson's Boat Shed.

5. Main Street, South:

Northwesterly by Chapel Street;

Northeasterly by the Southwesterly line of Main Street;

Southeasterly by land of the Tobey Hospital;

Southwesterly by a line parallel to and 200 feet Southwesterly from the Southwesterly line of Main Street.

6. Narrows Road, South:

Northerly by the Southerly line of Narrows Road;



Southeasterly and Southwesterly by the Wareham River, consisting of the area now or formerly owned by Crooked River, Inc., and Cape Cod Shipbuilding Company.

7. Minot Avenue, North:

Northerly by land of the New York, New Haven and Hartford Railroad Company;

Easterly by Great Neck Road in East Wareham;

Southerly by Minot Avenue;

Westerly by Indian Neck Road.

8. Minot Avenue, South;

Northerly by the Southerly line of Minot Avenue;

Easterly by Great Neck Road in East Wareham;

Southerly by a line parallel to and 250 feet Southerly from the Southerly line of Minot Avenue;

Westerly by land of the Town of Wareham near the junction of Indian Neck Road and said Minot Avenue.

8A. Depot Street, West:

Bounded: Southerly by the Southerly sideline of the New York, New Haven and Hartford Railroad Company, being the North boundary of Commercial D, Minot Avenue, North about 1600 feet; Westerly and Northerly by the Agawam River; Northeasterly by the Northeasterly boundary of Lots 1067 and 1066;

Southeasterly by Lot 1054;

Northeasterly by Lots 1054, 1055, and 1056;

Southeasterly by Lots 1058, 1059, and 1060;

Northeasterly by Lot 1060; and

Easterly by Depot Street.

All of the Lot numbers mentioned in this paragraph refer to Assessor's Plat No. 43.

9. Onset Avenue, North:

All of the area within a strip of land 200 feet in width on the Northeasterly side of Onset Avenue Extending from the intersection of Great Neck Road and Onset Avenue in East Wareham to a line 300 feet southerly of a parallel to the railroad right-of-way in the vicinity of Great Neck Road.

10.. Onset Avenue, South:

All of the area within a strip of land 200 feet in width on the Southwesterly side of Onset Avenue extending from Great Neck Road in East Wareham, Southeasterly to the north boundary of lot 1006 and the west boundary of lots 1006 and 1013 on Assessor's Sheet 17, revised December 31, 1972.

11. Marion Road, Northwest:

All of the area bounded and described as follows:

Beginning at a point at the intersection of the Easterly side of Weweantic River and the Northwesterly line of Marion Road, thence running Northeasterly and Northerly by the Northwesterly line of Marion Road to the Westerly line of Hathaway Street;

Thence turning and running Northerly by Hathaway Street to the Southerly line of Lot No. 1 in Weweantic Shores;

Thence turning and running Westerly in the Southerly line of Lots 1 to 14A inclusive in Weweantic Shores, and in said line extended in a Westerly direction to Weweantic River;

Thence turning and running in a general Southwesterly and Southerly direction by the Weweantic River to the point of beginning.

12. Marion Road, Southeast:

All of the area within a strip of land 500 feet in width on the Southeasterly side of Marion Road, extending from a line on the Southwest, which line is known as the division line of land of Peter LeSage and Briarwood Beach,

Northeasterly to a line running Southeasterly and at right angles to the Southeasterly line of Marion Road at Station 27 plus 84.38 of the 1930 Alteration Layout of said Marion Road.

Sixty (60) acres of land, more or less situated on the Northwestern side of Marion Road (Route 6) and the Easterly side of the old road to Lincoln's Hill (Hathaway Road) bounded and described as follows:

Southeasterly by said Marion Road, ten hundred thirty (1030) feet more or less;

Westerly by the center line of a brook, three hundred (300) feet more or less;

Southwesterly by an old road known as Nichols Right of Way, five hundred (500) feet more or less;

Southerly by land now or formerly of Peter LeSage sixteen hundred (1600) feet more or less;

Westerly by said Hathaway Road, eight hundred (800) feet more or less;

Northerly by land now or formerly by Jerimiah Murphy, twenty-six hundred seventy (2670) feet more or less;

Easterly by land of owners unknown and by land now or formerly of Gurney, seven hundred fifty (750) feet more or less, and

Southeasterly by Gibbs Avenue, two hundred (200) feet more or less. Said premises being known as Kiernan land containing sixteen (16) acres more or less, the Galligan land containing twenty and 17/100 (20.17) acres more or less, the Nichols land containing one (1) acre more or less and the Walter E. Nichols lot containing twenty-two (22) acres more or less.

D. In Commercial District D, buildings, structures and premises may be used for:

(a) Any use permitted in residential district and the following uses if not injurious, noxious, or offensive and only if authorized by the Board of Appeals subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town.

1. Multiple family dwellings subject to the following:

(I) Multiple family dwelling shall contain a maximum

of four separate living units with a minimum of 650 square feet of livable floor area per unit exclusive of closets and bathrooms.

(II) Where adequate public water and public sewage service is provided, the minimum lot size for the first unit shall be 30,000 square feet and each unit thereafter shall require an additional 10,000 square feet.

(III) Where adequate public water service is provided and private on-lot sewage disposal is provided, the minimum lot size for the first unit shall be 40,000 square feet and each unit thereafter shall require an additional 15,000 square feet.

(IV) Paved off-street parking shall be provided in the ratio of one and one-half spaces per dwelling unit, exclusive of driveways, such spaces to be located not less than 25 feet from the front property line and 20 feet from the back or side property lines. Where multiple family housing is subsidized housing for the elderly, the parking spaces provided shall be one space for each unit. For purposes of this subparagraph, one parking space shall have an area of 200 square feet plus an additional 100 square feet for maneuvering.

(V) The practice of home industries, trades, or professions shall not be permitted in multiple dwellings.

(VI) Multiple family dwellings shall have a minimum street frontage of 250 feet. Minimum front yard setback shall be 30 feet. Side yards and rear yards shall be a minimum of 20 feet.

(VII) Maximum building height shall be 2½ stories.

(VIII) Plans showing location of the multiple family dwellings, roads, parking areas, water mains, sewer mains or leaching beds if no sewage disposal is available, all conforming to Section IV and V of the Planning Board Rules and Regulations, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

(IX) At least 80 percent of the lot shall be buildable land, or land not wetlands, not subject to flooding, not over 5 percent slope (in final grade) and with a depth of at least 4 feet to the seasonally high water table.

(X) The development shall also be served by an adequate public sewage system if such is accessible as provided

in Section 2.10 of Article XI of the State Sanitary Code. If the public sewage system is not accessible as aforesaid, then the development may be served by an individual on-lot septic system which meets the minimum requirements of Article XI of the State Sanitary Code and the Rules and Regulations of the Board of Health..

(XI) Screening and buffers shall be required between the development and adjacent properties. Such a buffer strip shall be at least 20 feet in width; it shall contain a screen of plantings in the center of the strip. The screen shall be not less than five feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs or trees shall be planted not more than three feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50 per cent of the plantings shall consist of evergreens. A solid wall or fence, not to exceed six feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip as approved by the Board of Appeals. The strip may be part of the yard.

(XII) The proposed multiple family development shall be compatible with adjacent land uses.

(XIII) The proposed multiple family development shall not overload any public water, drainage, or sewer system, or any other municipal system to such an extent that the requested use of any developed use in the immediate area or any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.

(XIV) The proposed multiple family development shall not create undue traffic congestion, or unduly impair pedestrian safety.

(XV) The proposed multiple family development shall not be located closer than 200 feet from a coastal wetland.

(XVI) In addition to the specific requirements of this subsection, the proposed multiple family development shall meet all other applicable provisions of this by-law.

## 2. Apartments:

(I) Apartment houses shall be defined as buildings containing five or more separate family dwelling units containing a minimum of 650 square feet of livable floor

space, exclusive of closets and bathrooms.

(II) No apartment houses shall be built on a lot of less than one and one-half acres of land. The density of the family units in any such apartment house shall be limited to 30,000 square feet of land for the first such unit and 10,000 square feet for each additional unit thereafter.

(III) The proposed apartment development shall be served by both a public water system, adequate in terms of fire protection, and domestic use and adequate public sewage system.

(IV) The proposed apartment development shall be subject to the same provisions of subparagraph 8, (IV), (V), (VI), (VII), (VIII), (IX), (XI), (XII), (XIII), (XIV), (XV) and (XVI) above for multiple dwellings.

(V) For apartment units of two or more bedrooms, where the total number of dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units, there shall be constructed and equipped an outdoor recreation area with a minimum size of 500 square feet per unit for each two-bedroom unit and 1,000 square feet per bedroom for each unit of three or more bedrooms. Specifically exempt from this requirement are one-bedroom units and housing for the elderly.

- (b) Office or bank.
- (c) Place of amusement or assembly.
- (d) Filling station, sales room for motor vehicles, garage, auto repair shop and auto wrecking yard upon approval of the Selectmen.

All vehicles except those in safe operating condition shall be stored within an enclosed building or concealed from the street and adjacent property.

- (e) Any wholesale or retail business except junk yard; any service or public utility not involving manufacture on the premises except the products the major portion of which are sold on the premises by the producer to the consumer.
- (f) Any industry or manufacturing, providing it is not injurious, noxious, or offensive to the neighborhood and only if authorized by the Board of Appeals subject to appropriate conditions and safeguards.

- (g) Mobile Home Parks, as defined and otherwise governed by the provisions of Chapter 140 of the General Laws, as amended, shall be permitted in commercial D subject to the following conditions:
- (1) Each mobile home, as defined in Section 32L, Chapter 140 of the General Laws, as amended, shall be situated on at least a 10,000 square foot lot to be used exclusively in connection with said mobile home.
  - (2) Each such lot shall have at least 100 foot frontage on a way and shall be shown on a plan approved by the Planning Board in accordance with its rules and regulations then in effect. All streets and ways shall be either accepted public ways or laid out and approved by the Planning Board in accordance with the rules and regulations of the Planning Board then in effect.
  - (3) Residential set-back requirements, elsewhere provided herein, shall apply to each such mobile home, except that no mobile home or accessory building or structure, shall be located less than ten feet from the property line adjoining a mobile home park.
  - (4) Each mobile home park shall contain a natural or planted green strip between the entire outer boundary of said park and a line parallel with and 25 feet distant from said boundary except for reasonable vehicular entrances and exits.
- (h) Two (2) signs other than those which are attached to and part of the architectural design of a building (for structure including gas pumps) shall be permitted on each of these premises with a total area of not more than one hundred twenty (120) square feet. Location and elevation of signs over twelve (12) square feet in area within fifty feet of an abutter's sideline are subject to the approval of the Building Inspector with the right of appeal by both the petitioner and the abutter to the Board of Appeals.
- (i) Outdoor advertising as regulated by the Outdoor Advertising Authority of the Commonwealth of Massachusetts.
- (j) Motel use shall be allowed in Commercial D subject to the following provisions:
- (1) A minimum of an acre of land shall be required for the construction of a motel. Not more than 12 units may be constructed upon an acre of land with an additional 3,000 square feet being required for each unit in excess of twelve. No motel unit shall be located nearer than 50

feet to a public way, nor shall any part of such motel or accessory building be located less than 10 feet from any boundary.

- E. Piggeries, fur farms and junk yards may be permitted in Residential A and Commercial D districts provided that they are located at least five hundred (500) feet from any public way and other property lines and only if authorized by the Board of Appeals subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town except trailer coach parks.

Description of Village Commercial D-1:

Land in the Vicinity of Onset Avenue, Union Avenue, and East Central Street, comprising lots on Assessor's Sheet 1 (revised December 31, 1969) numbers 201 through 212, 227, 228A, 228B, 229, 537, 538, 539, 589, 53A, 53B, 54A, 54B, 55, 74, 75, 76, 89, and 90, plus intervening public land.

Also, in Point Independence an area bounded by North Water Street, South Water Street, Myrtle Street, the south sideline of Lots 79 and 82A on Assessor's Sheet 2, revised December 31, 1975, Fourth Avenue, Grove Street, Locust Street, and Holly Street.

1. Village Commercial District D-1 Objectives

The Village Commercial District D-1 objectives are the following:

- (a) Maintain a compact pedestrian-scaled area.
- (b) Promote continuity of pedestrian interest within the area.
- (c) Protect the area's domestic scale.
- (d) Heighten the distinctiveness of the area.
- (e) Promote visual connection to the ocean.
- (f) Promote easy identification of individual businesses.

2. Village Commercial District D-1 Use Regulations

In Village Commercial District D-1, buildings, structures, and premises may be used for:

- (a) Any use permitted in a residential district.
- (b) Multiple family or apartment dwellings by Special Permit from the Board of Appeals, subject to the following:



(1) Multiple family and apartment dwellings shall contain a minimum of 650 square feet of livable floor area per unit exclusive of closets and bathrooms.

(2) The lot size shall be at least 5,000 square feet for the first unit plus at least 1,000 square feet and not more than 2,000 square feet per dwelling unit thereafter.

(3) Paved off street parking shall be provided in the ratio of one and one-half spaces per dwelling unit, exclusive of driveways. Subsidized housing for the elderly shall provide one space for each two units. For purposes of this subparagraph, one parking space shall have an area of 200 square feet plus an additional 100 square feet for maneuvering.

(4) Windows in habitable rooms shall be set back at least seven feet from any side or rear lot line they face.

(5) Plans showing location of the apartments or multiple family dwellings, roads, parking areas, water mains, sewer mains, all conforming to Sections IV and V of the Planning Board Rules and Regulations shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

(6) In addition to the specific requirements of this subsection, the proposed development shall meet all other applicable provisions of this By-law.

- (c) Place of amusement or assembly, if granted a Special Permit by the Board of Appeals upon their determination that the use is compatible with existing uses on nearby parcels, and with the District's objectives.
- (d) Office or bank.
- (e) Any wholesale or retail business except junk yard: any service or public utility not involving manufacture on the premises except for products the major portion of which are sold on the premises by the producer to the consumer.
- (f) Motel or other commercial accommodation, provided that lot area equals not more than 1,000 square feet per guest unit, and each guest unit is within 200 feet of an off-street parking space provided by the

motel or in a town parking lot.

(g) Nursing home.

3. Village Commercial District D-1 Dimensional Regulations

- (a) Minimum area: 5,000 square feet, plus 1,000 square feet per dwelling unit after the first.
- (b) Minimum lot frontage: 50 feet.
- (c) Minimum front yard: an area for pedestrian use, outdoor display, seating, or landscaping shall be provided adjacent to the street line. It shall have ground area equal to at least five feet times building width in feet, and an unobstructed height of at least nine feet below any overhanging portions of the building.
- (d) Minimum sideyard and backyards: as required by the Commonwealth of Massachusetts State Building Code or for access to the rear of the building or to meet requirements above.

4. Village Commercial District D-1 Design Guidelines

The following Design Guidelines must be complied with unless a Special Permit is approved upon determination by the Board of Appeals that the Districts objectives are met despite non-compliance.

- (a) At least 50 per cent of the wall area between the floor and ceiling of the first floor facing and within six feet of a paved public sidewalk shall be transparent.
- (b) The entire lot width parallel to any street having right-of-way width of 50 feet or more shall be occupied by a building, fence, plantings 30" or more in height, or a driveway not exceeding 16 feet in width.
- (c) Buildings shall have lighted entrances every 60 linear feet or less of wall facing a paved sidewalk.
- (d) No private vehicular entrance likely to be used more than 100 times per day (e.g., serving more than 15 dwelling units, 18 motel guest units, 1,000 square feet retailing area, 650 square foot restaurant, or any gas station or drive-in facility) shall cross a sidewalk on a street having right-of-way width of 50 feet or more.

## 5. Village Commercial District D-1 Design Suggestions

The following Design Suggestions are further means of serving District objectives, but are not requirements.

- (a) A major element of the roof (eaves, parapet, gravel stop) should reach down to within twenty feet of grade at the front of the building.
- (b) Visible portions of gable or hip roofs should have at least a 10 on 12 pitch.
- (c) Wall siding materials other than transparent glass should be non-reflective, avoiding the appearance of structural glass, porcelain enamel, polished stone or terrazzo, or exposed metal.
- (d) Basic siding colors should be white, gray, brown, russet, yellow, red brick, or weathered wood, with bright accent colors used on selected elements.
- (e) Storefront door and glazing trim, if metallic, should be painted or else anodized to a dark color.
- (f) Size and detailing of architectural elements should reflect domestic, rather than monumental, scale.
- (g) Building detailing should provide small-scale elements of interest at pedestrian viewing distance.
- (h) The appearance of wood-frame construction is especially appropriate in smaller villages, such as Onset and Point Independence.
- (i) Deep overhanging elements are characteristic of some villages, such as Onset and Point Independence.
- (j) Reflection of Carpenter Gothic Characteristics without stylistic imitation is especially appropriate where that style still persists, as in Onset and Point Independence.
- (k) Any plantings should use species characteristic of the region, rather than imported exotics.

### Description of Resort Commercial D-2

Land in the vicinity of Onset Avenue, Wareham Avenue, and the East River comprising the following parcels on Assessor's Map 1 revised December 31, 1969: 50, 51A, 51B, 52, 56A, 56B, 57, 58

58B, 72, 73, 77, 78, 86, 87, 88, 91, 92, 93, 117A, 117B, 118 through 124, 125A, 125B, 126 through 131, 132A, 132B, 132C, 136 through 141, 213 through 219, 230, 231, 485 through 490, 503 through 508, 510, 512, 514, 515A, 515B, 516A, 516B, 517, 518, 532, 533, 534A, 534B, 535B, 536, 540, 541B, 542B, 543B, 560, 590, 591, 1000 through 1014, 1017, 1032, 1033, 1048 from the Town Pier to South Boulevard extended to Onset Bay, 1052A, 1052B, 1053, and 1054, plus intervening public lands.

1. Resort Commercial District D-2 Objectives

The Resort Commercial District D-2 objectives are the following:

- (a) Facilitate new business enterprises.
- (b) Conserve arterial street capacity.
- (c) Protect against business/residence conflicts.
- (d) Heighten area distinctiveness.
- (e) Promote easy identification of individual businesses.

2. Resort Commercial District D-2 Use Regulations

In Resort Commercial D-2, buildings, structures, and premises may be used for:

- (a) Any use permitted in residential district.
- (b) Multiple family or apartment dwellings on Special Permit from the Board of Appeals, subject to the following:
  - (1) Multiple family dwellings shall contain a minimum of 650 square feet of livable floor area per unit exclusive of closets and bathrooms.
  - (2) Plans showing location of the multiple family dwellings, roads, parking areas, water mains, sewer mains, or leaching beds if no sewage disposal is available, all conforming to Sections IV and V of the Planning Board Rules and Regulations, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.
  - (3) The development shall be served by an adequate public sewerage system if such is accessible as pro-

vided in Title V of the State Environmental Code. If the public sewerage system is not accessible as aforesaid, then the development may be served by an individual on-lot septic system which meets the minimum requirements of Title V of the State Environmental Code and the Rules and Regulations of the Board of Health.

(4) In addition to the specific requirements of this subsection, the proposed multiple family development shall meet all other applicable provisions of this By-law.

- (c) Place of amusement or assembly, if granted a Special Permit by the Board of Appeals upon their determination that the use is compatible with existing uses on nearby parcels, and with the District objectives.
- (d) Office or bank.
- (e) Filling station, sales room for motor vehicles, if licensed by the Selectmen.
- (f) Any wholesale or retail business except junk yard; any service or public utility not involving manufacture on the premises except for products the major portion of which are sold on the premises by the producer to the consumer.
- (g) Motel or other commercial accommodation; nursing home.

3. Resort Commercial District D-2 Dimensional Regulations

- (a) Minimum lot area if serviced by public sewage: 10,000 square feet, but not less than 4,000 square feet per dwelling unit or 2,000 square feet per guest unit in commercial accommodations, nursing homes, or similar facilities.
- (b) Minimum lot area if NOT serviced by public sewage: 30,000 square feet, but not less than 12,000 square feet per dwelling unit or 6,000 square feet per guest unit in commercial accommodations, nursing homes, or similar facilities.
- (c) At least 80 percent of the area satisfying the lot area requirements for multiple family or apartment

dwellings, commercial accommodations, or similar facilities shall be land above mean high water, and other than any marsh, swamp, or flat, bordering on inland or coastal waters.

- (d) Minimum lot frontage: 50 feet.
- (e) Minimum front yard: 10 feet.
- (f) Minimum sideyards and backyards: 10 feet, except 5 feet for accessory structures.
- (g) Maximum building height: 35 feet.
- (h) Corner clearance: Between the lines on intersecting streets and a line joining points on such lines fifteen (15) feet distance from their points of intersection or, in the case of a rounded corner, the point of intersection of their tangents, no buildings, structures, or plantings may be maintained above a height three (3) feet above the plane through their curb grades.

#### 4. Resort Commercial District D-2 Design Requirements

##### (a) Parking Requirements:

(1) Adequate off-street parking must be provided to service all parking demand created by new structures, additions to existing structures, or changes of use; except that on residentially used lots of under 5,000 square feet off-street parking is not required.

(2) Minimum off-street parking requirements are: one and one-half parking spaces per dwelling unit, plus one parking space per motel or guest house unit, plus one parking space per employee, plus one parking space per 150 square feet of gross retail floor area, or equivalent adequacy for other uses, as determined by the Building Inspector.

(3) These requirements may be reduced on Special Permit by the Board of Appeals if they find that fewer spaces meet all parking needs. Such cases might include:

- (I) Use of common parking lot for separate uses having peak demands occurring at different times.

- (II) Age of other characteristics of occupants which reduce their auto usage.
- (III) Peculiarities of the use which make usual measures of demand invalid.
- (b) Parking Area Design and Location. For off-street parking areas of 5 or more cars, the following standards must be met:
  - (1) No off-street parking area shall be located within a required front yard.
  - (2) Drainage shall be provided for without causing dust, erosion, hazard, or unsightly conditions.
  - (3) Design shall not require autos to back onto public ways.
  - (4) There shall be not more than two driveway openings onto any street from such parking areas unless each opening is separated from all others on or off the parcel by more than 200 feet.
  - (5) Driveway openings shall be designed consistent with Massachusetts DPW Traffic Regulations, Section 10A-9 or subsequent revisions, and shall not exceed 20 feet in width at the property line. Street frontage not used for entrances shall be landscaped and curbed.
  - (6) Parking lots for 20 or more cars shall contain or be bordered within 5 feet by at least one tree per 8 parking spaces, trees to be 2" caliper or larger, with not less than 40 square feet of unpaved soil area per tree. Trees and soil plots shall be so located as to provide visual relief and sun and wind interruption within the parking area, and to assure safe patterns of internal circulation.
- (c) Screening. The following shall be screened from any adjacent premises from which they would otherwise be visible:
  - (1) Outdoor commercial recreation;
  - (2) Outdoor sales displays;
  - (3) Contractor's yard;
  - (4) Open storage;

- (5) Loading and service areas;
- (6) Drive-in theater;
- (7) Outdoor parking for five or more cars.

'Screening' in this context shall mean an area at least four feet wide densely planted with ever-green trees or shrubs three feet or more in height when planted, or a wall, fence, or earth berm 42" or more in height, or equivalent visual screening by natural vegetation or difference in elevation between potential viewers and the screened areas.

- (d) Lighting. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that their collective result doesn't create so much light over-spill onto adjacent premises that it casts observable shadows, and so that it doesn't create glare from unshielded light sources.

If all the following are met, it will be presumed that the above performance requirements are satisfied:

- (1) Internally illuminated signs on the premises collectively total not more than 200 watts.
- (2) Externally illuminated signs employ only shielded lights fixed within three feet of the surface they illuminate.
- (3) Exterior lighting fixtures are mounted not more than 15 feet high.
- (4) Building floodlighting totals not more than 2000 watts.

The Board of Appeals may grant a Special Permit for lighting which does not comply with these specifications if it determines that the performance standards of the first paragraph will still be met.

- (e) Disturbances. No activity shall be permitted unless the following are met:
  - (1) Disturbances. No sound, noise, vibration, odor, or flashing (except for warning devices, temporary construction or maintenance work, parades, agricultural activities, or other special circumstances)



shall be observable without instruments in a Commercial District more than 200 feet from the boundaries of the originating premises, or in a Residential District more than 40 feet from the boundaries of the originating premises. However, the Board of Appeals may grant a Special Permit to allow activities not meeting these standards, in cases where the Board determines that no objectionable conditions will thereby be created for the use of other properties.

(2) Evidence of Conformity. If requested by the Building Inspector, evidence shall be provided that any use of radioactive materials will be in conformance with applicable regulations of the U.S. Nuclear Regulatory Commission; any use of flammable or explosive materials will be in conformance with applicable regulations of the Massachusetts Board of Fire Prevention Regulations; discharges into the air will be in conformance with applicable regulations of the Southeastern Massachusetts Air Pollution Control District; and any electromagnetic radiation will be in conformance with the regulations of the Federal Communications Commission.

(3) Performance Compliance. For a facility whose future compliance with performance standards in this By-law is questionable, the Building Inspector may require that the applicant furnish evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to comply also with these standards.

#### 5. Resort Commercial District D-2 Design Suggestions

The following Design Suggestions are further means of serving District objectives, but are not requirements.

- (a) Visible portions of gable or hip roofs should have at least a 10 on 12 pitch.
- (b) Basic siding colors should be white, gray, brown, russet, yellow, red brick, or weathered wood, with bright accent colors used on selected elements.
- (c) The appearance of wood-frame construction is especially appropriate.

- (d) Reflection of Carpenter Gothic characteristics without stylistic imitation is especially appropriate.
- (e) Any plantings should use species characteristic of the region, rather than 'imported exotics'.

Description of Village Development D-3

1. Onset Avenue, North:

All of the area within a strip of land 300 feet in width on the Northeasterly side of Onset Avenue extending from a line parallel to and 400 feet southerly of the railroad right-of-way in the vicinity of Great Neck Road Southeasterly to the area described under "3. Onset" below.

2. Onset Avenue, South:

All of the area within a strip of land 300 feet in width on the Southeasterly side of Onset Avenue extending from a line parallel to and 300 feet Southeasterly of Great Neck Road southeasterly to the area described under "3. Onset" below.

3. Onset:

Wickets Island plus all that area bounded by Swifts River, Broad Cove, Onset Bay, Sunset Cove, a ditch roughly 200 feet Northerly of North Boulevard, a ditch roughly diverging 100 to 300 feet Westerly of Camp Street, a Westerly headed ditch beginning roughly 50 feet Northerly of North Avenue and running Westerly to Sunset Cove, and the areas described under "1. Onset Avenue, North" and "2. Onset Avenue, South" above: except excluding those areas zoned Village Commercial D-1 or Resort Commercial D-2.

Also, in Point Independence an area bounded by Broad Cove, the East River, Onset Bay, Seventh Avenue, and the extension of its centerline across Onset Avenue and a line parallel to and 200 feet Northeasterly of the Northeast sidelenes of Onset Avenue, Grove Street, and Locust Street, extended to Broad Cove, excluding those areas zoned Village Commercial D-1.

1. Village Development District D-3 Objectives

The Village Development District D-3 Objective is to fac-

ilitate development of both environmentally sound moderate density housing and compatible business enterprises.

2. Village Development District D-3 Use Regulations

In Village Development D-3, buildings, structures, and premises may be used for:

- (a) Any use permitted in a residential district.
- (b) Multiple family or apartment dwellings on Special Permit from the Board of Appeals, subject to the same requirements as in Resort Commercial District D-2.
- (c) Office or bank, provided that lot area is at least five times the total floor area of the building.
- (d) Motel or other commercial accommodation; nursing home.
- (e) Home-based business enterprise, provided that not more than four persons not also resident on the premises are employed, there is no retailing of goods not produced on the premises, there is no outside use, display, or storage of equipment or materials visible from any abutting premises or public way, and no parking for more than two vehicles within a required front yard.
- (f) Any other activity lawfully maintained or expanded on the premises at any point during the five years prior to the time this paragraph becomes applicable at that location.

3. Village Development District D-3 Dimensional Regulations

All dimensional regulations for the Resort Commercial District D-2 must be complied with.

4. Village Development District D-3 Design Requirements

All design requirements for the Resort Commercial District D-2 must be complied with.

Description of Industrial E

Beginning at a point on Route 28 marking the westerly corner

of land owned now or formerly by Josephine V. Lopes; thence southerly by Route 28 to a point in the Westerly sideline of a road known as Bates Nail Works Road; thence northeasterly by this road to a point in the southerly sideline of the proposed Route 25 thence northwesterly by said sideline of Route 25 to a point in the northwesterly sideline of land owned now or formerly by Josephine V. Lopes, thence southerly by said northwesterly boundary to the point of beginning.

The area bounded southerly by Route 28, westerly by the easterly boundary of the existing Industrial Zone, northerly by Route 25, and easterly by Route 6 relocation (Route 195).

The area bounded northeasterly by Route 28 approximately 1,750 feet; Southeasterly by a line drawn from Route 28 to the Penn Central Railroad, which follows in part the northwesterly line of the land of Tobey Old Ladies Home, Inc. and its extension in a northeasterly and southeasterly direction; Southwesterly by the right of way of the Penn Central Transportation Company and Main Street approximately 2,220 feet; Northwesterly by a line drawn from Main Street to Route 28, which follows in part the northwesterly line of the Taylor and Holmes land and its extension in a northeasterly direction, terminating at a point approximately opposite the boundary of the Industrial area which lies on the north side of Route 28.

Also, the area Northwesterly by the boundary of the area now zoned "Industrial";

Northeasterly by Route 28;

Easterly by Route 195;

Southwesterly by Main Street and by land now or formerly of the New York, New Haven, and Hartford Railroad.

Industrial District "E" buildings, structures, and premises may be used for advertising, assembling, baking, communication media, engineering research, finishing, laundry, oceanographic research, printing, publishing, manufacturing of heating equipment, refrigeration, cranberry equipment, plastics, fiberglass, electronic equipment, and light machinery, trucking terminals, agriculture, horticulture and floriculture upon tracts of five or more acres and any other use except residential uses otherwise permitted in the Town of Wareham.

#### Description of Institutional District F

The area on the westerly side of Main Street, bounded on the East by the westerly sideline of Main Street, on the west by

a line parallel with and 200 feet distant from the westerly sideline of Main Street, and on the south by the northerly sideline of Cedar Street, and on the north by the northerly boundary of land of Tobey Hospital.

Institutional District F: building, structures, and premises may be used for hospitals, hospital-connected facilities, single and multiple residences, offices, government and municipal purposes, and religious and charitable purposes.

#### Description of Marine G

Bounded on the north by Besse Park, so-called, on the east by the Wareham River, on the west by the easterly sideline of Main Street and the extension thereof in the same course southerly to the Wareham River, and on the south by the Wareham River.

Bounded on the West by Lazy Harbor, on the Northwest by the centerline of the Marion to Wareham 23KV Electric Transmission Line, on the Northeast by a line parallel to and 200 feet Southwesterly from Cromesett Road, on the Southeast by the Northwesterly line of Cromesett Park and on the Southwest by the Weweantic River.

In said district, buildings, structures, and the premises may be used for any use allowed within Residential A, except those which require authorization by the Board of Appeals, and the following additional uses:

Marinas, wharves, docking, marine railways, boat liveries, yacht clubs, retail sale of marine equipment and supplies, oceanographic and engineering research, boat yards, marine connected uses, and for uses customarily necessary thereto, but not including the sale of fish products or food except in connection with the aforementioned specific uses.

#### Description of Agricultural - Watershed District

Westerly: by Charge Pond Road;

Northerly: by the Plymouth-Wareham Town line;

Southeasterly: by the Plymouth-Wareham Town line;

Generally in an easterly direction by Red Brook (Plymouth-Warheam Town line);

Southeasterly by Red Brook Road.

Southerly: by the present Commercial District D boundary from Red Brook Road on the East to Glen Charlie Road on the West, and continuing Westerly by the proposed sideline of Route 25, so-called, and Route 25 as presently laid out.

In, the Agricultural-Watershed District, buildings, structures, and premises may be used for any lawful religious, educational, or non-profit recreational purpose, for one family detached residential purpose, any agricultural use except piggeries or fur farms, for the office of a professional person located in the dwelling in which he resides, and for uses incidental thereto and any of the following additional uses, provided it is not injurious, noxious, or offensive and only if authorized by the Board of Appeals, subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town:

- (1) The display of not more than two signs pertaining to a permitted use or advertising the sale or rental of only the premises on which they are located with a total area of not more than 12 square feet.
- (2) Golf course or tennis club.
- (3) Convalescent home, hospital or cemetery.
- (4) Neighborhood grocery store, structures for public utility corporations, not including repair stations or outside storage of supplies.
- (5) Boys' or girls' camp, aviation field, boat livery, or riding stable or veterinary hospital.

#### Description of Rural-Residential District

- (a) Northerly by Fearing Hill Road, Horseshoe Pond and the Weweantic River;  
Easterly by Route 195;  
Southerly by the Wareham-Marion Town line; and  
Westerly by the Wareham-Marion and the Wareham-Rochester Town lines.
- (b) Northerly by the rear property lines of parcels of land fronting on Paper Mill Road;  
Easterly and Northerly by the Weweantic River;  
Southerly by Fearing Hill Road; and

Westerly by the Wareham-Rochester Town Line.

- (c) Northerly by the Carver-Wareham Town line and the Plymouth-Wareham Town line;

Easterly by Charge Pond Road;

Southerly by rear lot lines of parcels of land fronting on Route 28 to Parker Mills Pond, then by the sideline of Tihonet Road, then five hundred (500) feet back from the Northerly sideline of Route 28;

Westerly by the westerly sideline of Route 195;

Southerly by the southerly sideline of Route 25;

Westerly by the Rochester-Wareham Town line;

Southerly and Westerly by the Middleboro-Wareham Town line; excepting therefrom the area now known as Westfield or Bayberry Estates on the plans approved as of this date.

USES: In Rural-Residential District; buildings, structures, and premises may be used for any lawful residential, municipal, religious, educational, non-profit recreational purposes, any agricultural use, except piggeries and fur farms, and for the following commercial purposes, but no others:

- (a) The display and sale at a roadside stand of products the major portion of which are raised on the farms or produced in the homes of the Town.
- (b) The use of a room or rooms in a dwelling or accessory building for a customary home occupation including the taking of boarders or lodgers, or the practice of a profession or trade conducted by a resident of the premises, provided there is no external evidence of any business other than permitted signs.
- (c) The display of not more than two (2) signs pertaining to the premises on which they are located with a total area of not more than twelve (12) square feet.
- (d) Any of the following uses, provided that it is not injurious, noxious, or offensive and only if authorized by the Board of Appeals subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town:
- (1) Greenhouse, nursery, cidermill, ice house, or temporary sawmill.
  - (2) Aviation field, golf course, boat livery, or riding stable.

- (3) Gravel, loam, sand, or stone removal from the Town.
- (4) Veterinary hospital.
- (5) Hospital, cemetery, camp grounds.
- (6) Neighborhood grocery store.
- (7) Structures for public utility corporations, not including repair stations or outside storage of supplies.



### SECTION III

#### Area Regulations

NOTE: Not applicable to Village Commercial District D-1, Resort Commercial District D-2, or Village Development District D-3. See SECTION II only.

##### A. Floor Area

The interior area of single family residential buildings shall not be regulated by this By-law. The interior areas of multi-family dwellings and apartments are regulated by Section II of this By-law.

##### B. Lot Frontage and Area

No dwelling shall be erected or placed on any lot in Residential District A, Single Residential District B, and Commercial District D, unless the lot has a street frontage of at least 150 feet upon the frontage street or way, public or private, and an area of at least thirty thousand (30,000) square feet.

In Single Residential District C-2, no dwelling shall be erected or placed on a lot unless the lot has a street frontage of at least two hundred (200) feet upon the frontage street or way, public or private, and an area of at least sixty thousand (60,000) square feet.

In the areas of Residential District C-1 and Residential District C-3, no dwelling shall be erected or placed on a lot unless the lot has a street frontage of at least 180 feet upon the frontage street or way, public or private, and an area of at least one (1) acre.

In Agricultural-Watershed District no dwelling shall be erected or placed on a lot unless a lot has a street frontage of at least 200 feet upon the frontage street or way, public or private, and an area of at least three acres of land.

The Agricultural-Watershed District shall be subject to all other provisions of the Protective or Zoning Bylaws now in existence, insofar as the same may be applicable.

In a Rural-Residential District, no dwelling or building shall be erected on any lot unless the lot has a street frontage of at least one hundred and eighty (180) feet upon the frontage street or way, Public or Private, and an area of at least sixty thousand (60,000) square feet.

In all other district no dwelling, building or structure shall be erected on any lot unless the lot has a street front-

age of at least 150 feet upon the frontage street or way, public or private, and an area of at least 30,000 square feet.

In all districts, not more than one dwelling or building with accessory structures having a permitted use in the respective district shall be erected, placed or converted on any lot.

Whenever the term "dwelling" is used in Section IIIB, it shall include any building with accessory structures having a permitted use, except multiple dwellings, apartment houses, and except as otherwise provided under the protective by-laws.

Provided that notwithstanding any provision on this section, the Board of Appeals may grant a variance from the above requirements in accordance with Chapter 40A, Section 15 of the General Laws.

#### C. Front Yard

Any building or structure or part thereof, including roadside stands, gasoline pumps and accessory buildings hereafter erected or placed shall extend not nearer to the street line than (20) feet in all districts. The Board of Appeals may make exceptions to this section upon appeal or written request if the setbacks of buildings on the adjoining lots vary from this requirement.

#### D. Sideyards and Backyards

In any district no dwelling or part thereof shall be built within ten (10) feet of the side or rear lot line and no other building within five (5) feet of such line.

#### E. Height of Building

In a Single Residential District no building shall be more than two and a half (2½) stories in height. In all other districts, no building shall exceed in height the distance from the building to the opposite side of the street right of way.

#### F. Corner Clearance

Between the lines on intersecting streets and a line joining points on such lines fifteen (15) feet distance from their points of intersection or, in the case of a rounded corner,

the point of intersection of their tangents, no building, structure, or planting may be maintained above a height three (3) feet above the plane through their curb grades.

## SECTION III-A

### Sign Regulations

#### A. Applicability:

The following sign regulations shall apply in these districts:

Village Commercial District D-1  
Resort Commercial District D-2  
Village Development District D-3

#### B. Allowed Signs:

Any premises may have one or two signs totalling not more than 18 square feet, either attached to a building or free-standing so long as the sign content exclusively refers to the establishment, services, activities, or the type of product on the premises, (but not brand names), the sign does not overhang a public sidewalk, and the sign is not internally illuminated.

#### C. Special Permit Signs:

The Board of Appeals may for any premises grant a Special Permit for as many as four signs totalling as much as sixty square feet, which signs may overhang a public sidewalk, be internally illuminated and otherwise depart from paragraph B above, provided that the Board of Appeals finds that the signs will be consistent with the District objectives and with the following guidelines:

- (1) The sign principally identifies the specific local activity not standard product brand names.
- (2) The sign uses placement, form, and colors compatible with building design and with District objectives.
- (3) The sign uses minimum wording to improve legibility.
- (4) The size and number of signs is necessitated for clear communication, will not create undue clutter, and is consistent with nearby premises in relation to building size and use.

(5) Any sign overhanging a public sidewalk will not intrude into any water view from a pedestrian's perspective.

(6) Lighting is steady, stationary, shielded and directed solely at, or internal to, the sign, with brightness not inconsistent with other signs in the vicinity.

D. Sign Suggestions:

The following Sign Suggestions are further means of serving District objectives, but are not requirements:

- (1) Sign colors should reflect building colors.
- (2) A manually-crafted sign, even if inexpert, is likely to better reflect local character than does a standard manufactured sign.
- (3) Non-verbal devices such as carved figures are especially effective.

## SECTION IV

### Exceptions and Administration

#### A. Non-Conforming Uses:

Any Lawful building or structure or use of a building structure of premises existing at the time this By-law or any amendment thereto is adopted, even if not in conformity with its provisions, may be continued and if authorized by the Board of Appeals by means of a Special Permit, may be rebuilt if damaged or destroyed, may be altered or extended, and the use may be changed to a specific new use not substantially different in character or changed to a more conforming use except that no reconstruction, alteration, extension, or change shall be more detrimental or objectionable to the neighborhood or the character of the town, and further provided that if the building, structure, or premises or the use thereof has been or shall be abandoned or similarly discontinued for a period of two years it shall not be re-established and future use of said building structure or premises shall be in conformity with this By-law. Once a use becomes more nearly conforming it shall not be permitted to revert to a less conforming use.

#### B. Board of Appeals:

There shall be a Board of Appeals of five members and three associate members appointed by the Selectmen as provided in Section 12 of Chapter 40A of the General Laws which shall act on all matters within its jurisdiction under this by-law in the manner prescribed in said Chapter of the General Laws.

The Board established hereunder shall act as the Board of Appeals under the local building and zoning by-laws respectively, and under the provisions of Chapter 40 of the General Laws. The Board of Appeals shall be the "Permit Granting Authority" for the appeals under Section 8 and Section 10 of Chapter 40A, and shall be the "Special Permit Granting Authority" as provided in Section 9 of Chapter 40A.

All provisions of the building by-laws and the zoning by-laws for the establishment of a Board of Appeals, the number of members thereof, their term of office and their powers and duties so far as the same are inconsistent herewith are hereby repealed and this by-law is established in place thereof and in substitution thereof.

#### C. Enforcement:

The Inspector of Buildings shall be the Zoning Enforcement

Officer. He shall not approve applications of any kind or plans or specifications or intended uses which are not in conformity in all respects with this By-law.

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A, or by any person, including an officer or board of the Town of Wareham, aggrieved by an order or decision of the Inspector of Buildings, or other administrative official, in violation of Chapter 40A or this By-law, provided the appeal is entered by filing a notice of appeal with the Town Clerk on forms provided by the Board of Appeals.

Whenever an amendment to this By-law is proposed, the status of permits, special permits or variances as affected, depending on whether or not they were issued before or after the first published notice of the hearing on the proposed change to the By-law.

If issued before the publication, the permit holder within six months of the issuance of the permit, special permit or variance shall have commenced substantial use or construction and continued construction as expeditiously as possible to completion otherwise where it is affected by any amendment which may have been adopted as a result of town meeting action following the advertised hearing, such permit, special permit or variance shall be void.

If issued after publication, such permit or special permit which complies with the existing provisions of the By-law and any use or construction begun in reliance on such permit or special permit shall be made to conform to any amendment which may have been adopted under the notice which was published where those changes affect said permit or special permit.

#### D. Violations and Prosecution of Violations:

Violations: The Zoning Enforcement Officer shall serve a notice of VIOLATION AND ORDER to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions this By-law and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation.

Any owner who has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such condition as to be a hazard or menace to the public safety, health, morals or general welfare.

Prosecution of Violation: If the notice of VIOLATION AND ORDER is not complied with promptly, the selectmen shall institute the appropriate action or proceeding at law or equity to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.

Any person, firm or corporation violating any of the provisions of the by-law shall for each violation, upon conviction thereof, pay a fine of not more than Fifty Dollars (\$50.00). Each day that a violation is permitted to exist after notice to remove the same shall constitute a separate offense.

E. Application:

This by-law shall not interfere with or annul any by-laws, rules or regulations, or permit, except that, where this by-law imposes a greater restriction upon the use of buildings, structures, or premises than is imposed by existing provisions of law or by-laws, this by-law shall control.

F. Validity:

The invalidity of any section or provision of this by-law shall not invalidate any other section or provisions hereof.

G.

No Person or property owner shall have or allow more than one unregistered motor vehicle, or parts thereof, ungaraged on any premises at any time unless so authorized in writing by the Board of Selectmen; and in no event shall any such vehicle, or parts thereof, be stored or located in the front yard of such premises.

Whoever violates the foregoing provision shall be liable to pay a fine of not more than \$20.00 to be paid into the treasury of the Town of Wareham for each day, or portion thereof, during which such offense shall exist.

Any premises licensed under the provisions of General Laws, Chapter 140, Section 57 through 69, and any amendments thereto, shall be excepted from this subsection.

H.

The Board of Appeals may, by special permit authorize the

temporary use of any structure, shelter, tent or vehicle for the purpose of human habitation in any district provided that such use is not injurious, noxious, or offensive and further provided that any such permit be granted only for non-paying guests of any property owner for a period not to exceed thirty consecutive days in any year and that only one such permit be granted to any land owner in any year.

I.

In all districts, the establishment of an animal kennel is hereby prohibited, unless authorized by Special Permit granted by the Board of Appeals after a proper public hearing is held, and provided the establishment of such kennel is not injurious, noxious, or offensive to the public, and further provided that the proper safeguards are imposed by the Board to insure the safety and welfare of the public. Such Permit shall be issued for a maximum of one year, and may be renewed without Public Hearing by the Board.

J. Special Permits:

Certain uses, structures, or conditions may be designated as exceptions in a Table of use Regulations and elsewhere in this By-law. Upon filing of a proper application duly made to the Town Clerk, a copy of which shall be filed with the Board of Appeals and the Building Inspector by the applicant. The Board of Appeals may, in cases where it seems appropriate and subject to the proper conditions and safeguards which may or may not be provided for in this By-law and in Chapter 40A as amended, grant a Special Permit to allow such exception(s).

- a. Special Permits shall be issued following properly advertised public hearings, as provided for in Chapter 40A, as amended, of the General Laws. Such public hearing shall be held within 65 days after the filing of an application with the Town Clerk by the applicant.
- b. The Special Permit Granting Authority shall adopt, and may amend from time to time, rules relative to the issuance of Special Permits. Such rules shall be filed in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for submission and approval of such permits.
- c. Accessory uses which are necessary in connection with scientific research, scientific development, or related production activities which are permitted as a matter of



right may be permitted in all districts by the granting of a Special Permit by the Board of Appeals, provided such accessory use does not substantially derogate from the public good and further provided that the Board imposes such restrictions and safeguards as it seems necessary to protect the health, safety and welfare of the public.

d. A Special Permit granted under the provisions of this sub-section shall lapse if the use permitted by it or the construction and use permitted by it have not been substantially started within one year from the end of the appeal period provided for in Section 17 of Chapter 40A of the General Laws, except for good cause, as may be determined by the Board of Appeals.

K. Variances:

The Board of Appeals is specifically empowered to grant variances from the restrictions imposed by this By-law as to both use and dimension but only in strict compliance with the provisions of Section 10, 11, 14, and 15 of Chapter 40A of the General Laws as amended.

L. Flood Plain Exceptions:

No Special Permit or variance shall be issued that provides for the exemption for land or structures from flood plain or wetland regulations established pursuant to the General Laws of the Commonwealth of Massachusetts. A variance may be granted pursuant to the provisions of the Federal Flood Plain Zoning Act provided that such variance does not conflict with the General Laws and is issued in accordance with the provisions of this By-law.

M. Flood Plain District Regulations

a. Flood Plain District

The Flood Plain District is herein established as an overlay district and includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Wareham Flood Insurance Rate Maps, FIRM dated May 21, 1976, on file with the Town Clerk, Planning Board and Building Official. These maps as well as the accompanying Town of Wareham Flood Insurance Study are incorporated herein by reference.

b. Development Regulations

The following requirements apply in the Flood Plain District:

1. Within Zones A1-30, all new construction and substantial improvements (the cost of which equals or exceeds 50 percent of the market value of the structure) of residential and non-residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation (the 100-year flood elevation designated on the FIRM) or in the case of non-residential structures be flood proofed watertight to the base flood level.
2. Within Zone A, where the base flood elevation is not provided on the FIRM, the Building Official shall obtain and review any already existing base flood elevation data. If the data is reasonable, it shall be used to require compliance with B.1 above.
3. Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify that the methods used are adequate to withstand the flood depths, pressures and velocities, impact and uplift forces and other factors associated with the 100-year flood.
4. Within Zones A1-30, no new construction, substantial improvement or other land development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Town.

N.

Notwithstanding the provisions of this section, no use shall be permitted which would be offensive because of injurious or obnoxious noise vibration, smoke, gas, fumes, odors, dust or other objectionable features or be hazardous to the community on account of fire or explosion or any other cause. No building permit shall be granted under this or any other Section for any use which would prove injurious to the safety or welfare of the neighborhood into which it proposes to go, and destructive of property values, because of any excessive nuisance qualities.

## SECTION V

### DEFINITIONS

For the purpose of this by-law certain terms and words shall have the following meanings. Words used in the present tense include the future, the singular number includes the plural, the plural the singular, the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or occupied, the words "building", "structure", "lot", "land", or premises shall be constructed as though followed by the words "or any portion thereof", and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition.

**ABANDONMENT:** The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises, or the removal of the characteristic equipment or furnishings: or the replacement of nonconforming use or building by a conforming use of building.

**ALTERATION:** Any construction, reconstruction or other action resulting in a change in the structural parts of height, number of stories or exits, size, use, or location of a building or other structure.

**ANIMAL KENNEL:** Harboring and/or care of more than three dogs three months old or over, irrespective of the purpose for which they are maintained.

**APARTMENT HOUSE - APARTMENT DWELLING:** A dwelling containing five or more separate family dwelling units, each unit containing a minimum of 650 square feet of livable floor space, exclusive of closets and bathrooms.

**BASEMENT:** A portion of a building partly below grade which has more than one-half of its height, measured from finished floor to finished ceiling above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six feet or more above the average finished grade.

**BUILDING:** A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls; built to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**BUILDING ACCESSORY:** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**BUILDING AREA:** The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer walls, including cornices, eaves, chimneys, porches, bay windows, and balconies.

**BUILDING ATTACHED:** A building having any portion of one or more walls in common with adjoining buildings.

**BUILDING COVERAGE:** The building area expressed as a percentage of the total lot area.

**BUILDING, DETACHED:** A building having open space on all sides.

**BUILDING LINE:** The line, parallel to the street line, which passes through the point of the principal building nearest to the front lot line.

**BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is located.

**CELLAR:** A portion of a building, partly or entirely below grade, which has more than one-half of its height measured from finished floor to finished ceiling, below the average established finished grade of the ground adjoining the building. A cellar is not deemed a story.

**CLUSTER DEVELOPMENT:** A division of land into lots for use as residential building sites where said lots are arranged into one or more groups having area and yard measurements less than the minimum required in the Table of Dimensional and Density Regulations. These clusters of groups shall be separated from adjacent property and other groups of lots by intervening "common land". The number of lots over the entire tract of land shall not exceed the number of lots permitted under normal application of the area regulations of the zone in which the tract of land is located.

**CONDOMINIUM:** For the purpose of this By-law, a "Condominium" and "Town House" shall be designed and treated in

the same manner as an "Apartment" or "Multi Family Dwelling" depending upon the number of units and shall be subject to the same zoning restrictions as said apartment or multi-family dwelling.

**CAMP GROUND, FAMILY TYPE:** Any place of camp character as the term is commonly understood, used wholly or in part for recreational camping or group activity purposes or for accommodations for overnight or longer periods and which accomodates for profit or under philanthropic or charitable auspices three or more families or camping grounds. The family type camp ground may accommodate tents, mobile camping units, expandable trailer camping units, and such other devices as may be developed and marketed for the camping trade. The camp ground may be so arranged that individual plots or sites properly allocated, designated and furnished, are available for such groups for their convenience during their temporary occupation. The plots or sites may or may not be equipped with auxiliary tents, tent platforms, tables and fireplaces. The camp ground may contain temporary or permanent buildings for common usages and may be operated as an overnight camp, a resident camp, or a picnic area. The term family type camp ground does not include a children's day camp, recreational camp for children, or a Mobile Home Park.

**CONVALESCENT HOME:** A building or structure other than a nursing home or hospital used for twenty four hour care of patients convalescing from sickness or disability.

**DAY CARE CENTER:** A center providing day care services in a private residence for up to six persons on a regular basis.

**DISTRICT:** A zoning district as established by this By-law.

**DRIVE-IN ESTABLISHMENT:** A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term "drive-in" includes drive-in eating establishments where the food is purchased from a building on the lot, but is consumed in the vehicle; drive-in service establishments such as banks, cleaners, and the like; and automotive service stations, gasoline stations, or the like. Drive-in movies are excluded from this definition.

DRIVEWAY: An open space, located on a lot, which is not more than 24 feet in width for access to a garage, or off-street parking or loading space.

DWELLING: A privately or publicly owned, permanently fixed structure containing a dwelling unit or dwelling units. The terms "one-family", "two-family", or "multi-family" dwelling shall not include hotel, lodging house, hospital, membership club, trailer, mobile home or dormitory.

DWELLING UNITS: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single house-keeping unit with cooking living, sanitary, and sleeping facilities.

DWELLING, ONE FAMILY: A detached building containing one dwelling unit, also referred to as a "single-family dwelling".

DWELLING, TWO FAMILY: A building containing two dwelling units constructed on a single lot.

ESSENTIAL SERVICES: Services provided by public utility or governmental agencies through erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems; and collection, communication, supply or disposal systems. Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

EXCEPTION: The use of a structure or lot or any action upon a premises which may be permitted under this By-law only upon application to and the approval of the Board of Appeals.

FAMILY: An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help such as nurses or servants and further including not more than three lodgers or roomers taken for hire. A group of individuals not related by blood or marriage, but living together as

a single housekeeping unit may constitute a family. For purposes of controlling residential density each such group of five individuals shall constitute a single family.

**FLOOD LINE:** The limits of flooding from a particular body of water caused by lunar tides, a storm, or other natural phenomena whose frequency of occurrence is once in twenty years as determined and certified by a registered professional engineer qualified in drainage.

**FLOODWAY:** The area subject to periodic flooding, the limits of which are determined by the flood line.

**FLOOR AREA, GROSS:** The sum of areas of the several floors of a building measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this By-law, or any such floor space intended and designed for accessory heating and ventilating equipment.

**FLOOR AREA RATIO:** The ratio of the gross floor area to the total lot area.

**HEIGHT:** The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, or the mean level of the highest gable or slope of a hip, pitch or sloped roof.

**HOME OCCUPATION:** An accessory use which customarily is carried on entirely within a dwelling unit, and is incidental and subordinate to the dwelling use and which shall not occupy more than 25 percent or 400 square feet, whichever is less, of the dwelling units used.

**HOSPITAL:** A building providing medical service including 24-hour in-patient services for the diagnosis, treatment or other care of human ailments and may include a sanitarium, sanatorium clinic, rest home, nursing home, and convalescent home.

**HOTEL-MOTEL:** A building or any part of a building for transient occupancy containing rooming units which may have cooking facilities only in connection with central dining facilities which may have either a common entrance or individual entrance and which includes an inn, motel,

motor inn, and tourist court, but not including an apartment house, a boarding house, lodging house, or rooming house.

**JUNK:** Any worn out castoff or discarded articles or materials which are ready for destruction or disposal or has been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged or without further reconditioning, can be used for its original purpose as readily as when new, shall not be considered junk.

**INCIDENTAL USE:** Is a use of a building or premises customarily pertaining thereto and located on the same lot with the building or premises to which it pertains.

**LOADING SPACE:** An off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than thirteen hundred (1,300) square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Administrative Officer to not less than three hundred (300) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

**LODGING UNIT:** One or more rooms for the use by one or more individuals not living as a singular housekeeping unit and not having cooking facilities. A "Lodging Unit" shall include rooms in boarding houses, tourist houses, or rooming houses.

**LOT:** An area or parcel of land or any part thereof, not including water area, in common ownership, designated on a plan duly filed by its owner or owners as a separate lot and recorded in the Plymouth County Registry of Deeds.

**LOT, CORNER:** A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or in case of a curved street, extended lot lines, being not more than 135 degrees.

**LOT DEPTH:** The mean horizontal distance between the front lot line and the rear lot line.



LOT LINE, FRONT: The property line dividing a lot from a street (right-of-way). On a corner lot the owner shall designate one street line as the front lot line.

LOT LINE, REAR: The lot line opposite from the front lot line.

LOT LINE, SIDE: Any lot line not a front or rear lot line.

LOT, NONCONFORMING: A lot lawfully existing at the effective date of this By-law or any subsequent amendment thereto which is not in accordance with all provisions of this By-law.

LOT, THROUGH: An interior lot, the front and rear lot lines of which abut streets, or a corner lot, two opposite lines of which abut streets.

LOT WIDTH: The horizontal distance between the side lot lines as measured parallel to the street line at the minimum front yard depth required by this By-law at the building line and at all points between.

ONE-FAMILY HOUSE: Is a detached dwelling intended and designed to be occupied by a single family.

MARINA: Premises used for wharves, docking, boat liveries boat yards, yacht clubs, sale of boats and other marine equipment but not including the processing or sale of fish.

MEMBERSHIP CLUB: A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

MOBILE HOME: The words "mobile home" shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or permanent foundation for permanent living quarters.

MOBILE HOME PARK: A parcel of land upon which two or more mobile homes or house trailers are parked or intended to be parked for living purposes.

MULTI-FAMILY DWELLING: A dwelling containing four or less separate dwelling units.

**NURSING HOME:** A building or structure other than a hospital or convalescent home used for twenty-four hour care of chronically ill or disabled persons.

**OPEN SPACE:** The space on a lot unoccupied by buildings, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas, not devoted to streets, driveways, or off-street parking or loading spaces and expressed as a percentage of total lot area.

**OVERNIGHT CABIN:** An overnight cabin is any cabin, trailer or any building, tent, or structure, housecar or automobile trailer used for or adaptable to use for living quarters.

**OWNER:** The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**PARKING SPACE:** An off-street space at least 10 feet in width and 20 feet in length having an area of not less than 200 square feet, plus 100 square feet of access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one motor vehicle.

**PLANNED DEVELOPMENT:** A development involving the construction of two or more principal buildings on the same lot for any permitted use.

**SIGN:** Any permanent or temporary structure, device, letter, work, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by any means including intermittent or repeated motion or illumination.

**SIGN, BUSINESS:** A sign used to direct attention to a service, product sold or other activity performed on the same premises upon which the sign is located.

**SIGN, GENERAL ADVERTISING:** Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within 200 feet of the building or other structure at which the products or services advertised thereon are available.

**SIGN, IDENTIFICATION:** A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located.

**SIGN, ROOF:** A sign erected on or affixed to the roof of a building.

SIGN, STANDING: A sign erected on or affixed to the land including any exterior sign not attached to a building.

SIGN, SURFACE AREA OF: For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. For a sign consisting of individual letters, designs, and symbols attached to or painted on a surface, building, wall or window the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs and symbols.

SIGN, WALL: A sign affixed to the exterior wall of a building and extending not more than 15 inches therefrom.

STORY: That part of a building comprised between a floor and the floor next above. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be classified as a story when its ceiling is six or more feet above the average finished grade.

STORY, HALF: A story under a gable, hipped, or gambrel roof, the floor area of which does not exceed two-thirds of the floor immediately below when measured where the vertical distance between the floor and ceiling is four (4) feet or more.

STREET: A way which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A street includes all public ways, a way which the town clerk certified is maintained and used as a public way, a way shown on a plan approved and endorsed in accordance with the "Subdivision Rules and Regulations" of Wareham, Massachusetts, and a way having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for needs of vehicular traffic thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, plat-

form, bin, fence, sign, flagpole or the like.

**STRUCTURE, NONCONFORMING:** A structure lawfully existing at the effective date of this By-law, or any subsequent amendment thereto, which does not conform to one or more provisions of this By-law.

**USE:** The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

**USE, ACCESSORY:** A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure. Accessory use by area shall be interpreted not to exceed 40 percent of the area to total use of the structure and/or lot on which it is located.

**USE, NONCONFORMING:** A use lawfully existing at the time of adoption of this By-law, or any subsequent amendment thereto, which does not conform to one or more provisions of this By-law. Non-conformity may be either of use or dimension.

**USE, PRINCIPAL:** The main or primary purpose for which a structure or lot is designed arranged or intended or for which it may be used occupied or maintained under this By-law. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the principal use and permitted under this By-law shall be considered an accessory use.

**USE, SUBSTANTIALLY DIFFERENT:** A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

**VARIANCE:** Such departure from the terms of this By-law as the Board, upon appeal in specific cases, is empowered to authorize.

**YARD:** A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, and unoccupied except by fences, walls, poles, paving, and other customary yard accessories, and having at least two sides open to lot lines.

YARD, FRONT: A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR: A yard; unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE: Yard extending for the full length of a building between the nearest building wall and the side lot line.

A TRUE COPY:  
ATTEST:

*Tony Bacchieri*  
TONY BACCHIERI  
Town Clerk