

Zoning By-Laws  
Oct 20 1997

CERTIFICATION

This is to certify that I have revised the Town of Wareham Zoning By-Law book so as to incorporate all the changes mandated by the most recent Town Meeting which was on October 20, 1997.

This work was done with diligence and care and, to the best of my knowledge and belief, the changes made are exact and accurate.

Wareham, Massachusetts

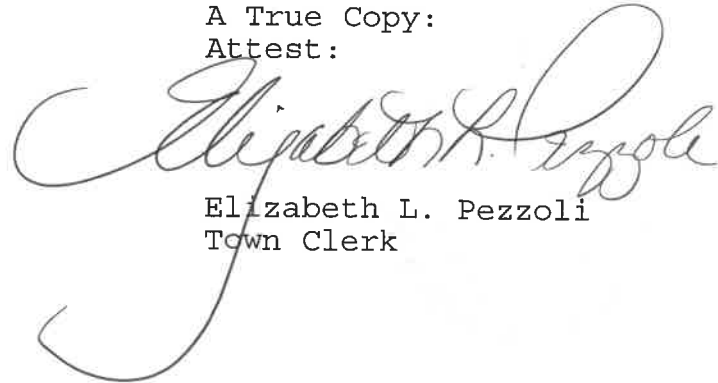
Planning Board  
Town of Wareham

October 20, 1997



Michael Baptiste  
Clerk

A True Copy:  
Attest:



Elizabeth L. Pezzoli  
Town Clerk



WAREHAM ZONING OR PROTECTIVE BY-LAWS

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TOWN OF WAREHAM

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" hereinafter 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 GENERAL

(1) In accordance with Section 4 of Chapter 40A of the General Laws, the Town of Wareham is hereby divided into the following districts: Residential R-130, Residential R-60, Residential R-43, Residential R-30, Multiple-Residential MR-30, Onset-Village Commercial, Onset-Village Residential, Wareham Village, Strip Commercial, Conference Recreational, Marine, Institutional, Industrial and Flood Plain Overlay.

(2) 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.

(3) 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.

(4) 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, AE, AH, AD, A99, V or VE on the Town of Wareham Flood Insurance Rate Maps FIRM, dated August 4, 1987, 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.

(5) Zoning District Descriptions: The location and boundaries of the zoning districts 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 zoning district boundary descriptions and all explanatory matter thereon and including all amendments thereto, is declared to be a part of this by-law.

SECTION II

ZONING DISTRICTS - USE REGULATIONS

RESIDENTIAL R-130 DISTRICT

**LAND USE REGULATIONS ASSOCIATED WITH  
WELLHEAD PROTECTION FOR ONSET AND  
WAREHAM FIRE DISTRICTS**

PURPOSE:

The purpose of the Wellhead Protective/Agricultural Watershed district is to protect the public health from the contamination of existing and potential public and private groundwater and surface water resources and to protect the general welfare by preserving limited groundwater and surface water resources for present and future use.

ALLOWED USES:

Within the Wellhead Protective/Agricultural Watershed district the following uses are allowed:

- 1 conservation of soil, water, plants and wildlife;
- 2 outdoor recreation, including boating, fishing, nature study, and hunting, where otherwise legally permitted;
- 3 foot, bicycle and horse paths and bridges;
- 4 maintenance, repair (and enlargement) of any existing structure, provided there is no increase in impervious pavement;
- 5 normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- 6 one-family detached residential development;
- 7 any agricultural use, except piggeries or fur farms, including farming, gardening, nursery, conservation, forestry, harvesting, and grazing uses, provided that fertilizers, herbicides, pesticides, manure, and other leachable materials are not stored outdoors.

PROHIBITED USES:

Within the Wellhead Protective/Agricultural Watershed District the following uses are presumed to be detrimental to groundwater and surface water and are prohibited:

- 1 facilities that generate, threat, store or dispose of hazardous waste that are subject to M.G.L. c.21C and 310 CMR 30.00, except for the following:

- I. very small quantity generators as defined by 310 CMR 30.00;
  - II. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
  - III. waste oil retention facilities required by M.G.L. c.21., s. 52A; and
  - IV. treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
- 2 disposal of solid wastes other than brush or stumps;
  - 3 disposal of leachable wastes, including sludge and septage, except for subsurface waste disposal from residential units;
  - 4 storage of sludge and septage;
  - 5 storage of liquid hazardous materials, as defined in M.G.L. c. 21E, unless such storage is either in a free standing container within a building or in a free standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity;
  - 6 storage of liquid petroleum products of any kind, except those incidental to (1) normal household use and outdoor maintenance or the heating of a structure, (2) waste oil retention facilities required by M.G.L. c. 21, s. 52A, (3) emergency generators required by statute, rule or regulation, or (4) treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters, provided that such storage is either in a free standing container with a building or in a free standing container above ground level with protection adequate to contain a spill the size of the container's total storage capacity;
  - 7 open sotage of road salt or other deicing chemicals;
  - 8 disposal of snow which contains deicing chemicals;
  - 9 inductrial uses which discharge process wastewater on site;
  - 10 outdoor storage of fertilizers, soil conditioners, herbicides, and pesticides, and outdoor uncovered storage of manure;
  - 11 dry cleaning establishments and laundromats;
  - 12 boat and motor vehicle service, washing, and repair establishments that are not connected to municipal sewer;
  - 13 junk and salvage yards;

- 14 mining of land except as incidental to a permitted use;
- 15 on-site disposal of wastewater exceeding the performance standards as may be adopted by the Board of Health or other Town ordinance, regulation or bylaw.
- 16 wastewater treatment facilities except for replacment, repair or systems treating contaminated ground or surface water;
- 17 land uses that result in impervious surfaces greater than 15% or 2,500 square feet of any lot, unless artificial recharge for excess runoff is provided;
- 18 earth removal activities within 4 feet of historic high groundwater table;
- 19 landfills and open dumps;
- 20 individual sewerage siposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under on ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design.

SPECIAL PERMIT USES:

A. The following uses may be permitted by a Special Permit from the Board of Appeals, consistent with Board of Health regulations, and provided they are not injurious, noxious or offensive, and subject to appropriate conditions where such are deemed necessary to protect the neighborhood and the Town:

- 1 a customary home occupation or practice of a profession or trade conducted by the resident of the premises, provided there is no external evidence of any business other than permitted signs and for uses incidental thereto;
- 2 religious, educational or non-profit recreational uses;
- 3 golf or tennis club;
- 4 nursing home, intermediate care center, day care center;
- 5 neighborhood grocery store, structures for public utility corporations, not including repair stations or outside storage of supplies;
- 6 boys or girls camp, riding stable, cemetery;
- 7 the application of pesticides for uses which are non-domestic and non-agricultural, provided that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the Wellhead Protective/Agricultural Watershed District as a result of such applications, such precautions to include, but



not be limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redistribution of pesticides and the lateral displacement (i.e. wind drift) of pesticides;

- 8 the application of fertilizers for uses which are non-domestic and non-agricultural provided that such application shall be made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition of sedimentation.
- B. Any application for a Special Permit shall be reviewed and acted upon in accordance with the following procedures:
- 1 Each application for a special permit shall be filed in writing with the Board of Appeals and shall contain a complete description of the proposed use together with any supporting information and plans which the Board of Appeals may require to assess the impact of the proposed use on public and private groundwater supplies;
  - 2 The Board of Appeals shall refer copies of the application to the Wareham Fire District, the Onset Fire District, Board of Health, Planning Board, Conservation Commission, and the Department of Public Works, which shall review, either jointly or separately, the application and shall submit their recommendations to the Board of Appeals. Failure to make contact within thirty-five days of the referral of the application shall be deemed lack of opposition;
  - 3 The Board of Appeals shall hold a public hearing on the application, in conformity with the provisions of Massachusetts General Laws, Chapter 40A, within sixty-five days after the filing of the application with the Board of Appeals;
  - 4 After notice and public hearing, and after due consideration of the reports and recommendations of the local boards/departments, the Board of Appeals may grant such a special permit provided that it finds that the proposed use:
    - a is in harmony with the purpose and intent of this zoning bylaw and will promote the purposes of the Wellhead Protective/Agricultural Watershed District;
    - b is appropriate to the natural topographies, soils, and other characteristics of the site to be developed;
    - c will not during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area;

- d will not adversely affect an existing or potential public or private water supply.

EXISTING NON-CONFORMING USES:

A. All existing non-conforming uses, except residential uses, as of date within the Wellhead Protective/Agricultural Watershed District shall obtain a Certificate of Compliance from the Board of Health by date in accordance with performance standards as may be adopted by the Board of Health or by other town ordinance, regulation or other bylaw;

B. Certificates of Compliance will be issued according to a fee schedule established by the Board of Health and available for public inspection.

4-25-88.

## RESIDENTIAL R-60 DISTRICT

### Allowed Uses:

In Residential R-60 District buildings, structures and premises may be used for one-family detached residential purposes, any lawful religious, educational, non-profit recreational purposes, any agricultural use, except piggeries and fur farms, and for the following commercial purposes, but no others:

(1) 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.

(2) 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.

### Special Permit Uses:

The following additional uses are allowed provided that they are 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, tree nursery.
2. Golf course, tennis club, riding stable or campgrounds.
3. Gravel, loam, sand or stone removal.
4. Structures for public utilities, not including repair stations or outside storage of supplies.
5. Nursing home, intermediate care center, day care center
6. Neighborhood grocery store
7. Aviation Field.
8. Cemetery.

## RESIDENTIAL R-43 DISTRICT

### Allowed Uses:

In the Residential R-43 District buildings, structures and premises may be used for one-family detached residential purposes, any lawful religious, educational or non-profit recreational purpose, any agricultural use except piggeries or fur farms, for the office of a professional person located in the dwelling in which he resides.

### Special Permit Uses:

The following additional uses are allowed provided that they are 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. Golf course or tennis club.
2. Nursing home, intermediate care center, day care center.
3. Structures for public utility corporations, not including repair stations or outside storage of supplies.
4. Cemetery.

## RESIDENTIAL R-30 DISTRICT

### Allowed Uses:

In Residential R-30 District buildings, structures and premises may be used for one-family detached residential purposes, for two family detached and multiple family residential purposes only as provided in Section III, RESIDENTIAL CLUSTER DEVELOPMENT, and for uses customarily necessary thereto, for municipal, religious, educational, non-profit recreational purposes, any agricultural use, except piggeries and fur farms, and for the following commercial purposes but no others:

(1) 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.

(2) 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.

### Special Permit Uses:

The following additional uses are allowed provided that they are 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. Golf course, riding stable, boys or girls camp.
3. Gravel, loam, sand or stone removal.
4. Veterinary hospital.
5. Nursing home, intermediate care center, day care center.
6. Neighborhood grocery store.
7. Structures for public utility corporation, not including repair stations or outside storage of supplies.
8. Public service or other passenger stations.
9. Piggeries, fur farms and junk yards may be established on a lot by a Special Permit from the Board of Appeals, upon a finding that the field of operations, as determined by the Board can be located within setbacks of 500 feet from any other lot line or a public or private way; and only by the imposition of conditions and safeguards to protect the neighborhood and the Town.
10. Aviation field.
11. Cemetery.

## MULTIPLE-RESIDENTIAL MR-30 DISTRICT

### Allowed Uses:

In Multiple-Residential MR-30 District 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:

(1) 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.

(2) 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.

### Special Permit Uses:

The following additional uses are allowed provided that they are 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. Golf course, boat livery, or riding stable, boys/girls camp.
3. Gravel, loam, sand or stone removal.
4. Veterinary hospital.
5. Hospital
6. Neighborhood grocery store.
7. Structures for public utility corporation, not including repair stations or outside storage of supplies.
8. Cemetery.
9. Multiple family dwellings subject to the following:

a. New construction of multiple family dwellings or apartments shall not be allowed on less than five acres. (Amended 4/28/87)

b. 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.

c. Density shall be calculated as follows:

The number of multiple dwelling units allowed shall not exceed the number that would be allowed for a conventional single family residential development except that the Special Permit Granting Authority (SPGA) shall approve an increase in density based upon the acreage of the development tract and determined by a bonus point system. The maximum allowable percentage increase over the number of units allowed under single family zoning shall be as follows (consider the maximum allowed for single family as 100 percent):

<u>Acres</u>	<u>Maximum Bonus (%)</u>
0 less than 5	0
5 less than 15	200%
15 less than 25	250%
25 or more	300%

The percentage increase in density up to the allowable maximum shall be determined on the basis of a bonus point system. Bonus points can be earned by achieving performance standards which fulfill environmental, social, and fiscal objectives. A maximum of one-hundred (100) bonus points can be earned and the percent of the maximum allowable increase shall be determined by the number of bonus points achieved. The categories for which bonus points can be earned area listed below:

#### BONUS POINT CATEGORIES

##### Sewer

objective: to reduce wastewater disposal problems by encouraging development on the municipal sewer system.

bonus points = .3 x percent of dwelling units connected to the municipal sewer system (30 point maximum).

##### Affordable Housing\*

objective: to increase the supply of affordable housing units.

bonus points = .8 x percent of all dwelling units devoted to affordable housing (20 point maximum).

\* Affordable housing is defined as dwelling units for which there is assurance for at least ten (10) years through covenant, repurchase agreement, or other means enforceable by the Town that the units will be sold or leased at costs meeting the guidelines of State or Federal housing assistance programs such as the MHFA Home Mortgage Loan Program or the EOCD Chapter 707 Rental Assistance Program.

Traffic

objective: to reduce traffic impacts on the existing roadway system and promote traffic safety.

bonus points = no more than a ten (10) percent increase in average daily traffic at the place of greatest increase (4 point maximum);

for all entrances and exits, at least 400 feet visibility in each direction (3 points maximum);

no street entrance or exit serving twenty (20) or more dwelling units within one hundred fifty (150) feet of egress from a parking area for thirty (30) or more vehicles (3 points maximum).

Buffer

objective: to encourage vegetative buffers between land uses to reduce visual and noise nuisances, provide safety barriers, and reduce air pollution, dust and litter.

bonus points = .1 x percent of development tract boundary bordered by two-hundred (200) feet of buffer strip retained in its natural state (10 point maximum).

Wetlands

objective: to encourage the preservation and protection of existing wetlands.

bonus points = .2 x acres of wetlands - as defined in 310 CMR 10.02 (1) - retained in a natural state (10 point maximum).

Surface Water

objective: to protect existing surface water from pollution.

bonus points = .4 x acres of land within two-hundred (200) feet of a river, pond, stream, or ocean retained in a natural state (10 point maximum).

Development phasing \*

objective: to reduce the impact on municipal services by phasing development.

bonus points =

development phased over three (3) years: (4 point maximum)

development phased over four (4) years: (7 point maximum)

development phased over five (5) years: (10 point maximum)



\* To offset development cost a maximum of one-third of the total units to be developed may be constructed in the first year. In succeeding years no more than 33 percent of the units may be constructed in any one year for developments phased over three years; no more than 25 percent of the units may be constructed in any one year for developments phased over four (4) years; and, no more than 20 percent of the units may be constructed in any one year for developments phased over five (5) years.

Applicants seeking any of the above bonus points shall submit calculations and any other documentation necessary to demonstrate qualifications for the bonus to the SPGA. (Amended 4/28/87)

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

e. Plans showing the location of the multiple family dwellings, roads, parking areas, watermains, sewer mains, or leaching beds, if municipal sewer is not available, all conforming to Section IV and V of the Planning Board's Rules and Regulations Governing the Subdivision of Land, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

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

g. 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 not be 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 provided by the Board of Appeals. The strip may be part of the yard.

h. The proposed multiple family development shall be compatible with adjacent land use.

i. 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 or 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.

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

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

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

10. Apartments subject to the following:

a. 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 liveable floor area, exclusive of closets and bathrooms.

b. 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.

c. The proposed apartment development shall be subject to the same provisions of subparagraph 9a, 9c, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 9l, 9m above, for multiple dwellings.

d. 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.

11. Piggeries, fur farms and junk yards may be established on a lot by a Special Permit from the Board of Appeals, upon a finding that the field of operations, as determined by the Board of Appeals, can be located within setbacks of 500 feet from any other lot line or a public or private way and only by the imposition of conditions and safeguards to protect the neighborhood and the Town.

ONSET-VILLAGE COMMERCIAL DISTRICT

Objectives:

Maintain a compact pedestrian-scaled area.  
Heighten the distinctiveness of the area.  
Promote visual connection to the waterfront.  
Facilitate new business enterprises.

Allowed Uses:

In the Onset-Village Commercial District buildings, structures and premises may be used for the following purposes:

1. Any use permitted in a residential district.
2. Office or bank
3. Any wholesale or retail business except junk yards; 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 customers.
4. Motel, hotel, guest house, nursing home, intermediate care home, day care center, or other commercial accommodation.

Special Permit Uses:

1. Multiple family or apartment dwellings in existing structures by Special Permit from the Board of Appeals, subject to the following:
  - a. Multiple family and apartment dwellings shall contain a minimum of 650 square feet of liveable floor area per unit exclusive of closets and bathrooms.
  - b. The dwellings shall be connected to the municipal sewerage treatment system.
  - c. Windows in habitable rooms shall be set back at least seven feet from any side or rear lot line they face.
  - d. 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's Rules and Regulations Governing the Subdivision of Land, shall be submitted to the Planning Board for approval prior to the issuance of a building permit.
  - e. In addition to the specific requirements of this subsection, the proposed development shall meet all other applicable provisions of this by-law.

2. Places of amusement or assembly upon determination the use is compatible with existing uses on nearby parcels and with the district's objectives.

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 district's objectives are met despite non-compliance.

1. For commercial businesses at least 50 percent 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.

2. 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 of 30 inches or more in height, or a driveway not exceeding 16 feet in width.

3. Buildings shall have lighted entrances every 60 linear feet or less of wall facing a paved sidewalk.

4. 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. The following shall be screened (screening in this context shall mean an area at least four feet wide, densely planted with evergreen trees or shrubs three feet or more in height when planted, or a wall, fence, or earth berm 42 inches or more in height, or equivalent visual screening by natural vegetation or difference in elevation between potential viewers and the screened areas) from any adjacent premises from which they would otherwise be visible:

- a. Outdoor commercial recreation;
- b. Outdoor sales displays;
- c. Contractor's yard;
- d. Open storage;
- e. Loading and service areas;
- f. Drive-in theater;
- g. Outdoor parking for five or more cars.

6. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that their collective result does not create so much light over-spill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources. If all the following are met, it will be presumed that the above performance requirements are satisfied. 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.

- a. Internally illuminated signs on the premises collectively total not more than 2,000 watts.
- b. Externally illuminated signs employ only shielded lights fixed within three feet of the surface they illuminate.
- c. Exterior lighting fixtures are mounted not more than 15 feet high.
- d. Building floodlighting totals not more than 2,000 watts.

7. 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 their properties.

#### Design Suggestions:

The following design suggestions are further means of serving district objectives, but are not requirements:

1. 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.
2. Visible 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.
3. Basic siding colors should be white, gray, brown, russet, yellow, red brick, or weathered wood, with bright accent colors used on selected elements.
4. Storefront door and glazing trim, if metallic, should be painted or else anodized to a dark color.

5. Size and detailing of architectural elements should reflect domestic, rather than monumental, scale.

6. Building detailing should provide small-scale elements of interest at pedestrian viewing distance.

7. The appearance of wood-frame construction is most appropriate in villages, such as Onset and Point Independence.

8. Deep overhanging elements are characteristic of some villages, such as Onset and Point Independence.

9. Reflection of Carpenter Gothic Characteristics without stylistic imitation is especially appropriate where that style still persists, as in Onset and Point Independence.

10. Any plantings should use species characteristic of the region rather than imported exotics.

## ONSET-VILLAGE RESIDENTIAL DISTRICT

### Objectives:

The Onset-Village Residential District's objectives are to facilitate the development of both environmentally sound moderate density housing and compatible business enterprises.

### Allowed Uses:

In the Onset-Village Residential District buildings, structures, and premises may be used for:

1. Any use permitted by right in a residential district.
2. Office or bank, provided that the lot area is at least five times the total floor area of the building.
3. Motel, hotel or other commercial accommodations.
4. Nursing home, intermediate care home, day care center.
5. 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, there is no parking for more than two vehicles within a required front yard.
6. 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 the location. (This paragraph became applicable on October 18, 1977, when it was approved by Town Meeting vote).

### Special Permit Uses:

The following additional uses are allowed provided that they are 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:

Multiple family or apartment dwellings in existing structures subject to the same requirements, except for density and dimensional requirements, as in the Onset-Village Commercial District.

### Design Requirements:

The Onset-Village Residential District requires compliance with the design guidelines of the Onset-Village Commercial District.

## WAREHAM-VILLAGE DISTRICT

### Objectives:

Protect the area's historic buildings  
Foster re-use of existing buildings  
Promote a visual connection to the waterfront  
Provide a stable economic base for area business  
Promote residential development in the area

### Allowed Uses:

In the Wareham-Village District buildings, structures, and premises may be used for the following purposes which are in two basic groups. Uses in both groups have rules and regulations that apply to a particular use. These rules and regulations are in the note sub-section which follows this list of uses:

Group I Uses - These do not require a Special Permit:

- a. Any use permitted as of right in a residential district.
- b. Wholesale or retail business....see note 1(b)
- c. Services....see note 1 (c)
- d. Office or bank.
- e. Motel or other lodging units....see note 1(e)
- f. Hospital, hospital connected facilities, nursing home, intermediate care home, day care center
- g. Any use permitted in the Marine District including the manufacture of marine vessels.

Group 2 Uses - These uses require a Special Permit from the Board of Appeals:

- a. Multiple family and apartment.....see note 2(a)
- b. Places of Amusement or Assembly.....see note 2(b)
- c. Combinations of any Group 2 use with a Group 1 use.

### Notes:

Note 1(b): Specifically excluded are: piggeries, fur farms, mink raising, junkyards or shops, second-hand furniture and rummage shops (as distance from antique shops), fish processing plants.

Note 1(c): Any service 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.

Note 1(e): A motel or other lodging unit must provide that each guest unit shall be within two hundred (200) feet of an off-street parking space provided by the motel or in a town parking area.



Note 2(a): Multiple family and apartment dwellings subject to the following:

1. Multiple family or apartment dwelling shall contain a minimum of 650 square feet of liveable floor area per unit exclusive of closets and bathrooms.

2. Plans showing locations of the multiple family dwellings, roads, parking area, water mains, sewer mains all conforming to Sections IV and V of the Planning Board's Rules and Regulations Governing the Subdivision of Land shall be submitted to the Planning Board for approval prior to the issuance of a building permit.

3. The dwellings shall be connected to the municipal sewer system.

4. Public amenities must be provided such as, but not limited to: plantings, landscaped areas, public vista and pedestrian access to the waterfront, benches, screening of waste disposal receptacles, sidewalk improvements, handicap parking and access, lighting of alleys and entry ways.

Note 2(b): Restaurants are specifically exempt (allowed by right) in the Wareham-Village District. Other places of amusement and assembly are allowed upon the determination of the Board of Appeals that the use is compatible with existing uses on nearby parcels and with the district's objectives.

#### Design Requirements

Any extension, alteration or reconstruction of existing buildings should use the original design insofar as practical. New construction should reinforce the architectural style of existing buildings in terms of building design, siding, material and texture, color and bulk, and should result in a harmonious blend of the new and old. Use of brick, clapboard, shingle, masonry or non-reflective materials is encouraged. Sheet metal, reflective materials or similar siding lacking texture is strongly discouraged.

STRIP COMMERCIAL DISTRICT

Allowed Uses:

In the Strip Commercial District buildings, structures and premises may be used for the following purposes which are in two basic groups. Uses in both groups may have rules and regulations that apply to a particular use. These rules and regulations are in the note sub-section which follows this list of uses:

Group 1 Uses - These uses do not require a Special Permit from either the Board of Appeals or the Board of Selectmen:

- (a) Office or bank.
  - (b) Place of amusement or assembly.
  - (c) Wholesale or retail business.....See note 1 (c)
  - (d) Outdoor advertising.....See note 1 (d)
  - (e) Motel.....See note 1 (e)
  - (f) Mobile home park.....See note 1 (f)
  - (g) Any use permitted in a residential district....See note 1 (g)
- (Amended April 27, 1981)

Group 2 Uses - These uses require a Special Permit from the Board of Appeals:

- (a) Multiple family dwellings.....See note 2 (a)
  - (b) Apartments or condominiums.....See note 2 (b)
  - (c) Seasonal Camp for girls or boys
  - (d) Campgrounds
  - (e) Temporary habitation.....See note 2 (e)
  - (f) Aviation Field
  - (g) Piggeries, fur farms, or junkyards.....See note 2 (g)
  - (h) Industries or manufacturing.....See note 2 (h)
  - (i) Filling Stations for gasoline, diesel fuel and bottled gas (liquid propane).....See note 2 (i)
  - (j) Garage or auto repair shops.....See note 2 (i)
  - (k) Motor vehicle sales.....See note 2 (i)
  - (l) Motor vehicle wrecking yards.....See note 2 (i)
- (Amended: Article 23 - October 17, 1988, (k.) was amended and approved to read motor vehicle sales.) (Amended April 27, 1981)

Notes: Special rules or regulations applying to the above Strip Commercial District uses:

Note 1 (c): A retail or wholesale business that may be listed in Group 2 requires a Special Permit.

Note 1 (d): Outdoor advertising is regulated by the Outdoor Advertising Authority of the Commonwealth of Massachusetts.

Note 1 (e): Motel or Hotel - 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 additional 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.

Note 1 (f): Mobile Home Parks - as defined and otherwise governed by the provisions of Chapter 140 of the General Laws, as amended, shall be permitted in the Strip Commercial District 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 Governing the Subdivision of Land 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 Governing the Subdivision of Land 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.

Note 1 (g): Miscellaneous Uses - Those uses which require a Special Permit in a residential district shall not require a Special Permit in the Strip Commercial District unless they are listed in the Group 2 uses. (Amended April 27, 1981)

Note 2 (a): Multiple Family Dwellings subject to the same provisions as multiple family dwellings in Multiple-Residential MR-30 District. (Amended 4/28/87)

Note 2 (b): Apartment dwellings subject to the same provisions as apartment dwellings in Multiple-Residential MR-30 District. (Amended 4/28/87)

Note 2 (e): Temporary habitations are regulated by Section VII-H of this Zoning By-law. (Amended April 27, 1981)

Note 2 (g): Piggeries, fur farms and junkyards may be established on a lot by a Special Permit from the Board of Appeals, upon a finding that the field of operations, as determined by the Board, can be located with setbacks of 500 feet from any other lot line or a public or private way, and only by the imposition of conditions and safeguards to protect the neighborhood and the town. (Amended April 27, 1981)

Note 2 (h): Any industry or manufacturing is allowed 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. The earth removal industry is also regulated separately by Section 7 of Article I of Division IV of the Town By-laws. (Amended April 27, 1981)

Note 2 (i): All motor vehicles except those in safe operating conditions shall be stored in an enclosed building or concealed from the street and adjacent property. (Amended April 27, 1981)

## CONFERENCE RECREATIONAL DISTRICT

### Objectives:

Facilitate new business enterprises.  
Provide a well-planned inn-conference facility.  
Provide a year-round recreation and fitness facility.  
Protect against business/residence conflicts.  
Heighten area distinctiveness.  
Promote the economic development of the Town.

### Allowed Uses:

- (1) Lawful religious, educational, non-profit recreational purposes.
- (2) Any agricultural use, except piggeries and fur farms, and for uses customarily necessary thereto.
- (3) Golf course, and related accessory uses.
- (4) Racquet ball, exercises, health or fitness clubs, in-door and out-door tennis and swimming pools and related activities, with related food and alcoholic beverage services and accessory uses.
- (5) Motels, hotels and inn-conference centers with related food and alcoholic beverage services and accessory uses.

### Design Requirements:

(1) Screening: The following shall be screened from any adjacent premises from which they would otherwise be visible:

- A. Loading and service areas.
- B. Outdoor parking for five or more cars.
- C. Outdoor recreation.

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

(2) Lighting: Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that their collective result does not create light overspill onto adjacent premises and casts observable shadows, and that it does not create glare from unshielded light sources.

## MARINE DISTRICT

### Allowed Uses:

In the Marine District, buildings, structures, and the premises may be used for any use allowed within Residential R-30 District, except those which require authorization by the Board of Appeals, and for 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. (Article #39; April 26, 1982)

## INSTITUTIONAL DISTRICT

### Allowed Uses:

In the Institutional District buildings, structures and premises may be used for the following purposes: hospital-connected facilities, single and multiple residences, offices, government and municipal purposes, and religious and charitable purposes.

## INDUSTRIAL DISTRICT

### Allowed Uses:

In the Industrial District buildings, structures and premises may be used for the following uses provided that such use shall not be offensive, objectionable, or injurious to the neighborhood because of excessive noise, vibration, smoke, fumes, odors, dust, or other obnoxious features and further provided that such uses shall not create a danger to the community from threat of fire or explosion:

(1) Light manufacturing, processing, assembling, printing and publishing, research and development and other industrial pursuits.

(2) Trucking and transportation terminals.

(3) Agriculture, horticulture and floriculture, upon tracts of five acres or more.

(4) Any other permitted use except residential uses otherwise allowed in the Town.

## BUZZARDS BAY OVERLAY DISTRICT

### A. Intent

To preserve Buttermilk Bay as significant economic, environmental, and recreational source.

To protect Buttermilk Bay by limiting the amount of nitrogen entering groundwater and surface waters within the Buttermilk Bay drainage basin.

### B. Establishment and Delineation of the Buttermilk Bay Overlay District.

The Buttermilk Bay Overlay District shall be considered as overlaying other zoning districts. The Buttermilk Bay Overlay District shall be delineated or shall be a supplement to the Wareham Zoning Map on the next revision.

### C. Allowed Uses

Any use permitted in the existing underlying zoning district, as of the date of acceptance of the proposed By-Law.

### D. Special Permits and Variances

Prior to the granting of Special Permits and Variances by the Board of Appeals, applicants shall demonstrate that there will be no adverse nitrogen impacts to Buttermilk Bay. To substantiate a claim of no adverse nitrogen impacts, the Board of Appeals may conduct a technical review by a consultant of its choice at the applicants expense.

### SECTION III

#### RESIDENTIAL CLUSTER DEVELOPMENT

##### A. Purpose:

To encourage the preservation of valuable open space and promote the more efficient use of land in harmony with its natural features, and to protect and promote the health, safety and general welfare of the inhabitants of the town.

##### B. Residential Cluster Development:

Except in the Residential R-130 District and in accordance with M.G.L. Chapter 40A, Section 9, the Planning Board may grant a Special Permit approving a Residential Cluster Development in all Districts for a tract of land 10 acres or more providing the development can be connected to Municipal Sewerage.

(1) The lots for building purposes shall be grouped in a cluster or clusters, and within each cluster the lots shall be contiguous.

(2) The allowable dwelling type shall be the same as that allowed in the zoning district of the proposed development.

(3) The created principal streets, if any, shall be offered to the Town for acceptance as public ways upon completion.

##### C. Density:

The total number of proposed lots in the development shall not exceed the number of lots which could be developed in the underlying zoning district for single family residential development. (Amended 4/28/87)

##### D. Procedures:

(1) Filing of Application. Each application for a Special Permit to cluster shall be filed with the Planning Board, with a copy filed forthwith with the Town Clerk, and shall be accompanied by 11 copies of a preliminary plan of the entire tract under consideration, prepared by a registered civil engineer or registered landscape architect.



(2) Contents of Application. Said application and plan shall be prepared in accordance with requirements for a preliminary subdivision plan in the rules and regulations of the Planning Board governing subdivision of land, whether or not the development constitutes a subdivision, and shall include proposed location, bulk and height of all proposed buildings. In addition, the applicant shall provide the following information:

(a) The number of dwellings which could be constructed by means of a conventional development plan, considering the whole tract, exclusive of water bodies and land prohibited from development by legally enforceable restrictions, easements or covenants. Areas such as:

(1) Any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, or swamp bordering on the ocean, any estuary, creek, river, stream, pond or lake;

(2) Land under any of the water bodies listed above;

(3) Land subject to tidal action;

(4) Land subject to coastal storm flowage or slopes in excess of fifteen (15) percent are not to be counted in figuring the number of permissible units of conventional development. (Amended 4/28/87)

(b) An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100 year flood, trees over 5 inches DBH and such other natural features as the Planning Board may request.

(c) An environmental impact assessment report relating to the proposed plan and a copy of the environmental impact report if otherwise required. Such reports to be conducted by a party mutually agreed upon by the Planning Board and the prospective developer.

(d) A description of the neighborhood in which the tract lies, including utilities, schools, road conditions and other public facilities, and the impact of the proposed plan upon them.

(e) Evaluation of the open land proposed within the cluster, with respect to size, shape, location natural resource value, and accessibility by residents of the Town or of the cluster.

(f) Traffic report describing existing and future traffic patterns within and adjacent to the proposed development.

(g) List of abutters, certified by Board of Assessors.

(3) Review of Other Boards. Before acting upon the application, the Board shall submit it with the plan to the following boards, which may review it jointly or separately: Board of Health, Town Engineer, Conservation Commission, Water Department, Sewer Commissioners, Police Department, Fire Department, Municipal Maintenance Department and Building Inspector.

(4) Public Hearing. After the opportunity for review by other Boards has taken place, the Planning Board shall hold a public hearing, in conformity with the provisions of General Laws, Chapter 40A, Section 9 and of the Zoning By-law and regulations of the Planning Board. The hearing shall be held within 65 days after the filing of the application with the Planning Board and the Town Clerk. Notice shall be given by publication and posting and by first class mailings to "Parties In Interest" as defined in General Laws, Chapter 40A, Section 11. The decision of the Board, and any extension, modification or renewal thereof, shall be filed by the Planning Board with the Town Clerk within 90 days of following the closing of the public hearing. Failure of the Board to act within 90 days shall be deemed a grant of the permit applied for. Issuance of the permit shall require a vote of 4 members of the present 5 member Planning Board.

(5) Planning Board approval of a special permit or a minor site plan review shall neither oblige the Planning Board to approve any related preliminary or definitive plan for subdivision nor substitute for such approval. However, the Planning Board may allow an applicant to combine a submission for a special permit or a minor site plan review with a submission for a preliminary or definitive subdivision approval if such submission conforms to all requirements for both a special permit or a minor site plan review and subdivision approval. In such case, the Planning Board may conduct a combined public hearing for both a special permit or minor site plan review and subdivision approval. (Article 25 October 17, 1988)

#### E. FINDINGS OF THE BOARD:

The Planning Board may grant a Special Permit under this Section only if it finds that the applicant has demonstrated the following: That the Cluster Plan will be in harmony with the general purpose of this by-law and the requirements of General Laws, Chapter 40A and the long-range plan of the Town; that it will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provisions of services, or allowing for greater variety in prices or types of housing. In addition, the plan must meet the specific requirements of subsection F, G and H of this by-law.

F. MINIMUM DIMENSIONAL REQUIREMENTS:

(1) The area of the tract to be developed shall be not less than ten (10) acres for single family dwellings nor less than twenty-five (25) acres for two family dwellings or multiple family dwellings. (Amended 4/28/87)

(2) Each lot on which a single family dwelling is constructed shall contain not less than 10,000 square feet; each lot on which a two family dwelling is constructed shall contain not less than 20,000 square feet; and, each lot on which a multiple family dwelling is constructed shall contain not less than 40,000 square feet.

Lots shall have a minimum frontage on a public or private way as indicated in the chart below, except that a lot of less than 20,000 square feet on the turning circle of a dead-end street may have a frontage of seventy-five (75) feet, provided that the shortest distance between side lot lines shall be at least eighty (80) feet at every point more than forty (40) feet from the street line to the dwelling or main non-residential structure: (Amended 4/28/87)

<u>Lot Size (square feet)</u>	<u>Frontage (feet)</u>
10,000 - 39,000	100
40,000 or greater	125

(3) Off-street parking must be provided at a minimum of 2 (two) parking spaces per dwelling.

(4) Minimum front, side and rear yard requirements shall be the same as in the zoning district in which the development is proposed.

(5) No single lot may contain more than one (1) two-family dwelling or more than one (1) multiple family dwelling. (Amended 4/28/87)

G. REQUIRED OPEN LAND:

(1) At least 50% of the tract, exclusive of land set aside for roads and parking, shall be open land. At least 30% of the open land shall be suitable for passive or active recreational use.

Such open land, together with the areas in the building lots devoted to buildings, roads or parking, shall equal or exceed the area otherwise required under this Zoning By-law for the total number of units contemplated in the development, except that water bodies and land already subject to legally enforceable covenants or easements shall not be included in this computation.

The open land may be used for recreational purposes including golf courses, riding trails, tennis courts, gardens, swimming pools, natural buffers, utilities and other non-structural facilities necessary for the convenience and enjoyment of the residents.

H. OWNERSHIP AND MANAGEMENT OF COMMON OPEN SPACE:

(1) Ownership

Common Open Space shall be owned by a Neighborhood Association which may be a non-profit organization, corporation, trust or a conservation trust in accordance with the following requirements:

(a) The Association must assign each individual unit owner as a tenant-in-common owner of the Common Open Space. Each owner of the Residential Cluster Development shall automatically become a member of the Neighborhood Association upon purchase of a unit or units within the development. The deed to each unit shall include a proportionate share of the Common Open Space. The Neighborhood Association shall own and maintain the Common Open Space in perpetuity, and shall not dispose of any portion of the Common Open Space by sale or other means. The provisions establishing the Neighborhood Association shall be approved by Town Counsel.

(2) Management

(a) Each application for a Residential Cluster Development must include a description and plan of how the Common Open Space will be maintained in perpetuity.

(b) The applicant shall provide an agreement satisfactory to Town Counsel that if the Town of Wareham is required to perform any maintenance work, the owners of residences in the development would pay the cost thereof and that the cost shall be a lien upon their properties until said cost has been paid.

(c) The applicant shall provide, as part of the Common Open Space, an agreement satisfactory to Town Counsel empowering the Town of Wareham to perform maintenance of the Common Open Space in the event of failure to comply with the above.

(3) Non-Commercial Use

There shall be a covenant in the deeds to the dwellings approved by Town Counsel, that will not allow the commercial use of any dwelling in a Residential Cluster Development including but not limited to any form of multiple ownership of time or interval of a dwelling unit.

I. FURTHER REQUIREMENTS:

(1) No use other than residential or recreational shall be permitted.

(2) No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown upon the plan.

(3) No certificate of occupancy shall be issued by the Building Inspector until he has certified to the Planning Board that the premises have been built in accordance with the plan approved by the Board hereunder.

(4) The Board may impose other conditions, safeguards, limitations on time and use, pursuant to its regulations.

(5) The Board may grant a special permit hereunder for clustering even if the proposed development is not subject to the subdivision control law.

(6) Except insofar as the subdivision is given 8 years protection under General Laws, Chapter 40A, Section 6, the Special Permits under this section shall lapse within two years, excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not begun, except that the Planning Board may grant an extension for good cause and shall grant an extension if the delay was caused by the need to seek other permits.

(7) Subsequent to granting of the permit, the Planning Board may permit relocation of lot lines within the cluster. However, any change in the overall density, street layout, or open space layout will require further hearings.

SECTION IV

DENSITY AND DIMENSIONAL REGULATIONS

The following regulations apply to all zoning districts in the Town of Wareham:

A. Principal Residential Building on a Lot

In all districts, not more than one principal residential building with accessory structures having a residential use allowed in the respective district shall be erected, placed or converted on any lot, except where multiple family dwellings, apartments or condominiums are allowed by special permit, the special permit may provide for more than one principal building. (Amended June 6, 1983)

B. Variance

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

C. 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.

D. 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.

E. LOT AREA CALCULATIONS FOR ZONING COMPLIANCE

In all zoning districts, no principal building shall be erected on any lot created after the effective date of this By-Law which has less than eighty percent (80%) of the minimum required lot area as contiguous upland for the zoning district in which it is located.

F. Lot Area, Frontage, Setback and Height Requirements:

No principal building or accessory building thereof shall be erected on any lot with less than adequate area or street frontage; no principal building or accessory building thereof shall be erected with less than adequate setback distance from the street line or side and rear lot lines; and, no structure shall be erected that exceeds the maximum allowed height.

Listed below is a table of area, frontage, setback and height requirements for each zoning district in the Town of Wareham. Each table has four use categories: (1) single-family residential (single); (2) duplex or two attached units (duplex); (3) multiple family which is defined as three or four attached units and apartments which is defined as five or more attached units (multi/apts); and, (4) other which includes all other non-residential uses allowed in that district (other). Note that area requirements differ for development on municipal sewer and septic systems.

The initials "na" mean the use is not allowed in the district.

TABLE 1. RESIDENTIAL R-130 DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:		na	na	
Sewer	130,000			130,000
Septic	130,000			130,000
Frontage	200			200
Setbacks:				
Front	20			20
Side/Rear	10			10
Accessory	5			5
Height	35			35

TABLE 2: RESIDENTIAL R-60 DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:		na	na	
Sewer	60,000			60,000
Septic	60,000			60,000
Frontage	180			
Setbacks:				
Front	20			20
Side/Rear	10			10
Accessory	5			5
Height	35			35

TABLE 3: RESIDENTIAL R-43 DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:		na	na	
Sewer	43,000			43,000
Septic	43,000			43,000
Frontage	180			180
Setbacks:				
Front	20			20
Side/Rear	10			10
Accessory	5			5
Height	35			35

TABLE 4: RESIDENTIAL R-30 DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:				
Sewer	30,000	45,000	see 4-1	30,000
Septic	30,000	45,000		30,000
Frontage	150	200		150
Setbacks:				
Front	20	20		20
Side/Rear	10	10		10
Accessory	5	5		5
Height	35	35		35

4-1 Multiple family is allowed only as provided in Section III, Residential Cluster Development.



TABLE 5: MULTIPLE-RESIDENTIAL MR-30 DISTRICT

	Single	Duplex	Multi/Apts5-1	Other
Area:				
Sewer	30,000	45,000	30,000	30,000
Septic	30,000	45,000	30,000	30,000
Frontage	150	200	250	150
Setbacks:				
Front	20	20	30	20
Side/Rear	10	10	20	10
Accessory	5	5	5	5
Height	35	35	35	35

5-1 Density is calculated on the basis of performance points; see allowed use in MR-30 District.

TABLE 6: ONSET-VILLAGE COMMERCIAL

	Single	Duplex	Multi/Apts6-1	Other
Area:				
Sewer				
existing		6,000	1000-2000	note 6-2
new	5,000	6,000	na	
Septic	na	na	na	na
Frontage	50	50	50	50
Setbacks:				
Front	10	10	10	10
Side/Rear	10	10	10	10
Accessory	5	5	5	5
Height	35	35	35	35

6-1 Multiple-family and apartment dwelling are allowed only in existing structures. Multiple family and apartment dwellings require at least five-thousand square feet for the first unit and at least one-thousand and no more than two-thousand square feet for each additional unit thereafter.

6-2 Hotels, motels, guest houses, nursing homes and similar residential facilities require at least 5000 square feet for the first unit and at least 1000 square feet for each additional unit thereafter; other commercial structures require at least 5000 square feet for the first commercial unit and 1000 square feet for each additional commercial unit.

TABLE 7: ONSET-VILLAGE RESIDENTIAL

	Single	Duplex	Multi/Apts7-1	Other7-2
Area:				
Sewer	10,000	14,000	10,000/ 4,000	10,000/ 2,000
Septic	30,000	42,000	30,000/ 12,000	30,000/ 6,000
Frontage	50	50	50	50
Setbacks:				
Front	10	10	10	10
Side/Rear	10	10	10	10
Accessory	5	5	5	5
Height	35	35	35	35

7-1 Multiple family and apartment dwelling are allowed only in existing structures. At least ten-thousand square feet are required for the first unit and at least four-thousand square feet for each additional unit thereafter for dwelling unit connected to the municipal sewer system; at least thirty thousand square feet are required for the first unit and at least twelve-thousand for each additional unit thereafter for dwelling units on a septic system.

7-2 For commercial accommodations such as motels, hotels, guest houses or nursing homes at least ten-thousand square feet are required for the first unit and at least two-thousand square feet fore each additional unit thereafter for units connected to the municipal sewerage system; at least thirty-thousand square feet are required for the first unit and at least six-thousand square feet for each additional unit thereafter for units on a septic system. All other commercial structures require at least ten-thousand square feet on sewer and thirty-thousand on septic systems.

TABLE 8: WAREHAM-VILLAGE

	Single	Duplex	Multi/Apts8-1	Other8-2
Area:				
Sewer				
existing		2,000	2000/1000	5000
new	10,000	12,000	2000/7500	5000
Septic	na	na	na	na
Frontage	75	75	75	75
Setbacks:				
Front	10	10	10	10
Side/Rear	10	10	10	10
Accessory	5	5	5	5
Height	40	40	40	40

8-1 Multiple family, and apartment dwelling in existing structures are required to have at least two-thousand square feet for the first unit and at least one-thousand square feet for each additional unit; newly constructed multiple family or apartment dwelling are required to have at least ten-thousand square feet for the first unit; 2000 square feet for each additional unit up to forty units; and, seven-thousand five-hundred square feet for each unit beyond forty.

8-2 Commercial uses in either existing or newly constructed buildings are required to have at least 5000 square feet (Amended October 17, 1988 - Article 28)

TABLE 9: STRIP COMMERCIAL

	Single	Duplex	Multi/Apts9-1	Other9-2
Area:				
Sewer	30,000	45,000	30,000	30,000
Septic	30,000	45,000	30,000	30,000
Frontage	150	200	250	150
Setbacks:				
Front	20	20	30	20
Side/Rear	10	10	20	10
Accessory	5	5	5	5
Height	40	40	40	40

9-1 Density is calculated on the basis of performance points; see allowed uses in Residential RM-30 District.

9-2 See Allowed Uses in the Strip Commercial District for specific area requirements for hotel, motels, and mobile home parks.

TABLE 10: CONFERENCE RECREATIONAL

	Single	Duplex	Multi/Apts	Other10-1
Area:	na	na	na	
Sewer				30,000
Septic				/1,000
Frontage				30,000
Setbacks:				/6,000
Front				50
Side/Rear				10
Accessory				10
Height				5
				60

10-1 Minimum lot area if serviced by public sewer is thirty-thousand square feet and not less than one-thousand square feet per additional guest unit in commercial accommodations or similar facilities; if not serviced by municipal sewer minimum lot area is thirty-thousand square feet and not less than six-thousand square feet per additional guest unit in commercial accommodations or similar facilities.

TABLE 11: MARINE DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:			na	
Sewer	30,000	45,000		30,000
Septic	30,000	45,000		30,000
Frontage	150	200		150
Setbacks:				
Front	20	20		20
Side/Rear	10	10		20
Accessory	5	5		5
Height	35	35		35

TABLE 12: INSTITUTIONAL DISTRICT

	Single	Duplex	Multi/Apts12-1	Other
Area:				
Sewer	30,000	45,000	30,000	30,000
Septic	30,000	45,000	30,000	30,000
Frontage	150	150	150	150
Setbacks:				
Front	20	20	20	20
Side/Rear	10	10	10	10
Accessory	5	5	5	5
Height	40	40	40	40

12-1 Density is calculated on the basis of performance points; see allowed uses in Residential RM-30 District.

TABLE 13: INDUSTRIAL DISTRICT

	Single	Duplex	Multi/Apts	Other
Area:	na	na	na	
Sewer				30,000
Septic				30,000
Frontage				150
Setbacks:				
Front				20
Side/Rear				10
Accessory				5
Height				40
Lot Coverage (%):				
Buildings	40	40	40	40
Total	70	70	70	70

SECTION V

SIGN REGULATIONS

(1) In zoning districts R-130, R-60, R-43, R-30, and MR-30, Conference Recreational, Marine, and Institutional the following sign regulations shall apply:

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 shall be allowed.

(2) In zoning districts Onset-Village Commercial, Onset-Village Residential and Wareham-Village, the following sign regulations shall apply:

A. 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.

B. 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 A 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.

C. 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.

(3) In the Strip Commercial District the following sign regulations shall apply:

Two (2) signs other than those which are attached to and part of the architectural design of a building (or structure including gas pumps) shall be permitted on any premises. These signs may have 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 of both the petitioner and the abutter to the Board of Appeals.

SECTION VI

PARKING REGULATIONS

FLEXIBILITY IN ADMINISTRATION

The inflexible application of parking standards to determine the number of parking spaces required for a particular use may result in a development either with inadequate parking spaces or parking spaces in excess of needs. Therefore, deviations from normally accepted standards may be permitted if such deviations will reduce traffic congestion or parking violations on streets or adjacent unauthorized land and present no increased traffic hazard to pedestrian or vehicular movement.

NUMBER OF PARKING SPACES REQUIRED:

The number of parking spaces required for development is shown in the chart below:

<u>USE CATEGORY</u>	<u>REQUIRED SPACES</u>
1. Cluster	2 per dwelling unit
2. Duplex	2 per dwelling unit
3. Multifamily/ Apartments	
a. 1 bedroom	1.5 per dwelling unit
b. 2 or more bedrooms	2 per dwelling unit
c. elderly	1 per dwelling unit
d. guest	.2 per dwelling unit
4. Motel or Hotel	1 per unit
5. Guest House	1 per unit plus 2 for residence
6. Nursing Home, Hospital	1 per bed for hospital 1 per 4 beds, nursing home
7. Bank	1 space per 200 ft <sup>2</sup> GFA
8. Professional Office	1 per employee * minimum 5 spaces
9. Personal Services	1 per 150 ft <sup>2</sup> GFA
10. Retail Trade < 1,000 ft <sup>2</sup> GFA	1 per 200 ft <sup>2</sup> GFA
11. Retail Trade > 1,000 ft <sup>2</sup> GFA	1 per 300 ft <sup>2</sup> GFA
12. Convenience Store	1 space per 150 ft <sup>2</sup> GFA



- 13. Restaurant, Theater, or Commercial Indoor Recreation 1 per 5 seats
- 14. Restaurant w/o Seating 6 spaces
- 15. Bowling Alley 3 per lane
- 16. Motor Vehicle Repair 2 per lift or bay
- 17. Manufacturing uses and Industrial Non-manufacturing Uses 1 per 1.5 on largest shift plus 1 per vehicle stored on premises
- 18a. Marina and/or Yacht Club: .5 per slip
- 18b. W/indoor facilities add: 1 per 6 persons capacity
- 19. Commercial Outdoor Recreation 1 per 4 persons capacity

GFA = Gross Leasable Floor Area

The number of parking spaces required for any use not listed in a category above shall be determined by the Building Inspector.

Relief from the above parking space requirements may be granted subject to a Special Permit by the Zoning Board of Appeals, in accordance with Chapter 40A, as amended, of Mass. General Laws.

EGRESS

All driveway entrances and exits shall be located a sufficient distance from intersecting streets and from other driveways to provide safe and efficient ingress and egress to both pedestrian and vehicular traffic. No driveway serving more than twenty-five (25) parking spaces shall have its centerline closer than one-hundred (100) feet to the centerline of an intersecting street nor shall any exit driveway serving more than twenty-five (25) parking spaces have an unobstructed view of oncoming traffic of less than two-hundred (200) feet.

AISLE AND DRIVEWAY REQUIREMENTS

Parking area aisles shall conform to the following standards:

Parking Angle Degrees	Aisle Width	
	One Way	Two Way
0	13'	19'
30	11'	20'
45	13'	21'
60	18'	23'
90	24'	24'

Turnaround spaces shall be provided in all dead-end parking aisles.

Driveways shall not be less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic except that for two-way traffic a driveway may be not less than twelve (12) feet in width when (A) it is not longer than fifty (50) feet; (B) it serves not more than six (6) spaces; and, (C) sufficient space is provided so that vehicles need not back out on a public street. Driveways shall not exceed twenty-four feet in width unless the applicant can demonstrate the necessity for greater width.

Access driveways shall be paved with an all weather surface at least fifteen (15) feet inside of connecting streets unless the street itself is not paved.

#### SURFACING

All off-street parking areas shall be provided with an all weather surface and proper drainage. The SPGA may allow an alternative surface for parking areas provided such areas are graded and surfaced with a suitably stable material such as crushed stone or gravel to prevent excessive dust, erosion or unsightly conditions and provided the perimeter of such parking areas shall be defined by bricks, stones, railroad ties or other similar material.

#### PARKING SPACE DIMENSIONS

Each parking space, except spaces for parallel parking, shall contain a rectangular area at least nine and one-half (9.5) feet wide by nineteen (19) feet long exclusive of aisle width; however, in parking areas containing twenty spaces or more, up to twenty (20) percent of the spaces may be not less than eight (8) feet wide and fifteen (15) feet in length provided they shall be conspicuously marked for compact cars only.

Spaces for parallel parking shall be not less than nine (9) feet wide by twenty-two (22) feet long.

Handicapped parking spaces shall be provided in accordance with the Rules and Regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts Department of Public Safety and shall be clearly identified by a sign stating such stalls are reserved for persons physically handicapped.

#### JOINT USE OF REQUIRED PARKING SPACES

One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required spaces assigned to one use may not be credited to any other use.

Cooperative use of parking spaces may be permitted by different uses if it can be demonstrated that the hours of peak parking demand for the uses served occur at different times. In such cases the same parking space may be credited to more than one use.

If joint use of the same parking space by two or more principal uses involves off-site parking then the provisions of subsection OFF-SITE PARKING, herein, are also applicable.

OFF-SITE PARKING

If the number of off-street parking spaces cannot be provided on the same lot as the principal use associated with these parking spaces, then space may be provided on adjacent or nearby lots in accordance with the provisions of this section.

All off-site parking spaces (except for employees) must be located within three hundred and fifty (350) feet from the building entrance housing the use associated with such parking need and shall not be separated by a street having a right-of-way width of sixty (60) feet or more. Off-site parking spaces for employee use may be located within any reasonable distance.

The developer wishing to take advantage of the provisions of this section must present written evidence that he has permission to use the off-site parking spaces from the owner of such spaces and the developer must sign written acknowledgement that the validity of his permit depends upon his continuing ability to provide the required number of parking spaces.

BUFFERYARDS

All off-street parking areas require a bufferyard where they border a street right-of-way or residential property. Bufferyard requirements can be met using one of several alternatives which vary by width of the bufferyard and the number of plant units required per one hundred (100) linear feet of parking area perimeter.

The chart below identifies a bufferyard category for different size parking areas depending upon whether they border on a arterial, collector, or local road. The chart also identifies bufferyard categories for parking areas which border property in residential uses. A description of the requirements for each bufferyard category follows the chart below:

#SPACES	<u>BUFFERYARD CATEGORY</u>			
	<u>ARTERIAL</u>	<u>COLLECTOR</u>	<u>LOCAL</u>	<u>RESIDENTIAL</u>
0-4	1	1	2	2
5-9	1	2	3	3
10-24	2	3	4	4
25+	3	4	4	4

## BUFFERYARD REQUIREMENTS

1. The following illustrations graphically indicate the specifications of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per one-hundred (100) linear feet of bufferyard. The requirements of a bufferyard may be satisfied by any of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials required for a given bufferyard is determined given a change in width of that yard. The type and quantity of plant materials required by each bufferyard, and each bufferyard option, are specified.
2. Each illustration depicts the total bufferyard located between two uses per one-hundred (100) linear feet.
3. Bufferyards categories three (3) and four (4) require a fence or berm for certain options. Fence and berm illustrations graphically indicate the specifications for each type of fence and follow the illustrations for bufferyards:

## SPECIAL PROVISIONS FOR CHANGE IN USE OF EXISTING BUILDINGS

Notwithstanding any other provisions of this section, whenever (1) there exists a lot with one or more structures constructed prior to the adoption of this section and (2) a change in use that does not involve any enlargement of the structure is proposed for such lot, and (3) the parking requirements that would be applicable as a result of the proposed change cannot be satisfied because there is insufficient room on the lot, then the developer may be allowed a reduction in the number of parking spaces required commensurate with (1) the parking space practically available on the lot where the development is located and (2) the reasonable availability of off-site parking.

If off-site parking does become reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain off-site parking when it does become available.

## VISUAL RELIEF

Parking areas containing twenty-five (25) or more parking spaces shall be designed with landscaped islands to contain at least one tree per eight (8) cars. Such trees shall be at least two (2) inches caliper or larger at the time of planting and shall be surrounded by at least fifty (50) square feet of unpaved soil per tree.

Each tree of the type described above shall be presumed to shade a circular area having a radius of fifteen (15) feet with the

trunk at the center and using this standard, twenty (20) percent of the paved area must be shaded.

No paving may be placed within a four (4) foot radius (measured from the center of the trunk) of any tree retained or planted to comply with the provisions of this section.

In order to preserve landscaped islands from damage by parking cars and snow removal, all landscaped open spaces shall be provided with bumper overhang areas for parking spaces adjacent to landscaped islands to prevent vehicle overhang above the landscaped (non-paved) area.

#### STANDING AND LOADING

Adequate off-street loading facilities and space must be provided to service all needs created through new construction, additions to existing structures, or changes in use to existing structures.

The loading and unloading shall be located and designed so that vehicles intended to use them can (1) maneuver safely and conveniently to and from a public right-of-way and (2) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

Any facility which from time to time has queues of waiting vehicles shall have sufficient on-site space for such queues to avoid having cars stand on any public way or across any public sidewalk. (4/27/87)





## SECTION VII

### ADMINISTRATION AND EXCEPTIONS

#### A. Non Conforming Uses:

Any unlawful building or structure or use of a building, structure or 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.

In Strip Commercial District, lawful buildings and structures which conform to the provisions of this by-law as to use, but are located on dimensionally non-conforming lots, may be demolished and rebuilt if authorized by the Board of Appeals after a public hearing. The Special Permit authorizing this action shall be based upon a finding that the new building or structure shall not be substantially more detrimental or objectionable, and shall provide that the external dimensions may not be increased and all work shall conform, at least, to currently required setbacks.

#### A-1 Non Conforming Lots

This by-law was deleted under Article 22 at the Town Meeting held on April 25, 1984.

#### 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 40A 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 one of the "Special Permit Granting Authorities" as provided in Section 9 of Chapter 40A of the General Laws. (Amended 4/22/85)

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.

B-1. The Planning Board shall be the "Special Permit Granting Authority" as provided in Massachusetts General Laws Chapter 40A, Section 9, for Residential Cluster Development and Major Site Plan Review.

### 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 if 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 of 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 thereof.

G. Ungaraged Motor Vehicles:

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. Temporary Habitation:

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. Animal Kennel:

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 minimum 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 uses and elsewhere in this by-law. Upon the filing of a proper application with the appropriate Special Permit Granting Authority, a copy of which is filed with the Town Clerk, the applicant may be granted a Special Permit subject to proper conditions and safeguards which may or may not be provided for in this Protective Zoning By-law and in Chapter 40A, MGL, as amended, and subject to the following provisions (Amended Article 21; April 25, 1984):

(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 appropriate Special Permit Granting Authority.

(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 a 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 uses does not substantially derogate from the public good and further provided that the Board imposes such restrictions and safeguards as it deems necessary to protect health, safety and welfare of the public.

(d) A Special Permit granted under the provisions of this subsection 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 Plan 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, AE, AH, AD, A99, V or VE on the Town of Wareham Flood Insurance Rate Maps, FIRM dated July 15, 1992, 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. (Amended 4/28/87)

(b) Development Regulations

The following requirements apply in the Flood Plain District:

1. All development, including structural and non-structural activities, shall be in conformity with 780 CMR 3107.0 Flood-Resistant Construction, of the State Building Code.

2. Within Zone A, where the base flood elevation is not provided on the FIRM, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source. The Conservation Commission shall also review this data for compliance with Chapter 131, Section 40 of the M.G.L. and its associated regulations (310 CMR 10.00). If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw and the Massachusetts State Building Code. If the data is reasonable, it shall be used to require compliance with B.1 above. (Amended 4/28/87)

3. Within Zones A, AE, AH, AD, A99, V and VE, no new construction 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. (Amended 4/28/87)

4. Structural requirements in floodplains and coastal high hazard areas including substantial improvements shall conform with Section 780 CMR 3107.0 Flood-Resistant Construction, of the Massachusetts State Building Code. (Amended 4/27/87)

5. The floodplain district is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by Special Permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with

the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107.0 Flood-Resistant Construction);
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);
- Coastal Wetlands Restriction, DEP (currently 302 CMR 4.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
- Any variance from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(c) Base Flood Elevation and Floodway Data

1. Floodway Data. In Zone A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. Base Flood Elevation. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

(d) Other Use Regulations

1. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

2. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Wareham FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. Prohibit man-made alteration of sand dunes within Zones V1-30, VE, and V which would increase potential flood damage.

4. Review all subdivision proposals to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

(e) Notification of Watercourse Alteration

-Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

-Adjacent Communities

-NFIP State Coordinator  
Massachusetts Office of Water Resources  
100 Cambridge Street  
Boston, MA. 02202

-NFIP Program Specialist  
FEMA Region I, Rm. 462  
J.W. McCormack Post Office & Courthouse  
Boston, MA. 02109

O. Seasonal Conversions

A proposed structural alteration of a seasonally occupied dwelling or guest unit designed or intended to extend the length of the occupancy of the dwelling shall be deemed a change of use. A dwelling shall be considered to be seasonal if it is occupied for 180 days or less. The Building Inspector shall not issue a building or occupancy permit without prior approval of a Special Permit by the Board of Appeals.

For the purposes of this subsection the term "structural" shall be defined to include, but not be limited to, the following proposed alterations, winterization, installation of kitchens, installation of a heating system.

Special permits for such conversion from seasonal to year-round use shall be granted only upon the Board of Health's recommendation that on-site sewage disposal facilities are deemed to be adequate.

A proposal failing to meet these requirements shall be deemed more detrimental to the neighborhood than the existing use and, therefore, not eligible for an extension of use under SECTION VII, subsection A. NON CONFORMING USES (Amended 4/25/88).

P. Publication of by-law:

As soon as possible after new, effective amendment of these

By-laws, the Planning Board shall cause to be printed at least four complete by-law texts which shall be certified by the Town Clerk who shall retain a copy as a permanent record and shall send one copy each to the Board of Appeals, the Zoning Enforcement Officer, and the Massachusetts Department of Community Affairs. (Amended 10/17/83)

Q. Site Preparation Work:

It is the intent of this bylaw to promote the health, safety and welfare of the community's inhabitants by preventing the unnecessary destruction of the natural physical environment. Therefore, in all zoning districts, no site preparation work shall begin, including the removal of trees, except for purposes of soil testing to obtain required permits, for any project which requires one or more of the following approvals:

1. a subdivision plan
2. a special permit
3. a minor site plan review.

until such approvals have been obtained.

R. Communications Facilities

**A. Purpose:**

It is the purpose of this Section to minimize the adverse impacts of communication structures, towers, and facilities by establishing requirements, guidelines, standards for review, and procedures to permit their installation in the Town of Wareham.

**B. Applicability**

No wireless communications facility or structure shall be erected or installed except in compliance with the provisions of this Section.

1. Structures exceeding forty (40) feet in height, or satellite dish(es) more than five (5) feet diameter shall require a Special Permit from the Zoning Board of Appeals, in accordance with Section VII. J. of this Bylaw.
2. Facilities under 40 feet in height and satellite dishes less than 5 feet in diameter shall be permitted as of right, provided however that any such facility or satellite dish must meet the location and design criteria of this bylaw.
3. Facilities may be attached to existing structures by right only if they are attached to non-residential structures in non-residential zoning districts, and shall meet the location and design criteria of this bylaw.
4. Any proposed extension in the height or construction of a new or replacement facility, or additional appurtenances, shall be



subject to a new application.

**C. General Requirements:**

1. Only free-standing structures are allowed. Structures requiring guy wires for support are prohibited.
2. All towers shall be set back a minimum of three hundred (300) feet from any residence, business or other occupied structure, except that ground support facilities and other towers may be placed closer than the setback distance. All towers shall be set back a distance at least equal to the height of the tower from all property lines. Antennas or structures to be used exclusively by a federally licensed amateur radio operator may be closer than the above-described 300 feet, but must be located so as to minimize harm to any nearby structures.
3. Abandoned structures shall be removed within one (1) year of cessation of use. The applicant shall post a performance bond of an amount which the Board of Appeals deems to be sufficient for removal of the structure. If not removed within one year, the Town shall have the right to remove the structure at the owner's expense.
4. Applicant for a tower shall post an insurance certificate naming the Town as additional insured - minimum of \$1,000,000 - for general liability insurance for any lawsuit either for damage, interference, or health-related claims. Proof shall be furnished to the Town Clerk, including a stipulation that if the policy is cancelled due to non-payment, the Town will be notified. Any cancellation shall constitute a violation of the Special Permit.

**D. Design Guidelines**

1. Towers and attached accessory antennas shall not exceed one-hundred ninety (190) feet in height as measured from ground level at the base of the pole.
2. The height of a satellite dish located on a building or in the yards of residential structures shall not exceed the tree line on the lot. Satellite dishes located on non-residential buildings shall not exceed ten (10) feet in height above the highest point of the structure.
3. All wireless communication facilities shall be sited to limit visibility from abutting properties. Tower facilities may not be placed in open areas, but shall be surrounded by a mature stand of trees.
4. Towers and satellite dishes shall be painted or otherwise colored so they will blend in with the landscape or structure on which they are located. A different color scheme shall be used to blend the structure with the background below and

above the tree or building line.

5. Towers and antennas shall be designed and constructed to withstand a Category 5 hurricane.
6. An applicant proposing a wireless communication facility in a residential zoning district shall prove to the satisfaction of the Board that the visual, economic, and aesthetic impacts of the facility on residential abutters will be minimal; and shall also prove that the proposed location is required due to technical, topographic, or other unique circumstances.
7. Lighting of communication facilities and other appurtenances shall be limited to that which is required by Federal law.

**E. Application Requirements:**

In addition to materials required by the Zoning Board of Appeals for a Special Permit application, the applicant for a communication facility shall provide:

1. A statement of need for the proposed facility with as much specific information as is required to demonstrate the need, including a description of the proposed system and how the proposed facility would eliminate or alleviate an existing deficiency or limitation.
2. A color photograph or rendition of the proposed tower with its antenna and/or panels. For satellite dishes or residential antennas, a color photograph or rendition showing the dish or antenna at the proposed location is required. A rendition shall also be prepared showing a view of the tower, antenna, or dish from the nearest street.
3. The following information prepared by one or more professional engineers:
  - a description of the tower and the technical, economic, and other reasons for the proposed location, height, and design.
  - confirmation that the tower complies with Federal and State standards.
  - a description of the capacity of the tower including the number and type of panels, antenna, and/or transmitter receivers that it can accommodate and the basis for these calculations.

**F. Special Permit Review:**

1. Applications shall be approved or approved with conditions, if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
2. Applications shall be denied if the petitioner cannot fulfill the requirements of these regulations to the satisfaction of

the Board.

3. When considering an application for a communication facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed use(s).
4. When considering an application for an antenna or dish to be placed on a structure, the Board shall consider the visual impact of the unit from the abutting neighborhoods and streets.

#### S. Adult Use Regulations:

##### **Authority**

The bylaw is enacted pursuant to M.G.L. Chapter 40A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, as defined and designated herein, because of their deleterious effect in generating crime and blight.

##### **Purpose**

It is the purpose of the Adult Entertainment District which is located in the Industrial District only, to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety, and general welfare of the Town of Wareham and its inhabitants.

The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this bylaw to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitutions of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter/materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this bylaw to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

**Adult Entertainment Uses by Special Permit in the Adult Entertainment District**

Adult entertainment uses shall be prohibited in all zoning districts except in the Industrial District and may be permitted in the Industrial District only upon the granting of a Special Permit by the Zoning Board of Appeals. Such a permit shall not be granted unless each of the following standards has been met.

- (1) The application for a Special Permit for an adult use shall provide the name and address of the legal owner of the establishment, the legal owner of the property, and the manager of the proposed establishment.
- (2) No adult Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, §63 or M.G.L. Chapter 272, §28.
- (3) Adult uses shall not be located within:
  - (a) 400 feet from the nearest residence or residential zoning district; or
  - (b) 500 feet from the nearest church, school, park, playground, play field, youth center, or other location where groups of minors regularly congregate; or
  - (c) 500 feet from the nearest adult entertainment use as defined herein; or
  - (d) 500 feet from the nearest establishment licensed under M.G.L. Chapter 138, §12.

The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment use is to be located to the nearest property line of any of the other designated uses set forth above.

- (4) All building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
- (5) No adult use shall be allowed to display for advertisement or other purpose any signs, placards, or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Chapter 272, §31.
- (6) No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.

- (7) No adult use shall be allowed within a building containing other retail, consumer, or residential uses.
- (8) No adult use shall be allowed within a shopping center, shopping plaza, or mall.
- (9) The proposed adult entertainment use shall comply with the off-street parking requirements set forth in Section VI of the Zoning Bylaws.
- (10) No adult entertainment use shall have any flashing lights visible from outside the establishment.
- (11) No adult entertainment use shall have a free-standing accessory sign.
- (12) No adult entertainment use shall be established prior to submission and approval of a site plan by the Zoning Board of Appeals, in accordance with Section VIII of this Bylaw. The site plan shall show the distances between the proposed adult entertainment use and the boundary of the nearest residential zoning district and the property line of each of the uses set forth in (3) above.

**Conditions**

The Special Permit Granting Authority may impose reasonable conditions, safeguards, and limitations on time or use of any Special Permit granted.

**Expiration**

A Special Permit to conduct an adult entertainment use shall expire after a period of three (3) calendar years from its date of issuance and shall be automatically renewable for successive three-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority and that no objection to said renewal is made and sustained by the Special Permit Granting Authority based upon the public safety factors applied at the time that the original Special Permit was granted.

**Retroactive Application**

Each adult use in existence upon the effective date of this section shall apply for an adult use Special Permit within 90 days of the adoption of this bylaw.

**Severability**

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

SECTION VIII

SITE PLAN REVIEW

A. PURPOSE

The purpose of Site Plan Review is to insure that the impacts of certain developments allowed as a matter of right or by Special Permit are in accord with the purposes of the Wareham Zoning By-law; that such developments preserve and protect the existing natural environment; that such developments adequately provide in their design and layout for the transportation, water supply, drainage, sewerage, open space, recreation and amenity needs of the occupants; that such developments minimize to the maximum extent feasible any adverse off-site impacts to public facilities and services; that such developments are in harmony with the existing neighborhood character and protect against adverse impacts to adjoining landowners.

B. OBJECTIVES

In evaluating and rendering a decision on either a Minor Site Plan Review or a Major Site Plan Review-Special Permit the Planning Board shall consider if the development could achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize, within reason, those objectives:

(1) Natural Features

Finish site contours shall approximate the character of the natural site and the proposed development shall attempt to achieve the following objectives:

- reduce the volume of cut and fill;
- reduce the number of removed trees;
- reduce the pollutants reaching the water table;
- reduce the area of wetland vegetation displaced;
- reduce soil erosion;
- reduce the area of impervious surface;
- reduce the amount of stormwater runoff from the site.

(2) Relation of Buildings to Environment - The proposed development shall visually relate to its environment; consideration shall be given to appropriate scale, massing, and height to insure that the architecture shall be in harmony with the surrounding natural environment and neighborhood.

(3) Vehicular Circulation - Vehicular circulation shall be designed to provide safe, efficient, and economical transportation. Wherever feasible access and circulation shall adhere to the following standards:

- Vehicular and pedestrian circulation layout shall be designed to reduce traffic hazards to pedestrians and vehicles both on and off the site;
- Street layouts shall be designed to minimize through traffic movement, excessive vehicular travel, and excessive speed;
- Local streets shall not be overdesigned or overbuilt and their appearance shall be appropriate to their use;
- Ingress and egress points, commensurate with safety, shall be kept to a minimum along major abutting streets;
- A minimum amount of space shall be devoted to streets and streets shall be constructed to adhere to topography;
- Sufficient off-street parking shall be provided to minimize curb parking;
- All streets shall be designed to the specifications of the Planning Board's Rules and Regulations Governing the Subdivision of Land.

(4) Pedestrian Circulation - Sidewalks shall ordinarily be provided along streets used for pedestrians access to schools, parks and shopping.

Sidewalks shall be separated from the roadway edge by a border area of at least five (5) feet to increase pedestrian safety.

Sidewalk ramps for handicapped accessibility shall be provided where appropriate.

(5) Parking - Parking areas shall be designed so that vehicles may exit without backing onto a public street.

Parking areas shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without backing unreasonable distances or making hazardous turning movements.

Parking areas shall be designed so that vehicles cannot extend beyond the perimeter of such areas onto adjacent properties or public rights-of-way.

Circulation within parking areas shall be designed so that vehicles can proceed safely without danger to pedestrian or other vehicles.

Parking areas shall be designed to reduce their visual impact from adjacent land uses and from public ways by the use of vegetative buffers, berms, structural screening, such as a fence, or a combination of the above.

Parking areas shall be designed to provide visual relief from large areas of unbroken pavement by including landscaped islands within the parking area.

C. INFORMATION REQUIRED

Development subject to either Minor Site Plan Review or Major Site Plan Review-Special Permit require the applicant to submit accurate and detailed information to the Planning Board. Plans shall be prepared by a Registered Architect, Landscape Architect, or Professional Engineer. The following information shall be included:

(1) General Information

developer name, address, telephone number

property owner name, address, telephone number  
legal relationship between developer and property owner

date of application

statement briefly describing project

locus map (1"=2000')

location of property to surrounding area (This plan shall show at a scale of not less than 1"=100' the general characteristics of all lands with 200' of the proposed site and shall include structures, parking areas, driveways, pedestrian ways and natural characteristics)

zoning district (square feet within each district if more than one district)

total area of project in square feet to include wetland and 100 year floodplain (both in square feet)



all contiguous land owned by the applicant or by the owner of the property. At the discretion of the Planning Board photographs of the site at a size of 8" by 10"

(2) Existing Features

Plans shall be accurately drawn to a scale of 1"=20', 1"=40', or 1"=100' where practical and appropriate to the size of the proposal and shall show all existing natural, manmade, and legal features of the site.

Such plans are to include but not be limited to the following:

(2a) Existing Natural Features

1. tree line of wooded area
2. individual trees 18" dbh or over
3. bogs or agricultural areas
4. all wetlands protected under 310 CMR 10.02 (1) (a-d)
5. floodplain (100 years) with base flood elevation data
6. contour lines (2' intervals)
7. general soil types

(2b) Existing Man-Made Features

1. vehicle accommodation areas
2. streets, roads, private ways, walkways
3. curbs, gutters, curb cuts, drainage grates
4. storm drainage facilities including manholes
5. utility lines including water, sewer, electric, telephone, gas, cable TV
6. fire hydrants and location of dumpsters
7. buildings, structures, and signs (free standing) including dimensions of each
8. exterior lighting fixtures

(2c) Existing Legal Features

1. zoning of property (district lines)
2. property lines (with dimensions identified)
3. street right-of-way lines
4. utility or other easement lines
5. monuments

(3) The Development Plan

The development plan shall show proposed changes in the (a) existing natural features; (b) existing man-made features and (c) existing legal features.

The development plan shall include:

1. square feet in every new lot
2. lot dimensions
3. location and dimensions of all buildings and freestanding signs as well as the distances from all buildings to lot lines, streets, or street right-of-way
4. building elevations (side, front, and back for a typical unit) showing building height and any proposed wall signs
5. location, dimension, and designated use for all recreation areas
6. location and dimension of all open space; indicate whether such open space is to be dedicated to public use or to remain private
7. streets (including street names) which conform to the design standards of the Planning Board's Rules and Regulations Governing the Subdivision of Land
8. curbs and gutters, curb cuts, drainage grates
9. drainage facilities including manholes, pipes, drainage ditches, and retention ponds
10. sidewalks and walkways showing widths and materials
11. outdoor illumination with lighting fixture size and type identified

12. utilities; water, sewer, electric, telephone, gas, cable TV
13. fire hydrant location
14. dumpster (trash collection facilities)
15. new contour lines resulting from earth movement (at 2 foot intervals) and indications of types of ground cover and other precautions to stabilize slopes
16. vehicle parking, loading, and circulation areas showing dimensions and layout of parking spaces, travel lanes, aisles, and driveways.
17. proposed new plantings by size and location or construction of other devices to comply with screening and shading requirements.

(4) Impact Statement

In order to evaluate the impact of the proposed development to town services and the welfare of the community, there shall be submitted for all Major Site Plan Reviews-Special Permit an impact statement in two parts.

Part one (1) shall describe the impact of the proposed development on the following:

1. all applicable town services including but not limited to schools, sewer service, water systems, parks, fire, and police protection;
2. the roads in the immediate vicinity of the proposed development (include an estimate of both peak and average daily traffic counts);
3. the ecology of the area within the site and any significant off-site impacts.

Part two (2) shall describe what actions have been taken to mitigate the impacts described in part one.

D. APPLICABILITY

Certain developments, changes in use, reconstruction, alteration, or extension of existing uses shall be subject to either Minor Site Plan Review or Major Site Plan Review-Special Permit if they exceed a specific limit in any one of the following categories: number of dwelling units, acreage, square feet of floor space, or number of parking spaces.

The chart below specifies limits in four categories and indicates - yes (y) or no (n) - if a development will be subject to Minor Site Plan Review or Major Site Plan Review-Special Permit.

DEVELOPMENTS SUBJECT TO SITE PLAN REVIEW

I. <u>Dwelling Units (number*)</u>	Minor	Major
Multiple-family/apartments		
1. 3-24	Y	N
2. 25 or more	N	Y
-----		
II. <u>Acreage **</u>		
All developments on 50 or more acres		
	N	Y
-----		
III. <u>Floor Space ***</u>		
Non-residential development		
1. 2,500 - 9,999 square feet	Y	N
2. 10,000 - or more square feet	N	Y
-----		
IV. <u>Parking Spaces</u>		
Non-residential		
1. 1-9	N	N
2. 10-24	Y	N
3. 25 or more	N	Y

\* Site plan review is triggered by the number of dwelling units, not by the number of structures. For example, eight multi-family dwelling units may be contained in two structures of four dwelling units each.

\*\* All developments of any type on fifty acres or more are subject to Major Site Plan Review-Special Permit.

\*\*\* Floor space requirements apply only to non-residential uses but this category includes uses such as nursing homes.

E. RELATION TO SUBDIVISION PLAN

Planning Board approval of a special permit or a minor site plan review shall neither oblige the Planning Board to approve any related preliminary or definitive plan for subdivision nor substitute for such approval. However, the Planning Board may allow an applicant to combine a submission for a special permit or a minor site plan review with a submission for preliminary or definitive subdivision approval if such submission conforms to all requirements for both a special permit or a minor site plan review and subdivision approval. In such case, the Planning Board may conduct a combined public hearing for both a special permit or minor site plan review and subdivision approval. (Article 25, October 17, 1988)

F. PROCEDURES

MINOR SITE PLAN REVIEW

Pre-Application Review

To promote better understanding and to avoid misunderstanding, applicanats shall submit preliminary or completed plans and materials to the Town Planner or the Planning Board's designated agent for informal review to ensure that the requirements of sub-section C. INFORMATION REQUIRED have been met.

Application

Subsequent to a completed pre-application review, application for Minor Site Plan review shall be submitted to the Planning Board at a regularly scheduled meeting of the Planning Board and shall be accompanied by four (4) prints of the plans of the proposal and such additional information as required for Minor Site Plan Review. Failure of the applicant to submit the information required under sub-section C. INFORMATION REQUIRED, herein, may be grounds for a recommendation of disapproval to the Zoning Board of Appeals or disapproval of the application for Minor Site Plan Review.

Review and Decision

The Planning Board shall evaluate all site plans for uses subject to Minor Site Plan Review. Such plans fall into two categories: (1) plans whose use requires authorization of a Special Permit Granting Authority (SPGA) as provided by the Town of Wareham Zoning By-laws; and, (2) plans whose use is allowed "by right."

Plans whose use requires authorization by a SPGA shall be submitted for Minor Site Plan Review to the Planning Board at the first regularly scheduled meeting following submission of the plans to the SPGA. The Planning Board shall evaluate such plans and shall within thirty-five days of receipt of such plans forward a written report to the SPGA recommending: approval of such plans without conditions; approval of such plans with conditions; or disapproval of such plans. No SPGA shall make a decision upon the application of a special permit requiring Minor Site Plan Review without receipt of a report from the Planning Board or until thirty-five days have elapsed from the date of receipt of such plans by the Planning Board without receipt of such report. The SPGA shall give due consideration the report of the Planning Board and where the decision of the SPGA differs from such report or recommendation, the reasons for such difference shall be stated in writing.

Plans whose use is allowed "by right" or, in other words, does not require authorization by a SPGA shall be submitted for Minor Site Review at a regularly scheduled meeting of the Planning Board and the Planning Board shall, within forty-five (45) days of receipt of such plan, hold a public hearing in accordance with the provisions of M.G.L. Chapter 40A, Section 11, and within thirty (30) days of the public hearing render a decision to approve such plans without conditions or approve such plans subject to conditions they may impose, provided those conditions are reasonably related to achievement of the objectives as set forth herein.

The applicant for Minor Site Plan Review is responsible for preparing notices to abutters by Certified Mail Return Receipt Requested. Return receipts are to be addressed to the Planning Board with subject matter of the hearing sufficient for identification on the return receipts. Return receipts must match a list of abutters certified by the Board of Assessors prior to the public hearing. (Amended - Article 26, October 17, 1988)

#### MAJOR SITE PLAN REVIEW-SPECIAL PERMIT

##### Pre-Application Review

To promote better understanding and to avoid misunderstanding, applicants shall submit preliminary or completed plans and materials to the Town Planner or the Planning Board's designated agent for informal review to ensure that the requirements of subsection C. INFORMATION REQUIRED have been met.

## Application

Subsequent to a completed Pre-Application Review, application for a Major Site Plan-Special Permit shall be filed with the Planning Board at a regularly scheduled meeting and a copy given forthwith to the Town Clerk. Rules and Regulations governing the issuance of Special Permits may be found in the Town of Wareham Zoning By-Laws Section II, Section III, and Section VII, sub-section J. The applicant for a Major Site Plan Review-Special Permit shall accompany the application to the Planning Board with ten (10) prints of the plans and ten (10) copies of any additional plan information required of the applicant. Failure of the applicant to submit the information required under sub-section C. INFORMATION REQUIRED, herein, may be grounds for a recommendation of disapproval to the Zoning Board of Appeals or disapproval of the application for Major Site Plan Review-Special Permit.

## Review and Decision

The Planning Board shall evaluate all site plans for uses subject to Major Site Plan Review-Special Permit. All site plans subject to Major Site Plan Review-Special Permit shall be filed with the appropriate Special Permit Granting Authority (SPGA) and a copy given forthwith to the Town Clerk by the applicant. Site plans whose use requires authorization by a SPGA other than the Planning Board shall be submitted for Major Site Plan Review-Special Permit to the Planning Board at the first regularly scheduled meeting following submission of the plans to the appropriate SPGA. The Planning Board shall evaluate such plans and within thirty-five days of receipt of such plans shall forward a written report to the SPGA recommending: approval of such plans without conditions; approval of such plans with conditions; or, disapproval of such plans. No SPGA shall make a decision upon the application of a special permit requiring Major Site Plan Review-Special Permit without receipt of a report from the Planning Board or until thirty-five days have elapsed from the date of receipt of such plans by the Planning Board without receipt of such report. The SPGA shall give due consideration to the report of the Planning Board and where the decision of the SPGA differs from such report or recommendation, the reasons for such difference shall be stated in writing.

Plans requiring Major Site Plan Review-Special Permit whose use does not require authorization of a SPGA other than the Planning Board require a special permit from the Planning Board. Such plans should be filed with the Planning Board at a regularly scheduled meeting and a copy of the application given forthwith to the Town Clerk by the applicant. The Planning Board will evaluate such site plans and in accordance with M.G.L. Chapter 40A, Section 9 and 11 will render a decision: to approve such plans without conditions; approve such plans with conditions they may impose, provided such conditions are reasonably related to achievement of the objective as set forth herein; or disapprove such plans, stating in writing their specific reasons for such disapproval. The Planning Board shall not deny an applicant for Major Site Plan Review-Special Permit unless it finds that the development as proposed by the applicant is not in accord with the purposes of Site Plan Review generally, and that the applicant has not made reasonable attempts to adhere to conditions and standards set forth herein. (4/27/87)



## SECTION IX

### 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 word "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 the characteristic equipment or furnishings; or the replacement of non conforming use or building by a conforming use of building.

ACCESSORY APARTMENT - : An accessory apartment is a second dwelling unit located within or attached to a structure originally designed, constructed and occupied as a detached single-family dwelling unit in a manner that maintains the appearance of the structure as a detached single-family home.

ADULT CABARET: Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in M.G.L. Chapter 272, §31.

ADULT MOTION PICTURE THEATER - An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, §31.

ADULT STORE: An establishment which has more than 10 percent of its gross floor area or a substantial/significant portion of its stock in trade, books, magazines, photographs, videos, computer software, computer discs, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, §31.

ADULT USE: An adult store, adult motion picture theater, adult cabaret, or similar establishment.

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 to other

structure.

ANIMAL KENNEL: Harboring and/or care of more than three dogs three months.

ANTENNA TOWER: A self-supporting structure tapering from base to top and without anchor guy wires that support a platform and or structure for the purposes of wireless communications. An auxillary building housing electronics and communications equipment is permitted as part of this use.

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

AUXILIARY COMMUNICATIONS BUILDING: An unmanned, self-contained structure housing electric and communication equipment, which shall not be more than 600 square feet in area, nor more than 12 feet in height.

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, animal or property. For the purpose of this definition, "roof" shall include any 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, porches, enclosed porches, enclosed stairs, decks, bay windows and balconies.

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

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

BUILDING DETACHED: A building having open spaces 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.

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 accommodated 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.

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.

COMMERCIAL ACCOMMODATION: A building or complex of buildings, or suites of room with sleeping and sanitary facilities but no kitchen facilities; and which may have kitchen facilities only in connection with a common dining room and related function rooms. Rooms may have either a common or individual entrance. Included in this definition are inn, motel, hotel, motor inn, and tourist court. Excluded from this definition are apartment house, boarding house, lodging house or rooming house. (Article 4/25/84)

CONDOMINIUM: An arrangement of dwelling units that may or may not

be located in one building but which are located within one parcel of land comprised of a common estate and individual unit estates. 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. (Article #17, 4/25/84)

CONVERSION: The changing or alteration of a seasonal dwelling unit so to permit its use on a year-round basis. (April 27, 1981)

DAY CARE CENTER: A child care arrangement that provides day care on a regular basis for more than four hours per day for more than five children of preschool age.

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 vehicles; drive-in 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, 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.

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

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, 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 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 facility where the sick or injured are given medical and surgical care.

HOTEL-MOTEL: See COMMERCIAL ACCOMMODATION.

INTERMEDIATE CARE HOME: A facility providing accommodations and needed medical care and supervision at a lower level than a nursing home. Intermediate Care Home shall have the same meaning as Convalescent Home.

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: Any 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 COVERAGE: The maximum percent of lot area allowed to be covered by buildings, parking areas and driveways (regardless of surface) and all impervious surface.

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

LOT FRONTAGE: That portion of a lot fronting upon a street or way,

public or private, measured continuously along the street sideline between side lot lines, or in the case of corner lots, the distance between one side lot line and the midpoint of the corner arc length. (Amended 4/28/87)

LOT LINE, FRONT: The property line dividing a lot for 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.

MANUFACTURED HOME: A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (Amended 4/28/87)

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. Indoor marina facilities shall include restaurants, social clubs, and other membership organizations, whether including or not including the serving of alcoholic beverages.

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.

MULTIPLE FAMILY DWELLING: A dwelling containing at least three but no more than four separate dwelling units. (Article #86; April 28, 1986)

NURSING HOME: A facility maintained for the purpose of providing skilled long-term nursing care and medical supervision at a lower level than a hospital.

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 sue, 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.

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

SEASONAL DWELLING UNIT: A dwelling unit that cannot be occupied on a year-round basis without alteration(s) being made requiring a permit from the Building Department. (April 27, 1981)

SIGN: "Any structure or device either temporary or permanent, used as, or which is in the nature of an advertisement, announcement, or direction, or is designed to attract the eye by any means. The following shall not be considered signs within the context of this by-law:

- (a) flags and insignia of any government except in connection with commercial promotion;
- (b) legal notices or informational signs erected or required by government bodies;
- (c) temporary signs erected for a charitable or religious



cause;

(d) temporary signs inside display windows, covering of more than 20% of window area;

(e) standard gasoline pumps bearing the name, type, and price of gasoline either upon the pump surface or an attached area not exceeding 1.5 square feet." (October 15, 1984)

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, DIRECTIONAL: A sign guiding or directing traffic, not exceeding (3) square feet.

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 closed, 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. One side only of a flat, back to back sign shall be counted.

SIGN, TEMPORARY: A sign erected or placed for a period not to exceed thirty (30) days for the purpose of notifying availability of a new service, product, or facility. Such sign shall not exceed 12 square feet.

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 to be erected thereon.

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

UPLAND: All land not defined herein as wetland.

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 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.

WETLAND: Any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, meadow, or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake or from land under said waters or land subject to tidal action. The meaning of words used in this definition of a wetland shall be as defined in M.G.L. Chapter 131, Section 40 and in 310 C.M.R. 10.00, Wetland Protection.

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.

YEAR-ROUND DWELLING: Any dwelling which is suitable for human occupancy on a permanent, year-round basis and meets the requirements of the Massachusetts State Building Code and State Health Code for a dwelling.

APPENDIX

The material in this Appendix is for reference use only and is NOT part of the Town of Wareham Zoning By-law.

This material was compiled August 17, 1981, by the Clerk of the Wareham Planning Board. The references cited should be consulted for more complete explanation of the specific listed item.

<u>ITEM</u>	<u>Description and Reference</u>
#1	Wareham Planning Board was first established under the provisions of Chapter 41 of the General Laws, by Article 34 of the March 5, 1951, Annual Town Meeting.
#2	First Meeting of the Wareham Planning Board was held on March 23, 1951, with a full Board of five members present.
#3	"Rules and Regulations" of the Wareham Planning Board were first adopted on May 11, 1951.
#4	A protective Zoning By-law was first adopted by vote of a Special Town Meeting held on November 19, 1951, in accordance with Chapter 40, Sections 25 through 30 B of the General Laws. Four (4) Zoning Districts were first established, as follows:

<u>Designation</u>	<u>Minimum Dimensions</u>
Residential A.....	65 feet frontage and 6,500 square ft. area
Residential B.....	- SAME -
Residential C.....	100 feet frontage and 15,000 sq. ft. area.
Commercial D.....	65 feet frontage and 6,500 sq. ft. area.

A Town of Wareham Zoning Map, dated November 19, 1951, drawn by Walter E. Rowley, Town Engineer, was also first established by this Special Town Meeting. The article number was 9 for both the Zoning By-law and Map.

- #5 Town of Wareham Board of Appeals was established also by Article 9 of the November 19, 1951, Special Town Meeting. This called for five (5) Members and three (3) Associate Members.
- #6 Industrial E District was established by Article 28 of the March 6, 1967, Annual Town Meeting.
- #7 Institutional F District was established by Article 29 of the March 6, 1967, Town Meeting.
- #8 Marine G District established by Article 46 of the March 3, 1969, Annual Town Meeting.
- #9 Agricultural-Watershed District was established by Article 15 of the May 30, 1973, Special Town Meeting. This set minimum requirements of 200 feet frontage and three (3) acres lot size.
- #10 Rural-Residential District was established by Article 30 of the April 20, 1976, Annual Town Meeting. This set minimum requirements of 180 feet frontage and 60,000 sq. ft. lot size.
- #11 Three new zoning districts for the Onset area were added by Article 31 of the October 18, 1977, Fall Annual Town Meeting, as follows:
- Village Commercial D-1
  - Resort Commercial D-2
  - Village Development D-3
- #12 A large number of new Definitions was added to the Zoning by-law (Section V) by Article 26 of the October 18, 1977, Annual Fall Town Meeting.

- #13 Extensive revisions in the Zoning By-laws were mad by Articles 33, 43, 44, 45, 46, 47, and 48 of the April 18, 1978, Town Meeting to make it conform to the requirements and provisions of Chapter 808 of the Acts of 1975 of the Mass. Legislature now generally known as "New Chapter 40A of the General Laws."
- #14 Wareham first adopted Flood Plain regulations by Article 19 of the June 13, 1972, Special Town Meeting. These required "Any construction or substantial improvements of structures within the special flood hazard area shall be constructed or improved in such a way as to have the lowest floor elevated to or above the elevation of the 100-year flood level."
- #15 New Flood Plain requirements were adopted by Articles 48 and 53 of the April 18, 1978, Annual Town Meeting.
- #16 Present minimum frontage and lot area requirements were established by Article 7 of the June 21, 1971, Special Town Meeting, as follows:

<u>District</u>	<u>Frontage</u>	<u>Lot Area</u>
Residential A	150 feet	30,000 sq. ft.
Single Residential B	150 feet	30,000 sq. ft.
Commercial D	150 feet	30,000 sq. ft.
Single Residential C1 & C3	180 feet	One Acre
Single Residential C2	200 feet	60,000 sq. ft.

- #17 Additional minimum frontage and lot area requirements were established by Article 25 of the March 6, 1972, Annual Town Meeting as follows:

<u>District</u>	<u>Frontage</u>	<u>Lot Area</u>
Industrial E	150 feet	30,000 sq. ft.
Institutional F	150 feet	30,000 sq. ft.
Marine G	150 feet	30,000 sq. ft.

- #18 Residential uses (dwellings of all types) were no longer allowed in the Industrial E area under the provisions of Article 40 of the April 15, 1975, Annual Town Meeting.

- #19 A special new zoning district for the Wareham Golf Course area was established by Article 16 of the April 27, 1981, Town Meeting entitled, "Conference Recreation Commercial D-4."
- #20 A new residential zoning district entitled, "Single Residential District C-4" with minimum requirements of 150 feet frontage and 30,000 sq. ft. lot area was established by Article 19 of the April 27, 1981, Annual Town Meeting.
- #21 Four scenic Roads as provided in Chapter 40, Section 15C of the General Laws were established by Article 48 of the April 28, 1980, Annual Town Meeting. These are: Stillman Drive, Great Neck Road, Stockton Shortcut, and Indian Neck Road from Minot Avenue to Indian Neck.
- #22 The following amendments to the Wareham Zoning By-law were made at Town Meeting on April 27, 1987: Article 25 established Section VI, Site Plan Review; Articles 29 and 30 established Section VII, Parking Regulations; Articles 31 and 32 amended the Zoning on Minot venue; Article 34 made required changes to the floodplain regulations; Article 36 required 45,000 square feet for a duplex in districts A and D; Articles 37, 38, 39 and 40 made changes to the density requirements for multiple-family and apartment dwellings in districts A and D; Articles 49, 50, 51, 52, 53 54 and 55 made changes to Section II-A, Residential Cluster Development.
- #23 On October 19, 1987, the following amendments were made: Section III, subsection G was added; definitions for "day care center, hospital, nursing home, intermediate care facility" were added; the definition for Section III, E. Height of Buildings was changed; and, flood district zone names were changed to conform to current federal use.

- #24 At the Town Meeting on April 25, 1988, the following amendments were made: Section II, Use Regulations, subsection Agricultural Watershed (R-130) was amended to provide for more protection to the aquifer; Section IV (VII), Exceptions and Administration, was amended by adding O. Seasonal Conversions.
- #25 At the Town Meeting on October 17, 1988, the following amendments were made: Article 23 changed the Special Permit Granting Authority for motor vehicle related uses from the Board of Selectmen to the Board of Appeals; Article 24 deleted filling stations and car sales as a use in the D-2 (now Onset Village Commercial) district; Article 25 allows the Planning Board to conduct a combined public hearing for projects requiring site plan review and subdivision approval; Article 26 required the applicant to notify the abutters for a public hearing; Article 28 comprehensively recodified the zoning bylaw and consolidated 18 districts into 13 districts.
- #26 At the Town Meeting of October 16, 1989, the following amendments were made: Article 28 added 200 feet to the frontage table for duplex apartments; Article 29; Article 31 added Wetlands definition; Article 32 added Upland definition; Article 36 New procedures for Minor and Major Site Plan Review Applications; Article 37 New Definition Lot Coverage; Article 39 Lot Coverage in Industrial District.
- #27 At the Town Meeting of April 23, 1990, the following amendments were made: Article 19 New Definition Accessory Apartment; Article 21 added new paragraph E. in Section IV, Density and Dimensional Regulations, Lot Area Calculation for Zoning Compliance; Article 22 deleted Subparagraph 9f, in Section II Use Regulations MR-30 District;
- #28 At the Town Meeting of April 23, 1991, the following amendment was made: Article 46, Buzzards Bay Overlay District was added.



- #29 At the Town Meeting of April 7, 1992, the following amendments were made: Article 9, revise the PURPOSE section Land Use Regulations Associated with Wellhead Protection for Onset and Wareham Fire Districts; Article 11 delete paragraph (2), Site Plan Review shall not apply to development within the Wareham Industrial Park.
- #30 At the Town Meeting of October 19, 1992, the following amendment was made: Article 22, to re-zone land from industrial to residential use in West Wareham.
- #31 At the Town Meeting of November 22, 1993, the following amendment was made: Article 1, Land Use Regulations Associated with Wellhead Protection for Onset and Wareham Fire Districts, PROHIBITED USES section adding two additional paragraphs 19. & 20.