

# ZONING BY-LAWS



## Town of **WAREHAM**

Massachusetts

*Revised May 2014*

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# Town of **WAREHAM**

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**ZONING OR PROTECTIVE BY-LAWS**

TOWN OF  
**WAREHAM**  
MASSACHUSETTS

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## **ARTICLE 1:**

### **General Provisions**

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#### **110 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 the “By-Law”.

#### **120 AUTHORITY**

This By-Law is adopted pursuant to Authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts (MGL) and amendments thereto, herein called the “Zoning Act.”

#### **130 PURPOSE**

This By-Law is enacted for the following purposes:

- a) To lessen congestion in the streets; to conserve health;
- b) To secure safety from fire, flood, panic and other dangers;
- c) To provide adequate light and air;
- d) To prevent overcrowding of land;
- e) To avoid undue concentration of population;
- f) To encourage housing for persons of all income levels;
- g) To facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements;
- h) To conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment;
- i) 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,
- j) To preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

#### **140 APPLICABILITY**

#### **141 OTHER LAWS**

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.

#### **142 CONFORMANCE**

Construction or operations under a building permit or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six (6) months after the issuance of the permit, and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

#### **150 SERVERABILITY**

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

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# ARTICLE 2: Zoning Districts

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## 210 CLASSIFICATION OF DISTRICTS

### 211 USE DISTRICTS

The Town of Wareham is divided into zoning districts, as specified hereinafter.

#### 211.1 Residential Districts

The Residential districts permit residential uses at densities that are appropriate based on environmental considerations, availability of public infrastructure, and accessibility.

- a) Residence 130 (R-130): The R-130 district is intended to preserve and protect groundwater and surface water resources and to promote agricultural uses. Residential development is permitted with standards and densities that are consistent with these objectives.
- b) Residence 60 (R-60): The R-60 district is intended to permit residential development at low densities in areas not served by public water or sewer systems.
- c) Residence 43 (R-43): The R-43 district is intended to promote residential development at moderate densities in areas served by public water and sewer.
- d) Residence 30 (R-30): The R-30 district is intended to promote residential development at moderate densities in areas served by public water and sewer.
- e) Multiple Residence 30 (MR-30): The MR-30 district is intended to promote residential development at moderate to high densities.

#### 211.2 Village Districts

The Village Districts are intended to promote compact, mixed-use development that preserves Wareham's historic character and promotes small-scale business uses.

- a) Wareham Village 1 (WV1): The WV1 district is intended to promote business and residential development in Wareham Village that provides a stable economic base, protects the Village's historic buildings, fosters re-use of existing buildings, and promotes visual connections to the waterfront.
- b) Wareham Village 2 (WV2): The WV2 district is intended to promote moderate density residential development and compatible business uses outside the center of Wareham Village
- c) Onset Village 1 (OV1): The OV1 district is intended to promote business development in the center of Onset Village that maintains a pedestrian scale, strengthens the distinctiveness of the village, and promotes visual connections to the waterfront
- d) Onset Village 2 (OV2): OV2 district is intended to promote moderate density residential development and compatible business uses outside the center of Onset Village.

#### 211.3 Commercial Districts

The Commercial Districts are intended to provide for retail, service, and office uses at a larger scale than is appropriate for village centers. Development in Commercial Districts is served primarily by vehicular access.

- a) Strip Commercial (CS): The CS district is intended to promote large-scale retail and service development in defined areas along Cranberry Highway.
- b) General Commercial (CG): The CG district is intended to provide for moderate-scale retail, service, office and related commercial uses.
- c) Neighborhood Commercial (CN): The CN district is intended to promote small-scale, low-intensity neighborhood commercial uses, which serve and are in proximity to residential neighborhoods.
- d) Planned Commercial (CP): The Planned Commercial District is intended to provide for large-scale retail/commercial development on large sites along major public roadways, which are also adjacent to or near to major highway intersections and served primarily by vehicular access. Such retail is meant to serve regional or sub-regional populations. Multi-family housing and apartments in mixed-use buildings may also be allowed. This district is to be master planned and comprised of lots of large depth and dimension, retail development within such district should encourage a pedestrian environment and include internal and streets with sidewalks, street trees and landscaped parking lots.



- 211.4 Industrial Districts  
Industrial (IND): The IND district is intended to promote industrial and office uses and to permit compatible commercial uses.
- 211.5 Special Use Districts
- a) Conference Recreational (CNF): The CNF district is intended to promote conference and recreational facility uses that will contribute to the town's economic development and preservation of open space.
  - b) Marine (MAR): The Marine district is intended to promote appropriate water-dependent and water-related uses in designated waterfront locations.
  - c) Institutional (INS): The (INS) district is intended to promote hospital uses, related health services (including offices of health practitioners), government offices and facilities, and educational uses.

## **212 OVERLAY DISTRICTS**

The following overlay districts are also hereby created, the boundaries of which are set in the relevant sections of the By-Law:

### **212.1 Flood Plain Overlay District**

The purpose of this district is to protect persons and property against hazards of flooding in special flood hazard areas, to maintain the flood storage capacity and flow pattern of the flood plain in the special flood hazard areas and to provide long-term control over the extent of the land subject to inundation by flooding in the special flood hazard areas.

### **212.2 Buttermilk Bay Overlay District**

The intent of this district is to preserve Buttermilk Bay as a significant economic, environmental, and recreational source and to protect Buttermilk Bay by limiting the amount of nitrogen entering groundwater and surface waters within the Buttermilk Bay drainage basin.

### **212.3 Groundwater Protection Overlay District**

The purpose of this district is to protect the public health from the contamination of existing and potential public and private groundwater resources for present and future use.

### **212.4 Business Development Overlay District (BDOD)**

The Business Development Overlay District is intended to create office/R&D development opportunities in a campus-like environment using the existing agricultural uses and natural landscapes as amenities for the businesses located in the office parks.

## **220 ZONING MAP**

The zoning maps described below are part of this By-Law and are on file with the Town Clerk. The location and boundaries of the zoning districts are shown on the zoning maps, which may be amended and are collectively referred to as "The Zoning Map."

## **221 ZONING DISTRICT MAP OF THE TOWN OF WAREHAM**

The Zoning District Map is based on the Zoning Map prepared by Southeastern Regional Planning and Economic Development District (SPREDD) and dated May 14, 2007. *\*see last page of book*

## **222 FLOOD PLAIN OVERLAY DISTRICT**

Floodplain District includes all special flood hazard areas within the Town of Wareham designated as Zone A, AE, AO, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Wareham are panel numbers 25023C0459J, 25023C0467J, 25023C0468J, 25023C0469J, 25023C0486J, 25023C0487J, 25023C0488J, 25023C0491J, 25023C0492J, 25023C0493J, 25023C0494J, 25023C0511J, 25023C0513J, 25023C0556J, 25023C0577J, 25023C0583J, 25023C0584J, and 25023C0601J dated July 17, 2012, and panel numbers 25023C0489K, 25023C0557K, 25023C0576K, 25023C0581K, and 25023C0582K, dated February 5, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and Building Official.

## **223 GROUNDWATER PROTECTION OVERLAY DISTRICT**

The Groundwater Protection Overlay District includes all areas within the delineated Massachusetts Department of Environmental Protection (DEP) Zone II Wellhead Protection Area.

## **224 BUTTERMILK BAY OVERLAY DISTRICT**

The Buttermilk Bay Overlay District includes all areas so designated by vote of Town Meeting.

## **225 BUSINESS DEVELOPMENT OVERLAY DISTRICT**

The Business Development Overlay District includes all areas so designated by vote of Town Meeting.

## **230 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 a lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on the street in the less restricted district; otherwise, there shall be no extension.

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# ARTICLE 3:

## Use Regulations

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### 310 USE REGULATIONS

#### 311 PERMITTED USES

A use listed as allowed use in Section 320 may be permitted by right in the district for which it is specified, subject to such requirements as may be set forth in said Section and other Sections of these By-Laws.

#### 312 SPECIAL PERMIT USES

A use listed as a Special Permit use in Section 320 may be permitted if the Special Permit Granting Authority designated herein so determines and issues a Special Permit therefore. Said permit shall be subject to such standards and conditions as may be specified in Section 320, and such further restrictions as said Special Permit Granting Authority may establish.

#### 313 PROHIBITED USES

A use listed as prohibited in Section 320 shall not be permitted in the district for which it is so specified. In addition, a use which is not specifically authorized in a district and which is inconsistent with the intent of that district shall be prohibited.

#### 315 APPLICABILITY OF OTHER REGULATIONS

In addition to use regulations, uses permitted by right or by Special Permit shall be subject to such supplemental regulations as are set forth in Article 5, to such density and dimensional regulations applicable to the district within which the use is proposed as set forth in Article 6 or elsewhere, and to such other provisions as are specified in other sections of this By-Law, in the Massachusetts General Laws, or in other governmental laws, codes and regulations.

### 320 TABLE OF PRINCIPAL USE REGULATIONS

#### 321 PROVISIONS FOR TABLES OF USES AND USE DEFINITIONS

No land, structure or building shall be used except for the purposes permitted in the district as set forth in this Section unless otherwise permitted in this By-Law. The words used to describe each principal and accessory use contained in Section 350 are intended to be definitions of such uses.

In the following table, the use regulations for each use and district are designated by the following abbreviations:

Y	The use is allowed by right in the district.
SPP	The use is allowed by Special Permit from the Planning Board.
SPZ	The use is allowed by Special Permit from the Board of Appeals.
N	The use is prohibited in the district.
*	The use is subject to special conditions in certain districts, see Section 390.
‡	Residential subdivisions on 30 acres or greater are subject to Site Plan Review – Special Permit (Article 15)

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
<b>Agricultural and Rural Uses</b>																
Agricultural uses upon tracts less than 5 acres	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	Y	Y	N	N
Agricultural uses upon tracts of 5 acres or more		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Cider mill, ice house, temporary sawmill less 5 acres	N	N	N	SPZ	SPZ	N	N	N	N	Y	N	N	N	N	N	N
Cider mill, ice house, temporary sawmill more than 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Horticulture on less than 5 acres	N	SPZ	N	SPZ	SPZ	N	N	N	N	N	Y	SPZ	SPZ	N	N	N
<b>Animal –Related Uses</b>																
Animal kennels less than 5 acres	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	N	N	SPZ	SPZ	SPZ	SPZ
Animal kennels more than 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Riding stable less than 5 acres	SPZ	SPZ	N	SPZ	N	N	N	N	N	Y	N	N	SPZ	N	N	N
Riding stables more than 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Piggeries, fur farms less than 5 acres	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Piggeries, fur farms more than 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Veterinary hospital less than 5 acres	N	N	N	SPZ	SPZ	N	N	N	N	Y	SPZ	SPZ	N	N	SPZ	N
Veterinary hospital more than 5 acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>Recreational Uses</b>																
Campgrounds	N	SPZ	N	N	N	SPZ	N	N	N	Y	N	N	N	N	N	N
Golf course or golf club	SPZ	SPZ	SPZ	SPZ	N	SPZ	N	N	N	Y	N	N	Y	N	N	N
Non-profit recreation	SPZ	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
Health or athletic facility	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y
Tennis Club	SPZ	SPZ	SPZ	SPZ	N	SPZ	SPZ	N	N	Y	Y	Y	Y	N	N	Y
Youth camp	SPZ	N	N	SPZ	N	SPZ	SPZ	N	N	Y	N	N	N	N	N	N
<b>Residential uses</b>																
1- family detached dwelling	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	N	N	N	Y ‡	Y ‡	N
2- family dwelling	N	N	N	Y*‡	Y ‡	Y ‡	Y ‡	Y ‡	Y ‡	SPZ	N	N	N	Y ‡	Y ‡	N
3 to 4 family dwelling in existing structure	N	N	N	Y*‡	SPP	SPZ	SPZ	SPZ	SPZ	SPZ	N	N	N	N	Y ‡	N
3 to 4 family dwelling in new structure	N	N	N	Y*‡	SPP	SPZ	N	N	N	SPZ	N	N	N	Y	Y ‡	N
5 + family dwelling in existing structures	N	N	N	Y*‡	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	N	SPZ	N	N	Y ‡	N
5 + family dwelling in new structure	N	N	N	Y*‡	SPP	SPZ	N	N	N	SPZ	N	SPZ	N	N	Y ‡	N
Apartments in mixed use building					N					N	Y	Y				N
Manufactured home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y	N
Manufactured home park	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Residential Cluster Development	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	N	N	SPP	SPP	SPP	N
Seasonal conversion	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	N	N	SPZ	SPZ	N	N

PRINCIPAL USE	R130	R60	R43	R30	MR30	WV1	WV2	OV1	OV2	CS	CG	CP	CNF	MAR	INS	IND
<b>Educational and Institutional Uses</b>																
Municipal use	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Hospital, hospital connected facility	N	N	N	SPZ	Y	N	N	N	N	Y	N	N	N	N	Y	N
Nursing home, intermediate care center	SPZ	SPZ	SPZ	SPZ	N	Y	SPZ	N	Y	Y	SPZ	SPZ	N	N	Y	SPZ
Day care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Educational use, non-exempt	SPZ	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Educational use, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Oceanographic and engineering research	N	N	N	N	N	Y	N	N	N	N	Y	Y	N	Y	N	SPZ
Membership club					N					N	N	N				N
Religious use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Other places of assembly	N	N	N	N	N	SPZ	N	SPZ	N	Y	SPZ	SPZ	N	N	N	N
Cemetery	SPZ	SPZ	SPZ	SPZ	SPZ	N	N	N	N	SPZ	N	N	N	N	N	N
Medical Marijuana Treatment Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N
<b>COMMERCIAL USE</b>																
Banks	N	N	N	N	N	Y	N	Y	Y	Y	Y	Y	N	N	N	Y
Offices	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y
Laboratory / research office											Y	Y				
Retail businesses	N	N	N	N	N	Y	N	Y	N	Y	Y	Y	N	N	N	N
Service establishments not involving manufacture on premise	N	N	N	N	N	Y	N	Y	N	N	Y	Y	N	N	N	Y
Motor vehicle service	Y *	N	N	N	N	Y	N	Y	N	SPZ	SPZ	N	N	N	N	Y
Motor vehicle sales	Y	N	N	N	N	Y	N	Y	N	SPZ	SPZ	SPZ	N	N	N	N
Filing stations for gasoline, diesel fuel, liquid propane	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Dry cleaning, drop off / pick up only	N	N	N	N	N	Y	N	Y	N	N	Y	Y	N	N	N	N
Laundromat	N	N	N	N	N	Y	N	Y	N	N	Y	Y	N	N	N	N
Conference Center		N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N
Motel, hotel	N	N	N	N	N	N	N	Y	Y	Y	SPZ	Y	Y	N	N	N
Bed & Breakfast	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N	N
Guest house	N	N	N	N	N	N	Y	Y	Y	N	Y	N	N	N	N	N
Neighborhood convenience store	SPZ	SPZ	N	SPZ	SPZ	Y	SPZ	Y	N	Y	Y	Y	N	N	N	N
Wholesale business	N	N	N	N	N	Y	N	Y		Y	SPZ	SPZ	N	N	N	Y
Restaurant	N	N	N	N	N	Y	N	Y	N	Y	Y	Y	N	N	N	N
Restaurant, Drive-in											N	N				
Non-food Drive in establishment					N					N	SPZ	SPZ				N
Commercial recreational facilities	N	N	N	N	N	N	N	N	N	Y	N	SPZ	N	N	N	N
Other places of amusement	N	N	N	N	N	SPZ	N	SPZ	N	Y	N	N	N	N	N	N

<b>PRINCIPLE USE</b>	<b>R130</b>	<b>R60</b>	<b>R43</b>	<b>R30</b>	<b>MR30</b>	<b>WV1</b>	<b>WV2</b>	<b>OV1</b>	<b>OV2</b>	<b>CS</b>	<b>CG</b>	<b>CP</b>	<b>CNF</b>	<b>MAR</b>	<b>INS</b>	<b>IND</b>
Adult use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SPZ
<b>Marine Uses</b>																
Marinas	N	N	N	N	N	Y	N	Y	N	N	N	N	N	Y	N	Y
Retail sale of marine equipment and supplies (not including fish products or food)	N	N	N	N	N	Y	N	Y	N	Y	Y	Y	N	Y	N	Y
<b>Utility</b>																
Public utility	SPZ	SPZ	SPZ	SPZ	SPZ	N	N	Y	N	N	Y	Y	N	N	N	Y
Public utility structures for public utility use not including repair stations or outside storage of supplies	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	Y	Y	Y	SPZ	SPZ	SPZ	Y
Wireless communication facility, not exceeding 40 feet in height	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wireless communication facility, exceeding 40 feet in height	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ
<b>Industrial Uses</b>																
Manufacturing of products produced on premises the major portion of which are sold on premises from producer to consumer	N	N	N	N	N	N	N	N	N	SPZ	SPZ	SPZ	N	N	N	Y
Light manufacturing	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
Manufacturing of marine vessels	N	N	N	N	N	Y	N	N	N	N	N	N	N	Y	N	Y
Industrial (except earth removal)	N	N	N	N	N	N	N	N	N	SPZ	N	N	N	N	N	SPZ
Gravel, loam, sand, stone, or earth removal	N*	SPZ	SPZ	SPZ	SPZ	N	N	N	N	SPZ	N	N	N	N	N	SPZ
Fish processing plants	N	N	N	N	N	N	N	N	N	SPZ	N	N	N	N	N	N
Storage facilities	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Junkyards and salvage yards	N	N	N	N	SPZ	N	N	N	N	SPZ	N	N	N	N	N	N
Hazardous waste facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
Solid waste facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
<b>Transportation Uses</b>																
Aviation field	N	SPZ	N	SPZ	N	N	N	N	N	N	N	N	N	N	N	N
Public service or other passenger station	N	N	N	SPZ	N	N	N	N	N	Y	SPZ	SPZ	N	N	N	Y
Trucking and transportation terminals	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SPZ

**340 TABLE OF ACCESSORY USE REGULATIONS:**

<b>ACCESSORY USE</b>	<b>R130</b>	<b>R60</b>	<b>R43</b>	<b>R30</b>	<b>MR30</b>	<b>WV1</b>	<b>WV2</b>	<b>OV1</b>	<b>OV2</b>	<b>CS</b>	<b>CG</b>	<b>CP</b>	<b>CNF</b>	<b>MAR</b>	<b>INS</b>	<b>IND</b>
<b>Agricultural and Rural Uses</b>																
Farm stand or Roadside Stand	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>Recreational Uses</b>																
Food and Beverage services and accessory uses related to permitted recreational activities	N	N	N	N	N	N	Y	N	N	N	Y	Y	Y	N	N	Y
Food and Beverage services and accessory uses related to permitted motels, hotels, and Conference centers	N	N	N	N	N	N	Y	N	N	N	Y	Y	Y	N	N	Y
<b>Residential Uses</b>																
Accessory apartment											Y	N				
Home occupation	SPZ	Y *	N	Y	Y *	Y	Y	Y	Y *	N	SPZ	SPZ	N	N	Y	N
Home Office of profession or trade conducted by a resident of the premise	SPZ *	Y *	Y	Y *	Y *	Y	Y	Y	Y *	N	Y	Y	N	N	N	N
Taking of boarders or lodgers	SPZ	Y	N	Y	Y	Y	Y	Y	Y *	N	N	N	N	N	N	N
<b>Educational and Institutional Uses</b>																
Accessory uses for scientific research, Scientific development, or related production activities	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	Y	Y	SPZ	SPZ	SPZ	SPZ
<b>Commercial Uses</b>																
Outdoor advertising	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N
<b>Marine Uses</b>																
Filling Stations for marine vessels	N	N	N	N	N	Y	N	N	N	N	N	N	N	SPZ	N	N
Marine connected used	N	N	N	N	N	Y	N	N	N	N	N	N	N	Y	Y	Y
<b>Utilities</b>																
Direct antenna 5 feet or more in diameter	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ	SPZ
Direct broadcast antenna under 5 feet in diameter	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	SPZ	SPZ	Y	Y	Y
Wireless communications facility enclosed	N	N	N	N	N	Y	Y	Y	Y	Y	SPZ	SPZ	Y	Y	Y	Y
Wireless communications facility attached to existing structure not exceeding 40 feet in height	N	N	N	N	N	Y	Y	Y	Y	Y	SPZ	SPZ	Y	Y	Y	Y

## **350 USE DEFINITIONS**

### **351 AGRICULTURAL AND RURAL USES**

#### ***Agricultural uses***

Includes the use of land for agriculture, horticulture, floriculture, or viticulture; and, the use, expansion, or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture, floriculture, or viticulture.

#### ***Horticulture***

Includes greenhouses and the growing and keeping of nursery stock and the sale thereof.

#### ***Farm stand or roadside stand***

Structure erected and used exclusively for the display or sale of products the majority of which are raised on the farms or produced in the homes of the Town. The structure may be located within the minimum required front yard, but at least twelve (12) feet from the nearest street line, if built of wood and other readily movable materials, without a foundation, integral heating, or permanent utility connections, and not over three hundred fifty (350) square feet gross floor area.

### **352 ANIMAL RELATED USES**

#### ***Animal Kennels***

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

#### ***Piggeries***

Includes the use of land for keeping or raising of pigs and all facilities and structures associated with such use.

#### ***Fur Farms***

The keeping or raising of fur bearing animals for commercial purposes.

#### ***Veterinary hospital***

A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

#### ***Riding stable***

Any structure and/or land used for the maintenance or rental of horses, mules, ponies, or donkeys either with or without a bridle path or riding area, but excluding structures and/or land used for the maintenance of horses and the like used exclusively for agricultural purposes.

### **353 RECREATIONAL USES**

#### ***Campground***

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 campground 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 campground 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 campground does not include a children's day camp, recreational camp for children, or a Mobile Home Park.

#### ***Golf course***

An area or tract of land used for the practice and enjoyment of golf, and associated buildings and structures.

#### ***Golf Club***

A membership club for the practice and enjoyment of golf, which is used exclusively by members and their guests and is not conducted as a gainful business.

#### ***Non-profit recreation***

Any non-profit establishment whose main purpose is to provide the general public with access to indoor or outdoor recreation.



**Health or Athletic Facility**

An indoor or outdoor facility including game courts, exercise equipment, locker rooms, swimming pool(s) used primarily for athletic practice or competition, fitness classes or lessons, or related activities. Membership club is used exclusively by members and their guests and is not conducted as a gainful business.

**Tennis club**

Indoor and outdoor facilities used for tennis practice, competition, and lessons including locker rooms and pro shop. Membership club is used exclusively by members and their guests and is not conducted as a gainful business.

**Youth camp**

The use of a site for provision of indoor or outdoor activities for groups of young people such as YMCA camps, Boy and Girl Scout camps or similar organizations.

**354 RESIDENTIAL USES****1-family dwelling**

A detached dwelling intended and designed to be occupied by a single family.

**2-family dwelling**

A building containing two dwelling units constructed on a single lot.

**3 to 4 family dwelling**

A dwelling containing at least three but no more than four separate dwelling units.

**5 or more family dwelling**

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

**Apartment in mixed-use building**

A dwelling unit located on the upper floors of a building of which the ground floors are devoted to nonresidential uses.

**Manufactured Home Park**

A parcel of land under one ownership that has been planned and improved for the placement of two or more manufactured homes for rental purposes or non-transient uses.

**Residential Cluster Development**

A residential development meeting the use requirements outlined in Article 8, Section 810.

**Seasonal Conversion**

A structural alteration designed or intended to extend the length of the occupancy of a seasonally occupied dwelling or guest unit, including, but not limited to, winterization, installation of a kitchen, or installation of a heating system. A dwelling or guest unit shall be considered to be seasonal if it is occupied for 180 days or less in any 12-month period.

**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.

**Home occupation**

A home occupation is a commercial activity, which customarily is carried on entirely within a dwelling unit, and is incidental and subordinate to the use of the dwelling as a residence. Such use shall meet the use requirements outlined in Article 5, Section 510.

**355 EDUCATIONAL AND INSTITUTIONAL USES****Hospital**

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

**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.

**Intermediate care center**

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.

**Day care center**

A childcare arrangement that provides day care on a regular basis for more than four hours per day for more than five children of preschool age.

**Educational uses, exempt**

Land or structures used for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions, or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

**Religious uses**

Uses of buildings, structures, and land for religious purposes where what is religious requires a system of belief, concerning more than the earthly and temporal, to which the adherent is faithful.

**Place of Assembly**

A structure for groups of people to gather for an event or regularly scheduled program. Places of assembly include, but are not limited to, arenas, religious institutions, lecture halls, banquet facilities, and similar facilities.

**Cemetery**

Land used for the burial of the dead, and dedicated for cemetery purposes.

**Accessory uses to scientific research, scientific development, or related production activities**

Those uses that are necessary in connection with scientific research, scientific development, or related production activities as permitted as a matter of right.

## **356 COMMERCIAL USES**

**Banks**

A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

**Office**

A room or group of rooms used for conducting the affairs of a business or profession such as law firm, medical services, financial, real estate, etc., not to be confused with Service Establishments and/or Service-Related Shopping.

**Retail business**

A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

**Service establishments and/or Service-Related shopping**

Those shops that primarily sell services on site, like hairdressing, manicure/pedicure services, dog grooming, etc.

**Motor vehicle service**

Establishments engaged in providing structural or mechanical motor vehicle (including automobile or boat) repair, washing, or service.

**Motor vehicle sales**

Establishments engaged in sale of motor vehicles.

**Filling stations**

Any lot or parcel of land or portion thereof used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of motor vehicles.

**Dry cleaning establishments or laundromats**

An establishment or business maintained for cleaning articles of any sort by immersion and agitation in volatile solvents, and the processes incidental thereto.

**Conference center**

A facility used for service organizations, business, and professional conferences and seminars with or without accommodations.

**Motel or Hotel**

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.

**Bed & breakfast**

A small, owner-operated business with 1 to 10 guest rooms where the owner or manager lives on the premises. Breakfast is the only meal served to overnight guests. Parking for each room should be provided on-site or in close proximity to the establishment.

**Guesthouse**

A group of detached buildings containing individual sleeping units designed or used temporarily by tourists or transients on a seasonal basis.

**Neighborhood grocery store**

Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

**Wholesale business**

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Restaurant**

A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building.

**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.

**Commercial recreation facilities**

Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where fees are collected for the activity. Includes, but not limited to, go-carts, bowling alleys, waterslide, mini-golf, batting cages, sports complexes, or bowling.

**Adult Use**

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

**Outdoor advertising**

A fixed or portable appliance, structure, or surface, including the supporting structure made necessary thereby, erected upon the ground, on the wall of a building, or above the roof of a building, and used and erected for the public display of pictorial or reading matter for commercial advertisement of a business, professional trade, or home occupation located on the lot or in the building where such appliance, structure or surface is erected.

**356A MARINE USES****Marinas**

Premises used for wharves, docking, boat livery, 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.

**Marine connected uses**

Premises used for activities connected to marinas, including marine railways.

**357 UTILITY****Public utility**

Any person, firm, corporation, municipal department, or board duly authorized to furnish, and furnishing under state or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation or water.

**Wireless Communications Facility**

A facility for the provision of wireless communications services, including antennas and enclosing structures, but not including direct broadcast antennas.

**Direct broadcast antenna**

A dish or other antenna for receiving multi-channel multi-point distribution services or direct broadcast satellite services.

**Wireless Communications Facility, Enclosed**

A wireless communications facility located entirely within an existing structure which conforms to the dimensional regulations of the applicable zoning district, and whose principal use is allowed by right or by Special Permit in the zoning district. This term does not apply to any wireless communications facility that is the sole or principal use of the structure within which it is located.

**358 INDUSTRIAL USES****Manufacturing**

The mechanical or chemical transformation of materials or substances into new products, including assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins or liquors.

**Light manufacturing**

The manufacturing, predominantly from previously prepared materials, of finished products or parts including processing, assembling, treatment, packaging incidental storage, and distribution of such products; provided that all operations shall be such as to confine disturbing smoke, fumes, dust and noise to the premises so as not to create a nuisance or hazard. Also includes printing, publishing, research & development.

**Industrial**

Activity including resource extraction, manufacturing, warehousing, storage, distribution, shipping, and other related uses.

**Gravel, loam, sand, stone, or earth removal**

An open land area where sand, loam, and rock fragments are mined or excavated. The earth removal industry is regulated separately by Section 7 of Article I of Division IV of the Town By-Laws.

**Fish processing plants**

A building where commercial fish packing, processing, canning or freezing of fin fish and shellfish.

**Storage facilities**

Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit, the use of which is limited solely to the storage of inanimate objects.

**Junkyards**

A building, structure, or parcel of land used for collecting, storage, or sale of junk.

**Salvage yards**

A facility or area for storing, keeping, selling, dismantling, or salvaging scrap metal or discarded material or equipment.

**Hazardous waste facility**

Defined in MGL c21 d, s2. These facilities are granted a partial exemption from local zoning laws for any industrial zone for facilities that have received a site assignment pursuant to the statute.

**Solid waste facility**

Sanitary landfills, refuse transfer stations, refuse incinerators, refuse composting plants, resource recovery plants, and dumping grounds for refuse. These facilities are granted a partial exemption from local zoning laws for any industrial zone for facilities that have received a site assignment pursuant to the statute.

## **359 TRANSPORTATION USES**

### ***Aviation field***

An area of land designed and set aside for the landing and take-off of aircraft.

### ***Public service or other passenger stations***

A building, structure, or area designed and used for the boarding or discharging of passengers for bus, rail or ferry and related ticketing sales and offices.

### ***Trucking terminals***

A building or area in which freight brought by truck is assembled and /or stored for routing or reshipment or in which semi trailers, including tractor and/or trailer units and other trucks, are parked and stored.

### ***Transportation terminal***

A facility for the transfer, pick-up, or discharge of people or goods by truck, bus, train or ferry without long-term storage of such items.

## **360 MULTIPLE PRINCIPAL USES AND STRUCTURES**

### **361 MULTIPLE PRINCIPAL USES**

Except in the R-130, more than one principal use may be established on a lot, pursuant to a Special Permit issued by the Board of Appeals. More than one principle use and/or structure may be established in nonresidential districts.

## **370 CONDITIONS APPLICABLE TO SPECIAL PERMIT USES**

### **371 JUNK YARDS**

Such use shall be set back a minimum of 500 feet from any lot line or any public or private way.

### **372 ANIMAL KENNELS**

Permits for such use shall be issued for a minimum of one year, and may be renewed without public hearing by the Board.

### **373 SEASONAL CONVERSIONS**

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.

### **380 USES PROHIBITED IN ALL DISTRICTS**

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

## **390 SPECIAL CONDITIONS APPLICABLE TO USES IN CERTAIN DISTRICTS**

### **391 RESIDENCE - 130 DISTRICT**

#### **391.1 Motor Vehicle Service**

Establishments that are not connected to municipal sewer shall be prohibited in this district

#### **391.2 Gravel, loam, sand, stone or earth removal**

These activities are prohibited except as incidental to a permitted use.

#### **391.3 Home office of profession or trade conducted by a resident of the premises.**

This activity may be permitted by Special Permit provided there is no external evidence of any business other than permitted by signs and for uses incidental thereto.

### **392 RESIDENCE 60 (R - 60)**

- 392.1 Home office of profession or trade conducted by a resident of the premises.  
This activity shall be permitted by right provided there is no external evidence of any business other than permitted signs.

### **393 RESIDENCE 30 (R - 30)**

- 393.1 2+ Family Dwellings.  
Multiple family residential uses are permitted only as provided in Section 810 Residential Cluster Development
- 393.2 Home office of profession or trade conducted by a resident of the premises.  
This activity shall be permitted by right provided there is no external evidence of any business other than permitted signs.

### **394 MULTIPLE RESIDENCE 30 (MR - 30)**

- 394.1 Home occupation.  
In multiple family dwellings, this activity shall be prohibited.
- 394.2 Home office of profession or trade conducted by a resident of the premises.  
In single family dwellings, this activity shall be permitted by right provided there is no external evidence of any business other than permitted signs.  
In multiple family dwellings, this activity shall be prohibited.

### **395 ONSET VILLAGE 2 (OV - 2)**

- 395.1 Office or Bank.  
This use shall be permitted by right, provided the lot area is 5 times the total floor area of the building.
- 395.2 Home-based businesses.  
This use shall be permitted by right provided not more than four persons not also resident in the premises are employed; there is not 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.

### **396 MEDICAL MARIJUANA TREATMENT CENTERS**

- 396.1 Purpose  
Facilities associated with the medical use of marijuana (including Medical Marijuana Treatment Centers as defined herein), to the extent that such facilities are permitted under state laws and regulations, shall be allowed in the Institutional Zone.
- 396.2 Exclusion of Other Marijuana Uses  
Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.
- 396.3 Exclusion of Accessory Uses  
In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.
- 396.4 Use Variances  
The use of land and/or structures for Medical Marijuana Treatment Centers and related uses, including cultivation of marijuana, shall not be permitted in any zoning district in the Town other than as specifically allowed by the Zoning Bylaws in the Institutional District, notwithstanding any other provision in the Zoning Bylaws of the Town to the contrary. Use variances shall be strictly prohibited.

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# ARTICLE 4:

## Overlay Districts

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### 410 OVERLAY DISTRICTS GENERALLY

#### 411 APPLICATION AND PURPOSES

Overlay districts are established in this By-Law to deal with special situations or accomplish specific goals that cannot be easily or efficiently addressed through the use of the underlying use districts. Overlay districts are superimposed over one or more established zoning districts, and a lot may be included in more than one overlay district. Overlay districts may (a) impose supplemental regulations on uses in the underlying districts, (b) permit uses otherwise disallowed in the underlying districts, or (c) implement incentives to encourage desired land uses or site design.

#### 412 RELATIONSHIP TO OTHER DISTRICTS

- a) Overlay district regulations supplement the zoning regulations of the underlying zoning district. An overlay district is an additional zoning requirement that does not change the underlying zoning.
- b) When overlay district standards conflict with applicable standards of the underlying zoning district or with other regulations of this By-Law, the regulations of the overlay district always govern. When no special overlay district standards are specified, the base district standards and all other applicable regulations of this By-Law will govern.
- c) When more than one overlay district applies to a particular site, the regulations of all such overlay districts shall apply, and in case of a conflict the more restrictive regulations shall govern.

### 420 FLOOD PLAIN DISTRICT

#### 421 DEVELOPMENT REGULATIONS

- 421.1 Within Zones A, AE, and AO all new construction and substantial improvements (the cost of which equals or exceeds 50 percent of the market value of the structure) of residential and nonresidential structures (including the placement of manufactured / mobile homes) shall have the lowest floor, including basement, elevated to or above the base flood elevation (the 100-year flood elevation designated on the FIRM) or in the case of nonresidential structures be flood proofed watertight to the base flood level.
- 421.2 Located within the Flood Plain District are areas designated as coastal high hazard areas (FEMA V-Zone or AO-Zone or their equivalent). Since these areas are extremely hazardous due to high velocity waters from tidal and storm surges, no development or redevelopment shall be permitted within a FEMA V-Zone or AO-Zone or their equivalent. Notwithstanding the foregoing, structures damaged or destroyed from fire, storm, or similar disaster may be redeveloped/repared only in accordance with current local, state, and federal regulatory standards when damage to or loss of the structure is equal to or greater than 50% of the market value of the building. When damage to or loss of the structure is less than 50% of the market value of the building, development/repairs may be allowed to return the structure to pre-damaged conditions. In all instances, reconstruction, renovation or repairs to structures may be authorized as stated herein, provided that there is no increase in floor area.
- 421.3 Within Zones A, AE, AO, 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.

- 421.4 Structural requirements in floodplains and coastal high hazard areas including substantial improvements shall conform to the Massachusetts State Building Code (780 CMR).

## **422 BASE FLOOD ELEVATION AND FLOODWAY DATA**

- 422.1 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 General Laws 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 By-Law and the Massachusetts State Building Code. If the data is reasonable, it shall be used to require compliance with B.1 above.
- 422.2 Floodway Data. In Zone A 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.
- 422.3 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.

## **423 OTHER USE REGULATIONS**

- 423.1 Within Zone AO on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwater around and away from proposed structures. Within Zone AO on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwater around and away from proposed structures.
- 423.2 In Zone AE, along watercourses within the Town of Wareham that have a regulatory floodway designated on the Plymouth County 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.
- 423.3 In man-made alterations of sand dunes within Zone VE, which would increase potential flood damage, are prohibited.
- 423.4 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.
- 423.5 All new construction within Zone VE must be located landward of the reach of mean high tide.

## **424 NOTIFICATION OF WATERCOURSE ALTERATION**

The Special Permit granting authority shall notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

- a) Adjacent Communities;
- b) National Flood Insurance Program, State Coordinator,  
MA Department of Conservation and Recreation, 251  
Causeway Street, Suite 600-700, Boston, MA 02114- 2104;
- c) National Flood Insurance Program, Program Specialist, Federal  
Emergency Management Agency Region 1, 99 High Street, 6<sup>th</sup>  
Floor, Boston, MA 02110.



## **425 RELATIONSHIP TO STATE AND FEDERAL LAWS & REGULATIONS**

- 425.1 No Special Permit or variance shall be issued that provides for the exemption for land 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.
- 425.2 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:
- a) Section of the Massachusetts State Building Code, which addresses floodplain and coastal high hazard areas (currently 780 CMR);
  - b) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
  - c) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00), Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00), Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
  - d) 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.

## **430 BUTTERMILK BAY OVERLAY DISTRICT**

### **431 PERMITTED USES**

Any use permitted in the underlying zoning district.

### **432 SPECIAL PERMITS**

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 applicant's expense.

## **440 GROUNDWATER PROTECTION OVERLAY DISTRICT**

### **441 GENERAL**

The Groundwater Protection District is established as an overlay district whose boundaries are superimposed on all districts established by this By-Law and whose regulations are in addition to any other regulations established by this By-Law. The regulations in this By-Law are not intended to supersede or limit the protections contained in state or federal groundwater protection programs, but to supplement protections contained in other statutes and regulations.

### **442 PERMITTED USES**

Within the district the following uses are allowed.

- 442.1 Any use permitted in the underlying district in which the land is situated, subject to the same use and development regulations as may otherwise apply thereto, whether by right or Special Permit, provided:
- a) All development, including structural and non-structural activities, are in compliance with this Section 440 and do not require a Special Permit under this Section; and
  - b) The maximum lot coverage of the total ground area by all structures, paved areas, and other impervious surfaces does not exceed 15 percent or 2,500 square feet, whichever is greater; and
  - c) The use is not listed as prohibited in Section 444.
- 442.2 Normal operation and maintenance of existing water bodies and dams, splashboards, and other water control, supply and conservation devices.

- 442.3 Any agricultural use, except piggeries or fur farms, including farming, gardening, nurseries, conservation, forestry, harvesting, and grazing uses, provided that fertilizers, herbicides, pesticides, manure, and other teachable materials are not stored outdoors.

#### **443 SPECIAL PERMIT USES**

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:

- 443.1 Any use permitted under Section 442.1, which exceeds the maximum lot coverage permitted under Section 442.1, provided that the lot coverage does not exceed the maximum permitted in the underlying district; and provided that mitigation for excess runoff is provided.
- 443.2 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 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;
- 443.3 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.

#### **444 PROHIBITED USES**

Within the District the following uses are presumed to be detrimental to groundwater and surface water and are prohibited.

- 444.1 Facilities that generate, treat, store or dispose of hazardous waste that are subject to Chapter 21 c of the General Laws and 310 of the Code of Massachusetts Regulations (CMR) 30.0, except for the following:
- a) very small quantity generators as defined by 310 CMR 30.00;
  - b) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
  - c) waste oil retention facilities required by General Laws, Chapter 21, Section 52A; and
  - d) treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
- 444.2 Disposal of solid wastes other than brush or stumps.
- 444.3 Disposal of leachable wastes including sludge and septage, except for subsurface waste disposal from residential units.
- 444.4 Storage of sludge or septage
- 444.5 Storage of liquid hazardous materials, as defined in Chapter 21E of the General Laws, 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.
- 444.6 Storage of liquid petroleum products of any kind, except those incidental to:
- a) Normal household use and outdoor maintenance or the heating of a structure;
  - b) Waste oil retention facilities required by Chapter 21, Section 52A of the General Laws;
  - c) Emergency generators required by statute, rule or regulation, or;
  - d) 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.

- 444.7 Open storage of road salt or other deicing chemicals;
- 444.8 Disposal of snow which contains deicing chemicals;
- 444.9 Industrial uses which discharge process wastewater on site;
- 444.10 Outdoor storage of fertilizers, soil conditioners, herbicides, and pesticides, and outdoor uncovered storage of manure;
- 444.11 Dry cleaning establishments and laundromats;
- 444.12 Boat and motor vehicle service, washing, and repair establishments that are not connected to municipal sewer;
- 444.13 Junk and salvage yards;
- 444.14 Mining of land except as incidental to a permitted use;
- 444.15 On-site disposal of wastewater exceeding the performance standards as may be adopted by the Board of Health or other Town ordinance, regulation or By-Law;
- 444.16 Wastewater treatment facilities except for replacement, repair or systems treating contaminated ground or surface water;
- 444.17 Earth removal activities within 4 feet of historic high groundwater tables;
- 444.18 Landfills and open dumps;
- 444.19 Individual sewerage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any 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.

#### **445 FINDINGS FOR GRANTING OF SPECIAL PERMITS**

In addition to the findings for granting of Special Permits generally, the Special Permit Granting Authority shall make the following findings prior to granting a Special Permit in the Groundwater Protection Overlay District.

- 445.1 Proposed use is in harmony with the purpose and intent of this zoning By-Law and will promote the purposes of the Groundwater Protection Overlay District.
- 445.2 Proposed use is appropriate to the natural topographies, soils, and other characteristics of the site to be developed.
- 445.3 Proposed use will not during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area.
- 445.4 Proposed use will not adversely affect an existing or potential public or private water supply.

#### **446 PROCEDURES FOR SPECIAL PERMITS**

In addition to the provisions required for Special Permits generally, any application in the Groundwater Protection Overlay District shall be reviewed and acted upon in accordance with the following procedures:

- 446.1 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;

- 446.2 The Board of Appeals shall refer copies of the application to the Fire Department, 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;
- 446.3 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.

## **450 BUSINESS OVERLAY DEVELOPMENT DISTRICT**

### **A. Intent and Objectives:**

To encourage business development within the Town that will create sustainable economic development, create diversified year-round, sustainable employment opportunities, preserve compatible active agricultural operations and working landscapes that are part of the Town's heritage, and economic base, increase the net tax base of the Town by diversifying and expanding business development opportunities, and promote business and related commercial activities that are compatible with the cultural, environmental and economic goals of the Town.

The Business Development Overlay District is intended to create office/R & D development opportunities in a campus-like environment using the existing agricultural uses and natural landscapes as amenities for the businesses located in the office parks.

A Business Development Overlay District shall consist of not less than 200 contiguous acres. Installation of water and street lighting and maintenance of lighting shall be at the owner's expense.

### **B. Underlying Zoning District**

The Business Development Overlay District (BDOD) shall overlay but not supercede other zoning districts in which any lot so zoned shall lie. A landowner whose land lies within a BDOD shall not be precluded thereby from (a) electing not to use his land for a BDOD Allowed Use or a BDOD Special Permit use and (b) electing instead to use his land for an Allowed Use or a Special Permit use in the underlying Zoning District, in which case all of the dimensional, intensity, and other requirements of the Underlying Zoning District shall apply.

### **C. General Standards:**

Any petition for a Site Plan Review - Special Permit for BDOD use shall be submitted on a form approved by the Planning Board, and the development shall be designed and evaluated with consideration for the following general standards: natural features conservation, relations to surroundings, vehicular and pedestrian circulation, siting of structures, design of structures, drainage, utilities, signs, lighting and landscaping.

### **D. Allowed Uses:**

The following uses shall be allowed with a Site Plan Review - Special Permit granted by the Planning Board pursuant to Article VIII Site Plan Review:

- (1) Business, professional, medical and administrative offices, research and development laboratories and facilities and other high technology and similar uses, provided any use, which produces or handles materials in a manner, which will be detrimental to the health of occupants or the public, will not be permitted. Evidence of the safety of said use or handling and disposition of said materials based on nationally recognized standards or sources may be required by the Building Inspector before issuance of a Building Permit.
- (2) Light manufacturing, processing and assembling provided such uses are not offensive, objectionable or injurious to the abutting residential areas because of excessive noise, vibration, smoke, fumes, odors or other obnoxious features.
- (3) Health Clubs.
- (4) Retail and convenience uses accessory to the above allowed uses, established primarily for the convenience of employees within this District including but not limited to branch bank with drive-through, dry cleaning/laundry pick up and delivery, restaurant and convenience mart, but excluding service stations, auto sales and repair, or sales of petroleum products.

- (5) Childcare center accessory to the above allowed uses as a convenience to employees within this District, except to the extent exempt under Chapter 40A, Section 3.
- (6) Agriculture, horticulture, viticulture or floriculture, except to the extent exempt under Chapter 40A, Section 3.

**E. Special Permit Uses:**

The following uses shall require a Special Permit from the Planning Board in addition to a Site Plan Review - Special Permit.

- (1) A public transportation center intended to provide a local and regional facility to promote the use of alternative means of transportation.
- (2) Hotel, motel, conference center and other function facilities.
- (3) Long-term care nursing home, rehabilitative and assisted living facilities, hospitals or other health care facilities.
- (4) Restaurant with drive-through.
- (5) Uses accessory to the above special permit uses.

**F. Prohibited Uses:**

- (1) Active commercial, recreational or amusement uses except as may be accessory to the allowed or special permit uses.
- (2) Retail sales except as may be accessory to the above allowed or special permit uses.
- (3) Wholesale sales.
- (4) Heavy industrial or manufacturing.
- (5) Service stations, auto sales and repair, or sales of petroleum products.
- (6) Junkyards, salvage yards, contractor yards, dumps, and landfills including landscape/asphalt facilities, medical waste disposal facilities, and hazardous waste facilities and recycling operations.
- (7) Adult uses as defined in Article IX.
- (8) Rendering plants and slaughterhouses.
- (9) Cemeteries and crematories.
- (10) Overnight campgrounds and R/V facilities.
- (11) Commercial warehouses, storage facilities or outdoor, mobile or containerized storage.
- (12) Trucking terminal.

**Accepted Overlays:**

The Business Development Overlay District encompasses Lots 1002,1002P, 1003,10134,1014, and 1016, Assessors" Map 105; Lots 1001,1002,1005,1006,1007,1011,1013,1014,1000A, 1000B, A, B, C, D, and 1002P, Assessors" Map 106; and Lots 1000,1001,1002,1003,1004,1005,1006,1007,1008,1005,1009,1010, and 1012, Assessors" Map 107 (See Map).

## **METES AND BOUNDS DESCRIPTION**

Parcels to be rezoned to Business Development Overlay District being described as those parcels or portions of parcels shown on Town of Wareham Assessors" Map 109, Parcels 1000,1001,1001-A, 1002 thru 1012,1051,1052,1053 and Map 109-A, Parcel 1038 and Mosquito Dam Road, currently zoned as Residential R-60:

**Southerly** 5,700 feet more or less by Tihonet Road, to a point at the intersection of the southeasterly corner of Assessors" Parcel 1012 on Map 109 at the intersection of Tihonet Road and the Lot line, thence running;

**Westerly and Northwesterly** 330 feet more or less by the southerly lot line of Assessors" Parcel 1012 on Map 109, to a point at the intersection of the Lot Line and the Zone Line that divides the Residential R-60 and Strip Commercial Zone, thence running;

**Westerly** 4500 feet more or less by the current Zone Line and land owned by A.D. Makepeace to the easterly sideline of Interstate Route 195, thence running;

**Northeasterly** 2,500 feet more or less by the easterly sideline of Interstate Route 195, to the point of beginning. Containing 300 Acres more or less. (April 2006)

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# ARTICLE 5:

## Supplemental Regulations

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The following supplemental regulations for the uses listed shall apply in addition to the use regulations for the zoning district(s) in which they are located.

### **510 HOME OCCUPATIONS**

#### **511 CONDUCT BY OWNER OR TENANT**

The person conducting the home occupation must be the owner of the dwelling in which the home occupation is to be located, or if the applicant is a tenant, written approval of the owner must be provided.

#### **512 EXTENT OF USE**

Home occupation activities shall not occupy more than twenty-five percent (25%) of the floor area or 400 square feet; whichever is less, of the dwelling units used.

#### **513 EXTERNAL APPEARANCE**

There shall be no external evidence of any business other than permitted signs.

#### **514 PERMITTED SIGNAGE**

Signage for Home Occupations shall not exceed four (4) square feet in total.

### **520 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.

### **530 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.

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.

### **540 WIRELESS COMMUNICATIONS FACILITIES**

#### **541 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.

#### **542 APPLICABILITY**

- 542.1 No wireless communications facility or structure shall be erected or installed except in compliance with the provisions of this Section.
- 542.2 Any proposed extension in the height or construction of a new or replacement facility, or additional appurtenances, shall be subject to a new application.

## **543 GENERAL REQUIREMENTS**

- 543.1 Only freestanding structures are allowed. Structures requiring guy wires for support are prohibited.
- 543.2 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.
- 543.3 Abandoned structures shall be removed within one (1) year of cessation or 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.
- 543.4 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 claims. Proof shall be furnished to the Town Clerk, including a stipulation that if the policy is canceled due to nonpayment, the Town will be notified. Any cancellation shall constitute a violation of the Special Permit.

## **544 DESIGN GUIDELINES**

- 544.1 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.
- 544.2 The height of a satellite dish located on a building or in the yards of residential structure 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.
- 544.3 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.
- 544.4 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.
- 544.5 Towers and antennas shall be designed and constructed to withstand a category 5 hurricane.
- 544.6 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 the unique circumstances.
- 544.7 Lighting of communication facilities and other appurtenances shall be limited to that which is required by Federal Law.

## **545 APPLICATION REQUIREMENTS**

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

- 545.1 A statement of need for the proposed facility with as much specific information 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.
- 545.2 A color photograph or rendition of the proposed tower with its antenna and/or panels. A rendition shall also be prepared showing a view of the tower, antenna, or dish from the nearest street.

- 545.3 The following information prepared by one or more professional engineers;
- a) A description of the tower and the technical, economic, and other reasons for the proposed location, height, and design;
  - b) Confirmation that the tower complies with Federal and State standards;
  - c) 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.

## **546 SPECIAL PERMIT REVIEW**

- 546.1 Applications shall be approved or approved with conditions, if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.
- 546.2 Applications shall be denied if the petitioner cannot fulfill the requirements for these regulations to the satisfaction of the Board.
- 546.3 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).
- 546.4 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, and highways.

## **550 ADULT USE REGULATIONS**

### **551 AUTHORITY**

The By-Law is enacted pursuant to Chapter 40A of the General Laws 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

- 552.1 It is the purpose of this Section to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined hearing. 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.
- 552.2 The provisions of this By-Law 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 By-Law 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 materials. Neither is it the purpose or intent of this By-Law to legalize the sale, rental, distribution, or exhibition or obscene or illegal matter or materials.

## **553 USE REGULATIONS**

Adult 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 Board of Appeals, such a permit shall not be granted unless each of the following standards has been met.

- 553.1 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.
- 553.2 No adult Special Permit shall be issued to any person convicted of violating the provisions of Chapter 119, Section 63 or Chapter 272, Section 28 of the General Laws.



553.3 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 use as defined herein; or
- d) 500 feet from the nearest establishment licensed under Chapter 138, Section 12 of the General Laws.

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

553.4 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.

553.5 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 Chapter 272, Section 31 of the General Laws.

553.6 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.

553.7 No adult use shall be allowed within a building containing other retail, consumer, or residential uses.

553.8 No adult use shall be allowed within a shopping center or shopping plaza.

553.9 The proposed adult use shall comply with the off-street parking requirements set forth in Section 9 of the Zoning By-Laws.

553.10 No adult use shall have any flashing lights visible from outside the establishment.

553.11 No adult use shall have a freestanding accessory sign.

553.12 No adult use shall be established prior to submission and approval of a site plan by the Board of Appeals, in accordance with Article 15 of this By-Law. The site plan shall show the distances between the proposed adult use and the boundary of the nearest residential zoning district and the property line of each of the uses set forth in (3) above.

## **554 CONDITIONS**

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

## **555 EXPIRATION**

A Special Permit to conduct an adult 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.

## **560 EARTH REMOVAL ACTIVITIES**

The earth removal industry is regulated separately by Section 7 of Article I of Division IV of the Town By-Laws.

(See Town By-Laws Website [www.wareham.ma.us](http://www.wareham.ma.us).)

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# ARTICLE 6:

## Density and Dimensional Regulations

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### 610 GENERAL REQUIREMENTS

### 611 LOT AREA, FRONTAGE, SETBACK AND HEIGHT REQUIREMENTS

All principal and accessory buildings shall be subject to the requirements outlined in Section 620. No principal building or accessory building thereof shall be erected on any lot:

- a) With less than the minimum area or street frontage;
- b) With less than the minimum setback distance from the front street line or side and rear lot lines;
- c) That exceeds the maximum allowed height;
- d) That exceeds the maximum percent coverage allowed for the building or lot;
- e) With less than the minimum distance between the use and other residential uses.

### 612 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, not including Riverfront areas as defined in the Massachusetts Wetlands Protection Act, for the zoning district in which it is located, (added October 25, 2004)

### 613 ONE PRINCIPAL RESIDENTIAL BUILDING PER 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.

### 614 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.

### 615 LOT SHAPE FACTOR

All lots created for building purposes after the effective date of this By-Law shall be shaped so that they can contain within the buildable upland area a circle of a diameter, not less than the frontage requirements of the zoning district within which the lot is located. In addition, any portion of a lot, which is narrower in width than thirty feet, shall not be counted toward the required lot area. In cases where the Planning Board believes that proposed lots do not meet the Lot Shape Factor criteria and will not be detrimental to the intent of this regulation, the Planning Board has the authority to waive this requirement, (added October 25, 2004)

### 620 TABLE OF DIMENSIONAL REGULATIONS

Minimum and maximum lot and building dimensions shall be as specified in the following tables, subject to the further provisions of this Article.

Each zoning district in the Town of Wareham has a table of area, frontage, setback and height requirements. 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 from development on municipal sewer and septic systems. The initials "NA" mean the use is not allowed in the district.

**621 RESIDENTIAL DISTRICTS****R-130****R-60****R-43****R-30****MR-30**

<b>Minimum Lot Area (square feet)</b>					
1-family dwelling	130,000	60,000	43,000	30,000	30,000
2-family dwelling	NA	NA	NA	45,000	45,000
Other residential use	NA	NA	NA	a	30,000
Nonresidential use	130,000	60,000	43,000	30,000	30,000
<b>Minimum Frontage (feet)</b>					
1-family dwelling	200	180	180	150	150
2-family dwelling	NA	NA	NA	200	200
Other residential use	NA	NA	NA	a	250
Nonresidential use	200	180	180	150	150
<b>Minimum Front Setback (feet)</b>					
1-family dwelling	100	60	40	20	20
2-family dwelling	NA	NA	NA	20	20
Other residential use	NA	NA	NA	a	30
Nonresidential use	20	20	20	20	20
<b>Minimum Side/Rear Setback (feet)</b>					
1-family dwelling	30	20	20	10	10
2-family dwelling	NA	NA	NA	10	10
Other residential use	NA	NA	NA	a	20
Nonresidential use	10	10	10	10	10
<b>Maximum Height (feet)</b>					
1-family dwelling	35	35	35	35	35
2-family dwelling	NA	NA	NA	35	35
Other residential use	NA	NA	NA	a	35
Nonresidential use	35	35	35	35	35
<b>Maximum Building Coverage (%)</b>					
1-family dwelling	NR	NR	NR	25	25
2-family dwelling	NR	NR	NR	NR	25
Other residential use	NR	NR	NR	a	
Nonresidential use	NR	NR	NR	N	
<b>Maximum Impervious Surface (%)</b>					
1-family dwelling	NR	NR	NR	NR	NR
2-family dwelling	NA	NA	NA	NR	NR
Other residential use	NA	NA	NA	a	NR
Nonresidential use	NR	NR	NR	NR	NR

NA = Use not allowed    NR = No regulation

a    R-30 District: Multiple family is only permitted as a Residential Cluster Development. (See Article 8)

## 622 VILLAGE DISTRICTS

OV1

OV2

WV1

WV2

<b>Minimum Lot Area (square feet)</b>				
1-family or 2-family dwelling	5,000	10,000	7,500	15,000
<b>Other residential use:</b>				
First dwelling unit	5,000	10,000	10,000 a	15,000
Each additional unit	1,000	4,000	2,000 b,c	2,000
<b>Bed &amp; Breakfast</b>				
First unit	5,000 a	10,000	10,000 a	10,000
Each additional unit	2,000	4,000	2,000 b,c	4,000
Other nonresidential use	5,000	15,000	5,000	15,000
<b>Minimum Frontage (feet)</b>				
1 -family dwelling or 2-family dwelling	50	50	75	75
Other residential use	50	50	75	75
Nonresidential use	50	50	75	75
<b>Minimum Front Setback (feet)</b>				
1-family dwelling or 2-family dwelling	d	d	d	d
Other residential use	d	d	d	d
Nonresidential use	d	d	d	d
<b>Minimum Side/Rear Setback (feet)</b>				
1-family dwelling or 2-family dwelling	10	10	10	10
Other residential use	10	10	10	10
Nonresidential use	10	10	10	10
<b>Maximum Height (feet)</b>				
1-family dwelling or 2-family dwelling	35	35	40	35
Other residential use	35	35	40	35
Nonresidential use	35	35	40	35
<b>Maximum Building Coverage (%)</b>				
1 -family dwelling or 2-family dwelling	30	20	30	20
Other residential use	30	NR	30	20
Nonresidential use	30	NR	30	20
<b>Maximum Impervious Surface (%)</b>				
1 -family dwelling or 2-family dwelling	70	50	70	50
Other residential use	70	50	70	50
Nonresidential use	70	50	70	50

NA = Use not allowed      NR = No regulation

- a 2,000 square feet if in an existing structure.
- b 2,000 square feet for each additional unit up to 40 units and 7,500 square feet for each unit beyond 40.
- c 1,000 square feet if in an existing structure.
- d The front setbacks in Village Districts shall be the average of the setbacks of five (5) residential structures on either side of the subject property.

<b>Minimum Lot Area (square feet)</b>	
1-family dwelling	30,000
7-family dwelling	45,000
Other residential use	20,000
Nonresidential use	30,000 a
<b>Minimum Frontage (feet)</b>	
1-family dwelling	150
2-family dwelling	200
Other residential use	250
Nonresidential use	150
<b>Minimum Front Setback (feet)</b>	
1-family dwelling	20
2-family dwelling	20
Other residential use	30
Nonresidential use	20 b
<b>Minimum Side/Rear Setback (feet)</b>	
1-family dwelling	10
2-family dwelling	10
Other residential use	20
Nonresidential use	10
<b>Maximum Height (feet)</b>	
1-family dwelling	40
2-family dwelling	40
Other residential use	40
Nonresidential use	40
<b>Maximum Building Coverage (%)</b>	
1-family dwelling	40
2-family dwelling	40
Other residential use	40
Nonresidential use	40
<b>Maximum Impervious Surface (%)</b>	
1-family dwelling	65
2-family dwelling	65
Other residential use	65
Nonresidential use	65
<b>DISTANCE FROM RESIDENTIAL (feet)</b>	
1-family dwelling	40
2-family dwelling	40
Other residential use	40
Nonresidential use	40

NA = Use not allowed      NR = No regulation

a For a motel, one acre plus 3,000 square feet for each additional unit in excess of 12.

b For a motel, 50 feet.

**624 Other Districts****CR****MAR****INST****IND****BDOD****Minimum Lot Area (square feet)**

1-family dwelling	NA	30,000	30,000	NA	NA
7-family dwelling	NA	45,000	45,000	NA	NA
Other residential use	NA	NA	30,000	NA	NA
Nonresidential use	30,000 a	30,000	30,000	30,000	87,120

**Minimum Frontage (feet)**

1-family dwelling	NA	150	150	NA	NA
2-family dwelling	NA	200	150	NA	NA
Other residential use	NA	NA	150	NA	NA
Nonresidential use	50	150	100	150	100

**Minimum Front Setback (feet)**

1-family dwelling	NA	20	20	NA	NA
2-family dwelling	NA	20	20	NA	NA
Other residential use	NA	NA	20	NA	NA
Nonresidential use	10	20	20	20	25

**Minimum Side/Rear Setback (feet)**

1-family dwelling	NA	10	10	NA	NA
2-family dwelling	NA	10	10	NA	NA
Other residential use	NA	NA	10	NA	NA
Nonresidential use	10	10	20	10	10

**Maximum Height (feet)**

1-family dwelling	NA	35	30	NA	NA
2-family dwelling	NA	35	30	NA	NA
Other residential use	NA	NA	30	NA	NA
Nonresidential use	60	45	NA	50	40 b

**Maximum Building Coverage (%)**

1-family dwelling	NA	45	30	NA	NA
2-family dwelling	NA	45	30	NA	NA
Other residential use	NA	NA	30	NA	NA
Nonresidential use	NR	45	NR	50	25 c

**Maximum Impervious Surface (%)**

1-family dwelling	NR	60	60	NA	NA
2-family dwelling	NA	60	60	NA	NA
Other residential use	NA	NA	60	NA	NA
Nonresidential use	NR	60	60	70	65

**Distance of any Structure from a Residential (feet)**

1-family dwelling	NA	50	NR	NA	NA
2-family dwelling	NA	50	NR	NA	NA
Other residential use	NA	NA	NR	NA	NA
Nonresidential use	NR	50	NR	50	NR

NA = Use not allowed

NR = No Regulation

- a For hotel, motel, or conference center, the minimum lot area shall be 30,000 square feet plus 1,000 square feet per guest unit if connected to the municipal sewerage system, or 30,000 square feet plus 6,000 square feet per guest unit if not connected to the municipal sewerage system.
- b The maximum height shall be the greater of 40 feet or three stories (exclusive of rooftop mechanical equipment).
- c The maximum allowed floor area ration (FAR) shall be 0.75.

## 625 ACCESSORY BUILDINGS

NA = Use not allowed NR = no regulations

	Residential Districts	Village Districts	Commercial Districts	CR	MAR	INST	IND BDOD
Setback							
Front	a	a	a	a	a	b	b
Side	10	10	10	10	20	10	20 (see note c)
Rear	15	15	15	15	20	15	20 (see note c)
Height	20	20	30	30	30	30	30 (see note c)

- a) Front setbacks of accessory buildings shall be equal to or greater than the principle buildings front setback for the respective district.
- b) Accessory buildings in Industrial District shall be located to the rear of the principle building.
- c) Accessory buildings in the Business Development Overlay District shall be subject to the same setback and height requirements as for principle buildings in the district, as specified in Section 624.

## 626 DIMENSIONAL STANDARDS: INDUSTRIAL DISTRICT

NA = Use not allowed

		USE		
DIMENSIONAL STANDARD	SINGLE FAMILY	DUPLEX	MULTIFAMILY (3+ UNITS)	OTHER
AREA (sq.ft.)	NA	NA	NA	
SEWER	NA	NA	NA	30,000 sq.ft
SEPTIC	NA	NA	NA	NA
FRONTAGE (ft.)	NA	NA	NA	150 ft.
SETBACKS (ft.)	NA	NA	NA	
FRONT	NA	NA	NA	50 ft. on Route 28 20 ft. on internal streets
SIDE/REAR	NA	NA	NA	20 ft
MAXIMUM BUILDING HEIGHT (ft.)	NA	NA	NA	
PRINCIPAL	NA	NA	NA	50 ft.
MAXIMUM % OF IMPERVIOUS LOT COVERAGE	NA	NA	NA	60,000 SF
BUILDING	NA	NA	NA	50%
LOT	NA	NA	NA	70%
SIDE	NA	NA	NA	
MINIMUM DISTANCE OF STRUCTURE FROM RESIDENTIAL ZONE (ft.)	NA	NA	NA	50 ft.

## 627 DIMENSIONAL STANDARDS: GENERAL COMMERCIAL (CG) DISTRICT

NA = Use not allowed

		USE		
DIMENSIONAL STANDARD	SINGLE FAMILY	DUPLEX	MULTIFAMILY (3+ UNITS)	OTHER
AREA (sq.ft.)				
SEWER	NA	NA	NA	20,000 sq.ft
SEPTIC	NA	NA	NA	40,000 sq.ft.
FRONTAGE (ft.)	NA	NA	NA	150 ft.
SETBACKS (ft.)				
FRONT	NA	NA	NA	20 ft. minimum / 80 ft. maximum
SIDE/REAR	NA	NA	NA	15 ft.
MAXIMUM BUILDING HEIGHT (ft.)				
PRINCIPAL	NA	NA	NA	42 ft. / 3 floors
MAXIMUM IMPERVIOUS LOT COVERAGE				
BUILDING	NA	NA	NA	40%
LOT	NA	NA	NA	60%
MINIMUM DISTANCE OF STRUCTURE FROM RESIDENTIAL ZONE (ft.)	NA	NA	NA	30 ft.
MINIMUM LOT AREA/DU (sq.ft. /DU) (for Apartments in Mixed Use buildings)	NA	NA	5,000 sq.ft. / 1 <sup>st</sup> DU + 1,000 sq.ft. / add. DU	5,000 sq.ft. / 1 <sup>st</sup> DU + 1,000 sq.ft./ add DU
MAXIMUM SIZE BUILDING FOOTPRINT (sq.ft.)	NA	NA	NA	30,000 sq.ft.



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# ARTICLE 7:

## Design Standards and Guidelines

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### 700 GENERAL REQUIREMENT

All new utilities (such as electric telephone, cable, water, gas, etc) shall be installed underground in all Zoning Districts.

Design Standards are required in the Onset Village Districts, Wareham Village Districts, and Conference Recreational District as outlined in Sections 710, 720, and 730. Such design standards 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 noncompliance.

Design Guidelines are provided as recommendations, but are not required.

### 710 ONSET VILLAGE DISTRICTS

### 711 APPLICABILITY

The design standards and guidelines in this section shall apply to all development in the OVI and OV2 districts.

### 712 DESIGN STANDARDS

#### 712.1 Building Facade

For all 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.

#### 712.2 Lot Frontage

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.

#### 712.3 Building Entrances

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

#### 712.4 Vehicular Access

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 retail 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.

#### 712.5 Screening

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.

## 712.6 Exterior 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 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 not met, it will be presumed that the above performance requirements are satisfied.

- (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.

## 712.7 Disturbance to Neighbors

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.

# 713 DESIGN GUIDELINES

713.1 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.

713.2 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.

713.3 Basic siding colors should be white, gray, brown, russet, yellow, red brick, or weathered wood, with bright accent colors used on selected elements.

713.4 Storefront door and glazing trim, if metallic, should be painted or else anodized to a dark color.

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

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

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

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

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

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

# 720 WAREHAM VILLAGE DISTRICTS

## 721 APPLICABILITY

The design standards in this section shall apply to all development in the WV1 and WV2 districts.

## 722 DESIGN STANDARDS

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.

## 730 CONFERENCE RECREATIONAL DISTRICT

### 731 APPLICABILITY

The design standards in this section shall apply to all development in the CNF District.

### 732 DESIGN STANDARDS

#### 732.1 Screening

This 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

#### 732.2 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.

## 740 INDUSTRIAL DISTRICT

### 741 APPLICABILITY

The following Design Standards apply to constructions of all industrial and commercial uses and site infrastructure within the IND (Industrial) District.

### 742 PURPOSE

These Design Standards seek to encourage development of high-quality light industrial uses in attractive landscaped settings. Also, these Design Standards are established to insure industrial uses are approximately screened from view from adjacent residential and commercial districts, as well as adjoining public ways. "Green" or "sustainable" building practices are to be encouraged as well.

#### Internal Street Design & Curb Cut Access

##### 742.11 Street Widths & Corner Turning Radii

##### 742.1.1.1 Two-way streets shall be a minimum width of 24 feet from curb-to-curb. ***Refer to Article 9 of zoning By-Laws.***

##### 742.1.1.2 Corner street turning radii, measured at the curb line, shall be constructed to a minimum turning radius of 20 feet to allow WB-40 size trucks vehicles and fire apparatus to properly maneuver at intersections.

##### 742.1.2 Street Surface Paving

Streets shall be paved with a sealed bituminous surface layer on a bituminous binder layer on gravel and/or stone underlay foundation.

##### 742.1.3 Curbing (Refer to Planning Board Rules and Regulations)

Street curbs shall be of granite material and shall be installed as either vertical or sloped curbing.

##### 742.1.4 Sidewalks

Minimum 5-foot-wide concrete (bituminous is not allowed) sidewalks (clear width) shall be constructed along all internal streets.

##### 742.1.5 Curb Cut Access Locations

##### 742.1.5.1 Curb cuts and driveways to individual properties shall be provided from internal streets rather than directly from Route 28. Where curb-cut access to individual properties is possible only from Route 28, then shared use of single curb cuts by adjoining property owners.

**Landscape & Buffer Strip Design (See Article 10 of the Zoning By-Law. Should conflicts exist, the more stringent standard applies).**

- 742.2.1 Buffer Strip Adjacent to Public Arterials (Route 28) Industrial uses adjoining Route 28 shall be screened from view from the road by a 50-foot-wide landscape buffer strip between the sideline of the roadway and the industrial use (which includes: but is not limited to, parking, signage, or equipment). Such buffer shall be planted with native and naturalized shade trees and low shrubs of sufficient density to effectively screen the industrial use from view.
- 742.2.2 Buffer Strip Adjacent to Internal Streets and Roadways. Internal streets (public or private) within the IND District shall include a 10-foot-wide landscaped buffer strip between the required sidewalk and the industrial use. Such buffer shall be planted with shade trees and low shrubs of sufficient density to effectively screen the industrial use of its parking and service areas from view (Refer to 2.1.1. above).
- 742.2.3 Buffer Strip Adjacent to Residential and Commercial Districts (See Article 10, Sections 1040 and 1050)
- 742.2.4 Landscaping with Parking Lots [See Article 10, Section 1062]
- 742.3 Building Design
  - 742.3.1 Building Materials - Exterior

Exterior cladding materials shall be either masonry, masonry units, stone, or wood. Exceptions are subject to approval by Industrial District Design Review Committee.
  - 742.3.2 Building Facade Designs facing Streets and Roads
    - 742.3.2.1 Facades of buildings facing internal streets or public ways shall have a minimum of 15% windows and entry doors; Windows shall be taller than wider at a ration of 1 & 1/2 to 1
    - 742.3.2.2. Truck loading platforms, loading bays, and garage or loading platforms overhead doors shall be located on the side or rear facades of buildings.
  - 742.3.3 Rooftop Design

Rooftop mechanical equipment shall be screened from public view.
- 742.4 Parking Lots
  - Parking Lots Locations

Employee and truck parking shall be at the sides or rear of buildings.
- 742.5 Site Lighting
  - 742.5.1 Internal Street Lighting
    - 742.5.1.1 Adequate street lighting on internal streets shall be provided according to industry standards.
    - 742.5.1.2 Street lighting shall be a sharp cut-off down-light fixture type that does not allow the escape of ambient light to adjoining properties.
  - 742.5.2 Site Lighting

Site lighting shall be a sharp cut-off down-light fixture type that does not allow the escape of ambient light to adjoining properties. Light fixtures shall not be more than 20 feet high
  - 742.5.3 Parking Lighting

Parking lighting shall be as appropriate per industry standards.
  - 742.5.4 Exterior Building Lighting

Exterior building lighting shall be directed toward subject building. Confine illumination to subject property only.
- 742.6 Disturbance to Neighbors
  - 742.6.1 Noise and Vibration

- 742.6.1.1 No noise (except for temporary construction or maintenance work) or vibration shall be detectable without instruments in commercial districts adjoining the IND District at more than 50 feet from boundaries of originating premises, or, in a residential district at more than 200 feet from boundaries of originating premises. In no instance shall noise be detectable without instruments in adjoining commercial or residential districts after 10:00 p.m.
- 742.7.0 Site Drainage & Stormwater Retention  
Site drainage and stormwater retention shall conform to the Commonwealth of Massachusetts Department of Environmental Protection's Stormwater Pollution Prevention guidelines as most recently amended.
- 742.8.0 All conflicts are subject to review by the Industrial District Design Review Committee.

## **760 DESIGN STANDARDS & GUIDELINES FOR COMMERCIAL DISTRICTS**

### **761 APPLICABILITY**

The design standards and guidelines in this section shall apply to all commercial development including multi-family housing in the Strip Commercial CS, Mixed Use Developments, General Commercial CG, and Planned Commercial CP districts.

The illustrations address general principals and design criteria including but not limited to the following:

Lot and building dimensional controls, site access, parking, landscaping, building setbacks, façade design, and architectural building form and design; and are meant to facilitate the review by providing design/site planning criteria to evaluate proposed developments.

### **762 ACCESS, PARKING AND LOADING DESIGN STANDARDS**

- 762.1 Shared curb cuts with abutters are encouraged.
- 762.2 On-site internal auto circulation aisles and pedestrian pathways between the parking lots of property abutters are encouraged so that vehicles and pedestrians are not required to egress onto the frontage road to travel to adjacent properties or businesses. The design intention is to minimize the amount of curb cuts on Rte 28 and other major thoroughfares.
- 762.3 Where possible, curb cuts shall be aligned with curb cuts on the opposite side of the adjacent primary frontage road or new internal street to allow the creation of 4-way intersections. The design intention is to create 90-degree intersections, wherever possible.
- 762.4 Large parking areas are discouraged at the front of buildings. No more than one double-loaded bay of parking (64ft wide) may be located in the required front yard setback, but it must be visually screened from view by passing motorists on the adjacent primary road(s). Most parking is encouraged to be located at the side or rear of building.
- 762.5 Loading, service areas and dumpsters shall either be located so as to not be visible from adjacent primary road(s), or, at a minimum, if such loading areas are within sight of the primary road, they shall be screened from view by fences and/or landscaping.
- 762.6 New internal streets shall link to primary frontage public road and/or where feasible to existing adjoining neighborhood collector streets to the sides or the rear of the development site as long as such links do not cause adverse traffic or pedestrian safety impact to surrounding residential streets or neighborhoods based upon a traffic impact analysis.
- 762.7 New internal streets shall have a minimum of 64-foot right of way width to include sidewalks, curbs, street trees (planted in sidewalk or in landscape strip between curb and sidewalk) and curbside parking along both sides of the new internal streets.

## 763 LANDSCAPING DESIGN STANDARDS

- 763.1 A minimum of 30% of the site must be landscaped and pervious; front yards shall be landscaped or surfaced with pervious materials. Paved seating areas, building appendages such as porticos, bay windows and porches are encouraged.
- 763.2 A portion of the minimum required landscaped area should be configured to provide a “useful” outdoor landscaped open space other than drainage areas.
- 763.3 One tree for every 10 cars must be planted within parking lot aisles and islands. Aisles and islands with material shall be appropriately sized to allow for proper watering and growth. Where feasible, match the island or aisle width to the mature canopy size of the proposed tree.
- 763.4 A landscaped buffer zone of 15 feet must be provided along the front street line. No cars may be parked within the 15-ft. wide landscape buffer zone. The landscaped buffer shall include a soil berm of minimum 24-inch height and be sufficiently planted so as to visually screen parked cars.
- 763.5 Planting a row of native street trees (shade-providing canopy) is encouraged within the 15-ft wide landscaped buffer zone along the primary street frontage. Base of tree shall be no closer than 10 feet to edge of road pavement.
- 763.6 Commercial uses must be buffered from adjacent residential lots by landscaping and fences.
- 763.7 Within large lots, existing stands or clusters of mature trees and/or natural rock outcroppings should be preserved, if preservation of such features does not onerously prohibit the reasonable development of the site.

## 764 ARCHITECTURAL DESIGN GUIDELINES

- 764.1 **Roof Forms:** A variety of roof lines is encouraged, including front gable, side gable, hip, and flat (with or without a parapet), particularly where buildings are to be sited close together within the same development. All buildings should have defined cornice.
  - 764.1.a Dormers are encouraged on residential and mixed-use buildings, provided that the ridge of any dormer is below the ridge of the main roof.
  - 764.1.b Buildings sited at the intersection of two or more streets should consider the creation of a focal point on the streetscape, such as a tower or cupola, provided that the height of any such focal point does not exceed 1.25 times the building height.
  - 764.1.c Locate Accessory Rooftop Elements, such as roof decks and railings, roof access hatches, mechanical equipment and elevator head houses out of view from the street wherever possible; screening may be required, by means of parapets, walls, fences, dense evergreen foliage or other suitable means, to reduce visual impact, provided that the screening itself does not exacerbate the problem of visibility.
    - 764.1.c.1 Utilize skylights with a traditional flat or hipped profile; avoid bubble skylights.
    - 764.1.c.2 Provide roof decks with a low profile relative to the slope of the roof.
    - 764.1.c.3 Here railings are required; provide style that is visually permeable and no more than 4.5 feet tall, to reduce their visual impact.
    - 764.1.c.4 Screen all mechanical, electrical, communications, and service equipment, including satellite dishes and vent pipes, with the intent of causing minimal acoustic intrusion on building occupants and adjacent uses.
- 764.2 **Windows:** Fenestration patterns may vary from building to building within the same development but should exhibit general consistency along a streetscape. Ground-floor windows should be provided for all buildings; upper floors windows may be enhanced with bays or balconies. Vertical proportions for windows are preferred; continuous horizontal bands of window glass are discouraged. Windows should be of clear glass to allow two-way visibility, which enhances safety on the street and creates a visually interesting pedestrian environment; dart tinted or mirrored glass in not permitted, but interior window treatments may be provided for privacy. Exterior shutters or blinds are encouraged, and should be designed to fit the size and shape of window openings.

- 764.3 **Exterior Materials:** Exterior building materials and finishes should convey an appearance of permanence and durability, and should reflect historical southern New England architecture. Natural materials are preferred, such as wood, masonry, stone, stucco, glass, terra cotta, tile, and metal; however, high quality synthetic materials may also be considered. Glass curtain walls, reflective glass, and dark tinted glass are not permitted. Variety in materials is encouraged, especially where a development includes multiple buildings.
- 764.4 Building **Façade Articulation:** All buildings should be designed with varied and articulated facades to provide visual interest and decorative patterning in exterior wall materials should be considered. Long expanses of blank walls facing the street or public open space are not encouraged, either on the ground floor or on upper floors. Where building frontage along a street is greater than 100 feet, architectural elements such as vertical piers, bay windows, and recessed entrances should be used to maintain variety along the streetscape.
- 764.5 Transition **Lines:** Non-residential and mixed use buildings of more than one story should provide a transition line above the first floor level, expressed architecturally by a storefront cornice, a belt course, a change in materials, sign band, a canopy or awning, or similar element. Changes in the plane of the façade resulting in an overhanging second story are not encouraged; however a continuous roof, arcade, awning or canopy that shelters the public sidewalk may be considered. The transition line should be relatively consistent, but does not need to be at the exact same height, across buildings with the same block.
- 764.6 Building **Entries:** At least one building entry/entries should be located on the front of the building facing the adjacent highway or internal street. Such entry / entries shall be accessible by sidewalk and shall be open during all business hours. Building entries should be articulated in their exterior materials to express their purpose.
- 764.7 Typically, a minimum of 30% of a commercial building façade's surface area facing adjacent primary public roads should be glazed storefronts or windows.
- 764.8 Storefront windows may either provide views into the interior space used by a business, or be used for display only, enclosed on the interior by opaque walls. All storefront windows should be lit at night. Storefront entrances may be recessed.

## 765 SUSTAINABLE DESIGN GUIDELINES

- 765.1 **Rainwater collection.** As part of the stormwater management plan, consideration should be given to rainwater collection systems to be utilized on site for irrigation and/or other landscape design features to minimize use of potable water.
- 765.2 **Parking shall not exceed minimum zoning.** The development plan should not exceed minimum zoning requirements in respect to number of parking spaces without documentation that the proposed use requires additional parking and the excess parking does not deem itself a hazard to the character and design of the overall development plan.
- 765.3 **Alternative transportation:** Access to public transportation shall be considered by the Applicant and incorporated into the design where feasible. Where public transportation is not accessible, consideration shall be given to providing preferred parking designated for car/van pool participants, covered bicycle storage, and fueling stations for electric powered vehicles.
- 765.4 **Renewable Energy.** Sources of renewable energy such as geo-thermal, solar panel, wind, and biomass shall be considered in conjunction with conventional sources of energy.
- 765.5 **Recycled Materials.** Re-use of recycled building materials, recycled content materials, and materials manufactured regionally are encouraged.
- 765.6 **Stormwater Management.** On-site stormwater retention basins are discouraged; where they are utilized they should be designed as landscape site amenities.

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# ARTICLE 8:

## Alternative Residential Site Development

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### 810 RESIDENTIAL CLUSTER DEVELOPMENT

#### 811 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.

#### 812 USE REGULATIONS

812.1 The Planning Board may grant a Special Permit approving a Residential Cluster Development in all Districts.

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

812.3 The allowable dwelling type shall be the same as that allowed in the zoning district of the proposed development

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

#### 813 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.

#### 814 PROCEDURES

##### 814.1 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

##### 814.2 Contents of Application

Said application and plan shall be prepared in accordance with the Planning Board's requirements for a preliminary subdivision plan provided in the Rules and Regulations Governing the 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.
- (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'.

**814.3 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.

**814.4 Planning Board Approval**

Planning Board approval of a Special Permit or a 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 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 Site Plan Review and subdivision approval. In such case, the Planning Board may conduct a combined public hearing for both a Special Permit or Site Plan Review and subdivision approval.

## **815 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 Sections 816-818 of this By-Law.

## **816 MINIMUM DIMENSIONAL REQUIREMENTS**

**816.1** 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.

**816.2** No single lot shall contain less than 10,000 square feet for each single family dwelling; not less than 20,000 square feet for each two-family dwelling; and, not less than 40,000 square feet for each multiple-family dwelling.

**816.3** 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 nonresidential structure:

<b>Lot Size (Square feet)</b>	<b>Frontage (feet)</b>
10,000 –39,000	100
40,000 or greater	125

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

## **817 REQUIRED OPEN LAND**

- 817.1 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.
- 817.2 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.
- 817.3 This 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.

## **818 OWNERSHIP AND MANAGEMENT OF COMMON OPEN SPACE**

### **818.1 Ownership**

Such open land shall either be conveyed to the city or town and accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot.

If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units in accordance with the following requirements:

- (a) The corporation or trust must assign each individual unit owner as a tenant-in-common owner of the Common Open Space;
- (b) Each owner of the Residential Cluster Development shall automatically become a member of the corporation or trust upon purchase of a unit or units within the development;
- (c) The deed to each unit shall include a proportionate share of the Common Open Space;
- (d) The corporation or trust 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;
- (e) The provisions establishing the corporation or trust shall be approved by Town Counsel.

In any case where such land is not conveyed to the city or town, a restriction enforceable by the city or town shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway.

### **818.2 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.

### **818.3 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.

## **819 FURTHER REQUIREMENTS**

- 819.1 No use other than residential or recreational shall be permitted.
- 819.2 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.
- 819.3 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.
- 819.4 The Board may impose other conditions, safeguards, limitations on time and use, pursuant to its regulations.
- 819.5 The Board may grant a Special Permit hereunder for clustering even if the proposed development is not subject to the subdivision control law.
- 819.6 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.
- 819.7 After granting the Special 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.

## **820 MULTIPLE FAMILY AND APARTMENT DWELLINGS**

### **821 PURPOSE**

To provide buildings, or a portion thereof, designed for occupancy by 2 or more families living independently of each other.

### **822 GENERAL PROVISIONS**

A multiple family or apartment dwelling development shall comply with the following provisions, and with all other provisions of this By-Law except as specifically modified by the provisions of this section.

### **823 DEVELOPMENT STANDARDS - GENERAL**

- 823.1 Each dwelling unit in a multiple family or apartment dwelling shall contain at least 650 square feet of livable floor area, exclusive of closets and bathrooms.
- 823.2 The development shall be served by a public water system adequate in terms of fire protection and domestic use.

### **824 DEVELOPMENT STANDARDS - MR-30 AND COMMERCIAL DISTRICTS**

- 824.1 The minimum lot area for multiple family dwellings or apartments shall be five acres.
- 824.2 No structure in the development shall be located closer than 200 feet from a coastal wetland.
- 824.3 The number of multiple family dwelling units or apartments shall not exceed the number of dwellings that would be allowed for a conventional single-family residential development
- 824.4 The development shall be served by a 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.

824.5 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.

824.6 Where the total number of apartment dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units, the development shall include an outdoor recreation area with at least 500 square feet per unit for each two-bedroom unit plus 1,000 square feet per unit for each unit of three or more bedrooms. Housing for the elderly and one bedroom units are exempt from this requirement.

## **825 DEVELOPMENT STANDARDS -VILLAGE DISTRICTS**

825.1 Dwellings shall be connected to the municipal sewerage system.

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

825.3 In the Wareham Village 1 District, public amenities shall 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, and lighting of alleys and entry ways.

## **826 APPLICATION SUBMITTALS**

Plans shall be submitted to the Planning Board showing the location of the multiple family dwellings, roads, parking areas, water mains, 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.

## **827 FINDINGS FOR GRANTING OF SPECIAL PERMIT**

In addition to the findings for granting of Special Permits generally, the Special Permit Granting Authority shall make the following findings prior to granting a Special Permit for a multiple family or apartment development:

827.1 The proposed multiple family or apartment development shall be compatible with the adjacent land use

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

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# ARTICLE 9:

## Parking

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### 910 ADMINISTRATION

**911** 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 or adjacent unauthorized land and present no increased traffic hazard to pedestrian or vehicular movement.

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

**913** Relief from parking space requirements may be granted subject to a Special Permit by the Board of Appeals.

### 920 NUMBER OF PARKING SPACES REQUIRED

### 921 TABLE OF PARKING REGULATIONS:

Minimum parking spaces shall be as specified in the following table, subject to the further provisions of this Article.

Use	Number of Parking Spaces Required
1-Family Dwelling	2 per dwelling unit
2-Family Dwelling	2 per dwelling unit
3,4, and 5+ Dwelling	
1 bedroom	1.5 per dwelling unit
2 or more bedrooms	2 per dwelling unit
Elderly	1 per dwelling unit
Bank	1 space per 200 ft <sup>2</sup> 2 Gross Leasable Floor Area (GFA)
Bowling Alley	3 per lane
Business, Retail < 1,000	1 per 200 ft <sup>2</sup> GFA
Business, Retail > 1000	1 per 300 ft <sup>2</sup>
Convenience Store	1 space per 150 ft <sup>2</sup> GFA
Day Care Center	1 space per employee at maximum capacity plus a drop-off or parking area capable of receiving 25 % of the capacity of the day care center as determined by the Office For Children (OFC)
Guest House	1 per unit plus 2 for residence

Health or Athletic Facility	.75 space per occupant as calculated under the Massachusetts State Building Code for maximum occupancy.
Hospital	1 per bed for hospital
Laboratories, research and development	1 space per 300 SF GFA
Manufacturing uses and Industrial non-manufacturing	1 per 1.5 on largest shift plus 1 per vehicle stored on premises
Marina and/or Yacht Club	.5 per slip (indoor facilities add 1 per 6 person capacity)
Motel or Hotel	1 per unit
<b>Use Number of Parking Spaces Required</b>	
Motor Vehicle Repair	2 per lift or bay
Nursing Home	1 per 4 beds
Offices (business, professional and Administrative)	1 space per 250 SF GFA
Personal Services	1 per 150 ft 2 GFA
Recreations, Commercial Indoor	1 per 5 seats
Recreation, Commercial Outdoor	1 per 4 person capacity
Restaurant or Theater	1 per 5 seats
Restaurant w/o Seating	6 spaces

## 930 DESIGN

## 931 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.

## 932 AISLE AND DRIVEWAY REQUIREMENTS

### 932.1 Parking Area Aisles:

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

- 932.2 Turnaround spaces shall be provided in all dead-end parking aisles.
- 932.3 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.

### **933 PARKING SPACE DIMENSIONS**

- 933.1 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.
- 933.2 Spaces for parallel parking shall be not less than nine (9) feet wide by twenty-two (22) feet long.
- 933.3 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.

### **934 SURFACING AND CURBING**

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.

Curbing shall be placed at the edges of surfaced areas, except driveways, in order to protect landscaped areas and to prevent the parking of vehicles within required setback areas. Entrance and exit driveways shall be clearly defined by curb cuts, signs, striping.

### **940 JOINT USE OF REQUIRED PARKING SPACES**

#### **941 GENERAL**

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.

#### **942 COMPLEMENTARY USES**

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.

#### **943 LEGAL CONTROL AND CONTINUITY**

If joint use of the same parking space by two or more principal uses involves off-site parking then the provisions of Section 950, herein, are also applicable.

## **950 OFF-SITE PARKING**

### **951 GENERAL**

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.

### **952 PROXIMITY**

All off-site parking spaces (except for employees) must be located within three hundred fifty (350) feet of 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.

### **953 LEGAL CONTROL AND CONTINUITY**

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 acknowledgment that the validity of his permit depends upon his continuing ability to provide the required number of parking spaces.

### **960 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.

## **970 STANDING AND LOADING**

### **971 OFF-STREET LOADING FACILITIES AND SPACE**

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.

### **972 LOCATION AND DESIGN**

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.

### **972 ADMINISTRATION**

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.

### **973 ACCOMMODATION FOR QUEUES**

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.



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# ARTICLE 10:

## Landscaping

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### 1010 PURPOSE

The purpose of this Article is to ensure that there are properly vegetated and maintained landscaped buffers between potentially incompatible land uses in order to minimize and mitigate the potential impacts of noise, fighting, stormwater runoff and air pollution. These regulations will also serve to enhance and preserve the rural and visual character of Wareham by promoting high quality development projects.

### 1020 APPLICABILITY

This Article applies to all new non-residential development and to multi-family residential developments with more than 6 dwelling units. Expansions of any non-residential or multi-family residential project which exceed ten (10) percent of the existing gross floor area or one thousand (1,000) square feet, whichever is less, shall comply with these regulations.

### 1030 PLAN SUBMITTAL REQUIREMENTS

A landscape plan shall be submitted in conjunction with any other submittal required for a Special Permit, Site Plan Review or building permit. The board or official to whom the plan is submitted shall be responsible for determining acceptable landscaping standards where otherwise not provided.

### 1031 LANDSCAPE ARCHITECT

For new projects or expansions exceeding five thousand (5,000) square feet of non-residential development or more than three (3) multi-family dwelling units, the landscape plan shall be prepared by a registered landscape architect whose seal shall appear on the plan.

### 1032 PLAN COMPONENTS

A landscape plan shall be deemed complete when it contains the following:

- (a) A description of the site;
- (b) Proposed project and parking site plan;
- (c) Location, general type, and quality of existing vegetation, including trees;
- (d) Existing vegetation to be preserved;
- (e) Mitigation measures employed for protecting existing vegetation during construction and a sediment and erosion control plan;
- (f) Locations and labels for all proposed plants;
- (g) Plant lists or schedules with the botanical and common name, quantity, and spacing and size of all proposed landscape material at the time of plantings;
- (h) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas; and
- (i) Planting and installation details, including planting schedule, as necessary to ensure conformance with this Article.

### 1040 LANDSCAPED BUFFERS

#### 1041 LANDSCAPED BUFFERS BETWEEN LAND USES

Landscaped buffers shall be provided between land uses as specified in Section 1042, and between residential developments and collector streets or arterials as specified in Section 1043. Existing woodlands, which meet the minimum requirements of each section, may substitute for landscaping.

## 1042 MINIMUM LANDSCAPED BUFFER

The following table sets forth the minimum required additional landscaped buffer between a proposed use and an existing adjacent use.

**Minimum Landscaped Buffer (feet)**

Adjacent Use House	Single Family House	Two Family Dwelling	Multi-Family	Commercial	Office	Industrial
PROPOSED USE						
Single Family Home *	NONE	NONE	10	20	20	40
Two Family Home	NONE	NONE	10	20	20	40
Multi-Family Dwelling	10	10	10	20	20	40
Commercial Use	20	20	20	10	10	20
Office	40	40	40	10	10	20
Industrial	50	50	50	40	40	10

\* Note: This applies to subdivisions requiring new road (s) i.e., not ANR Lots.

## 1043 BUFFERS FOR RESIDENTIAL DEVELOPMENTS

1043.1 Residential developments shall provide a buffer to minimize and mitigate the visual and noise impacts of any collector street or arterial.

This buffer may be provided as:

- (a) part of the individual lot;
- (b) an easement; or
- (c) part of the common open space owned and maintained by a homeowner's association.

1043.2 The buffer between a residential development and a collector street or arterial shall be at least forty (40) feet in width and shall contain an adequate mixture of shade, ornamental and evergreen trees, and shrubs to screen the residences from the street

## 1050 LANDSCAPE STANDARDS AND SPECIFICATIONS

The following standards and specifications, shall apply for plant measurements, installation techniques and maintenance:

### 1051 PLANT STANDARDS AND SPECIFICATIONS

1051.1 The landscape contractor shall furnish and install and/or dig, ball, burlap, and transplant all plant materials listed on the plant schedule. Bare-root is typically not permitted for any tree.

1051.2 Plant materials shall conform to the requirements described in the latest edition of American Standard for Nursery Stock, published by the American Association of Nurserymen. Plants shall be nursery grown.

1051.3 Plants shall conform to the measurements specified in the plant schedule.

- a) Caliper measurements shall be taken six (6) inches above grade for trees under four (4) inches in diameter and twelve (12) inches above grade for trees four (4) inches in diameter and larger.
- b) Minimum branching height for all shade trees shall be six (6) feet
- c) Minimum size for shade trees shall be two and one half (2 1/2) inches in diameter and twelve (12) feet in height.
- d) Minimum size for evergreen trees shall be between six (6) and eight (8) feet in height.
- e) Minimum size for shrubs shall be three (3) feet in height.

- 1051.4 A professional horticulturist/nurseryman shall be consulted to determine the proper time to move and install plant material so that stress to the plant is minimized. Planting of deciduous material may be continued during winter months provided there is no frost in the ground and frost-free topsoil planting mixtures are used.
- 1051.5 A landscape contractor shall excavate all plant pits, vine pits, hedge trenches, and shrub beds as follows:
- (a) All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth (1 /8) of the ball to be above the existing grade. Plants shall rest on undisturbed existing soil or well-compacted backfill on every side the tree pit must be a minimum of nine (9) inches larger than the ball of the tree.
  - (b) If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least eighteen (18) inches in depth. Areas designated for ground covers and vines shall be cultivated to at least twelve (12) inches in depth.
- 1051.6 Each tree, shrub, or vine shall be pruned in an appropriate manner, in accordance with accepted standard practice.
- 1051.7 All trenches and shrub beds shall be edged and cultivated to the lines shown on the drawing. The areas around isolated plants shall be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked shall be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edges of shrub areas, hedge trenches, and vine pockets.
- 1051.8 After cultivation, all plant materials shall be mulched with a layer between two (2) and three (3) inches deep of tan bark, peat moss, or another material over the entire area of the bed, or saucer.

## **1052 OTHER LANDSCAPE STANDARDS AND SPECIFICATIONS**

- 1052.1 Earthen berms shall only be used in conjunction with vegetative planting
- 1052.2 Existing trees and woodlands shall be preserved to the greatest extent possible. Factors to be considered shall include the size, age, condition, habitat or historical significance of the tree. Trees to be preserved shall be selected early in the project planning process prior to establishing the site layout. Site grading shall be minimized in those areas to prevent damage to the preserved trees. Efforts shall be undertaken to protect the trees during construction.
- 1052.3 Vegetation in floodplains, steep slopes, and wetlands areas shall remain undisturbed to the greatest extent possible. Any alteration of these areas shall be in conformance with applicable local, state, and federal regulations.
- 1052.4 Landscape plans shall provide for a mix of evergreen, ornamental, shade trees, and shrubs to provide adequate visual and noise buffer between adjacent land uses. Fences, berms, and other structural features may also be used to provide an adequate buffering between the land uses.
- (a) Shrubs shall form a continuous visual screen of at least three (3) feet in height at the time of planting.
  - (b) Berms shall be at least two and one-half (2 1/2) feet high and shall have a minimum three to one (3:1) side slope.
  - (c) Every thirty-five (35) linear feet of landscaping shall contain one (1) shade tree and five (5) shrubs. Two (2) ornamental or two (2) evergreen trees may substitute for one (1) shade tree.
- 1052.5 Perimeter landscapes shall be provided to separate commercial, office, and industrial uses from the street. At least a ten (10) foot strip shall be landscaped with trees, shrubs, fences, berms or other means deemed acceptable by the Board or official.
- 1052.6 Preservation of existing large trees can be used to reduce new plantings required by this Article and the Board or official. Existing woodlands can also provide buffers that conform with Section 1040.

## 1060 PARKING LOTS

### 1061 VISIBILITY FROM PUBLIC ROADWAYS

When a parking lot is located adjacent to a public street design alternatives shall be implemented to reduce the lot's visibility from the street.

- 1061.1 Along the perimeter of the parking lot a landscape strip shall be provided planted with shade trees and low shrubs in compliance with Section 1040.

The landscape strip shall provide a minimum of one (1) shade tree per every forty (40) feet of lot perimeter. Where appropriate, additional shade trees may be necessary to effectively shade/screen the parking lot.

In cases where quality woodlands exists, existing trees and shrubs shall be preserved to provide the minimum buffers set forth in Section 1040. Provide additional shrubs if needed.

- 1061.2 One or more of the following design alternatives shall be used for all parking lots located adjacent to public streets:

**a) Landscape Setbacks**

Provide at least a ten (10) foot wide landscaped area exclusive of that required for sidewalks or utility easements between the street and the parking lot to be planted with shade or ornamental trees, and at least a three (3) foot high **evergreen hedge, wall, or fence**.

**b) Grade Changes**

In cases where substantial grading is necessary and results in a parking lot lower in elevation than the surrounding or adjacent right-of-way, the resulting embankment should be planted with low shrubs and shade or ornamental trees. A minimum of ten (10) feet of landscaping should be provided between the street and the parking lot.

**c) Landscape Berms**

Where feasible, create at least a two and one-half (2 1/2) foot high berm with slopes not to exceed three to one (3:1) for planting lawn, ground cover, or shrubs.

**d) Existing Woodlands**

In cases where quality woodland exists, preserve existing trees between the parking lot and the right of-way. Provide additional evergreen shrubs if needed to achieve an effective visual buffer. The vegetation should be preserved.

- 1061.3 Sight triangles shall include the area on each street corner that is bounded by the line which connects the sight or "connecting" points located on each of the right-of-way lines of the intersecting street .The planting of trees or other plantings that would obstruct the clear sight across the sight triangle shall be prohibited.

## 1062 INTERIOR LANDSCAPING ENHANCEMENTS

- 1062.1 A minimum of five (5) percent interior landscaping shall be maintained for the purpose of planting shade trees. In addition, all of the following design alternatives shall be included where appropriate:

- a) Provide a continuous landscape strip between every four (4) rows of parking. This should be a minimum of eight (8) feet in width to accommodate a low hedge and shade trees.
- b) Create large planting islands (over six hundred (600) square feet) to be located through the lot and planted with shade trees, low shrubs, and/or ground cover. These should preferably be located at the ends of parking rows.
- c) Provide planting islands (a minimum of nine (9) feet wide) between every ten (10) to fifteen (15) spaces to avoid long rows of parked cars. Each of these planting islands should provide at least one (1) shade tree having a clear trunk height of at least six (6) feet

- 1062.2 Within the interior of the parking lot, landscaping should be used to delineate vehicular and pedestrian circulation patterns. Clear and legible signs, different color and texture paving materials, raised areas, and other techniques should be used to further direct the flow of both vehicular and pedestrian traffic within the lot. Mechanical equipment, trash, and loading areas shall be screened by walls, fences, landscaping or a combination of the latter.

- 1062.3 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.
- 1062.4 Each tree of the type described in Section 1062.3 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.
- 1062.5 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.
- 1062.6 In order to preserve landscaping 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.

## **1070 MAINTENANCE OF LANDSCAPING BUFFERS**

### **1071 MAINTENANCE OF LANDSCAPING PLANS**

To ensure the implementation and long-term maintenance of landscaping plans and requirements, the Board may require one or more of the following:

- a) A two (2) year guarantee on all new plant material. If any required tree or shrub dies within this period of time, it shall be replaced.
- b) Require the developer to post a performance or maintenance bond conditioned upon satisfactory implementation of the landscape plan.
- c) Require the developer/owner/applicant to maintain a long-term maintenance agreement with a landscape company to maintain the landscaping on the site.

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# ARTICLE 11:

## SIGNS

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### 1110. PURPOSE

**The purpose of this article is to promote the safety, comfort and well being of the users of the streets, roads and highways in the Town of Wareham by:**

- A. Reducing the potential distractions and obstructions of signs that would adversely affect traffic safety and alleviating hazards caused by signs projecting over or encroaching upon public ways.
- B. Discouraging excessive visual competition in signage and ensuring that signs aid orientation.
- C. Preserving and enhancing the character of the Town by requiring new and replacement signage that is:
  - 1. Creative and distinctive,
  - 2. Compatible to the surrounding area and surrounding architecture,
  - 3. Appropriate to the type of activity to which it pertains,
  - 4. Expressive of the identity of individual proprietors or of the community as a whole,
  - 5. Appropriately sized in its context, so as to be easily read.
- D. To clarify which town official handles enforcement of this sign By-Law.

### 1111. STATUTORY AUTHORITY AND ENFORCEMENT

- A. This chapter is adopted pursuant to Article 89 of the Commonwealth of Massachusetts and Massachusetts General Laws (M.G.L) Chapter 40, Section 1(1).
- B. Compliance with Wareham Subdivision Rules and Regulations and the Zoning By-Law.
  - 1. Any project for which approval is required under the Wareham Subdivision Rules and Regulations and/or for a Site Plan Special Permit under the Wareham Zoning By-Law and where any project sign is proposed shall include as part of the application package plans for the sign that show, at a minimum, the following;
    - a. Location of the sign on the property together with setback dimensions from a street line or property line or a building face.
    - b. The dimensions of the proposed sign.
    - c. The style and materials that will make up the sign.
    - d. The message to be displayed on the sign.
    - e. The sign colors and lighting to be employed.
    - f. Any other information that the approving authority may require for a determination that the sign complies with Section 1110 or any other section of this Article.
    - g. No building permit shall be granted for any sign under this section that does not first receive written approval from the approving authority.
- D. Enforcement – The Director of Inspectional Services is hereby charged with the enforcement of this By-law.
  - 1. The Director of Inspectional Services and his duly authorized agents, shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.
  - 2. The Director of Inspectional Services and his duly authorized agents, are further authorized, upon notice as herein provided, to order the repair or removal of any sign which in his judgment is a

prohibited non-accessory sign, or which is erected or maintained contrary to this By-Law. The Director of Inspectional Services shall serve a written notice and order upon the owner of record of the premises where the sign is located and any advertiser, tenant, or other persons known to him having control of or a substantial interest in said sign, directing the repair or removal of the sign within a time not to exceed thirty (30) days after giving such notice. The owner of record may appeal the decision of the Director of Inspectional Services under MGL Ch. 40A.

3. If public safety is involved, the Director of Inspectional Services shall take immediate action.

## **1112. DEFINITIONS**

As used in this chapter, the following terms shall have the meanings indicated:

### **Address Sign**

A sign that displays the street number and name(s) of the occupant(s).

### **Awning Sign**

A sign attached to a roof like structure often made of canvas or plastic that serves as a shelter over a storefront, window, door or deck.

### **Billboard**

A freestanding sign larger than 40 square feet in gross area, or a wall sign covering more than 10% of the area to which it is affixed; exception, shopping mall sign.

### **Construction Sign**

An on-premises sign that identifies the contractor, architect, landscape architect and/or engineer's name, address and other pertinent information.

### **Façade**

The exterior surface of a building.

### **Flashing Sign**

A sign whose illumination is not kept constant in intensity when in use and that exhibits changes in light, color, direction or animation. A sign where the illumination changes to indicate the date, time and temperature will not be considered a "flashing sign".

### **For Sale, Rent or Lease Sign**

An on-premises sign that advertises the property being sold, leased, rented or constructed, including new construction or renovation.

### **Freestanding Sign**

A self-supporting sign not attached to any building, wall, or fence, but in a fixed location. This does not include movable, portable, mobile or trailer-type signs.

### **Illuminated Sign**

Any sign that utilizes lights to enhance visibility. Methods of illumination may include, but not be limited to electrical bulbs, fluorescent lights, battery pack(s), neon tubes or other means of illumination. Neon tubes used as abstract, graphic, decorative or architectural elements shall be considered an illuminated sign.

### **Landmark Sign**

An older sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the Wareham Historical Commission and/or the Wareham Historical District Commission.

### **Light-Emitting Diode (LED)**

A semiconductor device that emits light when a current passes through it.

### **Marquee Sign**

A sign painted on, attached to or consisting of interchangeable copy on a permanent overhanging shelter that projects from the face of a building.

**Medical Marijuana Treatment Center**

Any medical marijuana treatment center, as defined under state law, as a not-for-profit entity (as defined by Massachusetts law only), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

**Movable, Portable or Mobile Sign**

Any sign that can be readily moved or relocated, including portable signs mounted on, attached to, or painted on a chassis and/or wheels, a truck, trailer or other vehicle if placed at a location especially prepared for display through special lighting or elevation. In the case of commercial vehicles having lettering, logos or similar devices, if such vehicles are placed at a location more prominent than a feasible alternative on the site; or any sign supported by legs; also signs converted to "A" or "T" frames, menu and sandwich board signs. This also includes balloons, pennants (freestanding or otherwise), flags, umbrellas or human, inflatable or costumed signs used for advertising.

**Multiple or Ladder Sign**

A freestanding sign with a vertical support(s) with two (2) or more horizontal crosspiece signs, or two (2) or more hanging horizontal signs serving as individual signs for identification or advertising purposes.

**Off-Premises Sign**

Any sign that is not on the premises of the business, including but not limited to a billboard or movable sign.

**On-Premises Sign**

Any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained or the business transacted thereon or advertises the property itself or any part thereof for sale or rent.

**Political Sign**

A sign designated to influence the action of voters for the passage or defeat of a measure or the election of a candidate to a public office at a local, national, state or other election.

**Projecting Sign**

A sign that is affixed to a building, tree, pole or other structure and that extends more than six (6) inches beyond the surface to which it is affixed.

**Public Service Sign**

A sign located for the purpose of public information, providing directions towards or indication of a use not readily visible from the street (e.g. rest rooms, telephone, hospital, parking etc.); signs prohibiting trespass, hunting and the like and signs warning of danger, such as "high voltage", street name signs and signs erected by the Town, County or Commonwealth for the direction and control of traffic.

**Roof Sign**

A sign that is located above or projects above, the lowest point of the eave(s) or the top of a parapet wall of any building, or that is painted on or fastened to a roof.

**Sandwich Board Sign**

A portable sign constructed of two (2) boards or halves, of wood, plastic, metal or other material connected at the top to form an "A" shape when positioned on the ground.

**Sign**

Any display of lettering, logos, colors, lights, flags, banners, pennants, ribbons, spinners (or similar devices) or illuminated neon tubes visible to the public from outside of a building or from a traveled way, that either conveys a message to the public or intends to advertise, direct, invite, announce or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises. This shall not include vending machine signage or temporary holiday displays.



**Temporary Sign**

A sign intended for use for a period of no more than 30 consecutive days.

**Wall Sign**

Any sign that is painted on, incorporated into or affixed parallel to the wall of a building and that extends not more than six (6) inches from the surface of that building.

**Window Sign**

A sign affixed to the surface of a window (inside or outside) or displayed behind a window to attract attention from the outside. A sign shall be deemed a "window sign" if it is within the display or show case of the window or within four (4) feet of the inside surface of a window through which it is intended to be viewed. This also includes any mural or other representation painted on a window for any purpose.

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**1113. EXCEPTIONS**

For the purposes of this section, the term "sign" shall not include:

- A. Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, by-law or other regulation.
- B. A bulletin board or similar sign not exceeding ten (10) square feet in display area in connection with any church, museum, library, school or similar public or semipublic structure, provided that the top of such sign shall not be more than eight (8) feet above ground level and provided that it does not possess any of the characteristics listed in Section 1115 below.
- C. Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, and where the display area does not exceed three (3) square feet or extend higher than four (4) feet above ground level. Such sign shall conform in all aspects with the requirements of this chapter.
- D. Signs relating to trespassing and hunting, warning of danger such as "High Voltage", etc., not exceeding two (2) square feet in area.

**1114. PERMITTED SIGNS**

Only signs that refer to a permitted use or an approved conditional use, as set forth in the Zoning By-Laws are permitted, provided that such signs conform to the provisions of this section.

**1115. PROHIBITED SIGNS**

- A. Billboards, streamers, pennants, ribbons or other similar devices shall not be constructed, posted or erected in any zoning district, except as may be allowed by Special Permit in Article 1125. Exceptions include flags, as allowed under Section 1119.D.6 and buntings exhibited to commemorate national patriotic holidays and temporary banners(s) announcing charitable or civic events as allowed under Section 1131.B(1) that shall be defined as temporary signs.
- B. Flashing signs, roof signs, signs containing moving parts and parts containing reflective elements that create glare are not permitted, except as may be allowed by Special Permit in Article 1125. Barber poles and signs indicating the current time and/or temperature are permitted, provided that they meet all other provisions of this section.
- C. Any sign advertising or identifying a business or organization that is either defunct or no longer located on the premises is not permitted. Exceptions are granted to landmark signs that may be preserved and maintained even if they no longer pertain to the present use of the premises, with the written permission of the Wareham Historical Commission and/or the Wareham Historical District Commission.

- D. No sign shall be larger than forty (40) square feet, except for a mall sign or shopping center sign or a free standing sign, which shall be no larger than one hundred and twenty (120) square feet, see Section 1126 for freestanding size regulations.
- E. No sign, except for a traffic, regulatory or informational sign, shall use the words “stop”, “caution” or “danger” or shall incorporate red, amber or green lights resembling traffic signals or shall resemble “stop” or “yield” signs in shape, color or sightlines.
- F. No sign shall be erected that is determined to be structurally unsafe, constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment, obstructs free entrance or exit from a required door, window or fire escape, obstructs light or air or interferes with proper functioning of the building or sightlines.

## **1116. ILLUMINATION**

- A. Except as may be allowed by Special Permit in Article 1125, no sign shall be erected that flashes, rotates or has motorized moving parts. This prohibition shall not apply to rotating barber poles.
- B. No sign shall be erected with exposed electrical wires.
- C. No sign shall be erected that constitutes a hazard to pedestrian or vehicular traffic because of the intensity or direction of the illumination.

## **1117. PLACEMENT**

- A. No sign shall be erected that is affixed to a railing, fence, bridge, utility pole which is private property, or tree.
- B. Except as may be allowed by Special Permit in Article 1125, no sign shall be mounted above the roof ridge line unless mounted on a parapet wall that extends above the roofline, in which case the sign may not extend above the top of said parapet.
- C. No projecting sign shall extend into a vehicular public or private way or be less than ten (10) feet above a pedestrian way.
- D. No freestanding sign, together with any supporting framework, shall extend to a height more than eighteen (18) feet from the level of the centerline of the street that is closest to the sign.
- E. Signs shall be installed that complement the architecture of the building which they are identifying, and shall not cover architectural details such as, but not limited to, arches, sills, molding, cornices and transom windows.

## **1118. NONCONFORMING SIGNS**

Legally nonconforming signs and their supporting structures may remain except as qualified below;

- A. Other than sign maintenance, no nonconforming sign and its supporting structures shall be reconstructed, remodeled, relocated or changed in size, unless such action will make the sign conforming in all respects to this By-Law. Any change in use of the property or of the business shall require that the sign will conform in all respects to this By-Law within forty-five (45) days of such property or business transfer for single-business signs. Multiple-business or ladder signs must conform within forty-five (45) days of change of ownership or usage of the entire building(s).
- B. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign, including sign maintenance, repainting and replacement of broken or deteriorated parts of the sign itself. Supporting structures for nonconforming signs may be replaced, except that the sign height

must be brought into compliance with this By-Law, without having such replacement make the sign and sign structure conforming in all respects.

- C. A nonconforming sign or sign structure shall be removed within thirty (30) days if the building containing the use to which the sign is accessory is demolished or destroyed and replaced with a sign that conforms in all respects to this By-Law.
- D. Each nonconforming sign not removed when required shall be deemed a public nuisance and the Town may proceed to attain a court order compelling its removal. The cost(s) of said removal shall be borne by the sign owner and/or property owner and may be recovered by the Town, if necessary, in an action of contract in a court of competent jurisdiction, in accordance with the appropriate State law.

## **1119. PERMIT REQUIREMENTS**

- A. No sign shall be erected, displayed, altered or enlarged until an application has been filed and until a permit for such action has been issued. Applications shall be on forms prescribed by the Director of Inspectional Services. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems and location on land and/or building(s), with all relevant measurements.
- B. The Director of Inspectional Services shall act within thirty (30) days of receipt of such application together with the required fee. A written appeal of the Director of Inspectional Services action can be made within twenty (20) days of such action to the Zoning Board of Appeals. The Zoning Board of Appeals shall hold a public hearing within forty-five (45) days of receipt of the written appeal and shall make a decision within fourteen (14) days of the close of the hearing without an extension being granted to the applicant. The Zoning Board of Appeals and its majority decision shall be final.
- C. A sign permit application for any sign in any Wareham Historic District shall be referred to the Historic District Commission, which shall make recommendations to the Director of Inspectional Services. If the Wareham Historic District Commission holds a public meeting, the Director of Inspectional Services decision may be delayed until forty-five (45) days after receipt of the completed application.
- D. The following types of signs shall be authorized by right without the necessity of a permit:
  - 1. **Address Signs**  
Such signs may include identification of an on-premises customary home occupation and may be attached to the building or may be on a post not more than four (4) feet high and set back behind the property line. Such sign may not exceed two (2) square feet in area.
  - 2. **Awnings**  
Such signs must be painted on or attached flat against the surface of the awning but may not extend beyond the valance or be attached to the underside. Letters shall not exceed ten (10) inches in height. The awning shall be a minimum of eight (8) feet above the sidewalk or street level to allow for pedestrian clearance. The awning sign area shall be calculated in the total allowable sign area for wall signs.
  - 3. **Construction Signs**  
Such signs shall not exceed twelve (12) square feet and shall be set back behind the property line and may be maintained on the building or property for the interim or construction and not more than thirty (30) days following the completion of said construction.
  - 4. **For Sale, Rent or Lease Signs**  
Such signs shall not exceed six (6) square feet and shall advertise only the property on which the sign is located, except as provided in Article 1133. A maximum of two (2) such signs may be maintained on any property being sold, leased, rented, built or renovated and they shall be removed by the owner or agent within three (3) days of sale, lease, rent or completion of work.
  - 5. **Political Signs**

Such signs are permitted on private property if they are stationary, unlighted and temporary. Such signs may not exceed six (6) square feet.

**6. Flags**

Except during national holidays, a maximum of two (2) governmental flags are permitted and one (1) additional nongovernmental flag with a maximum size of fifteen (15) square feet (i.e. 3' x 5') are permitted for each business. Any flag with words advertising a business shall be considered a sign. Nautical signal flags attached to a yardarm from a single flagpole are exempt.

**7. Information and Directional Signs**

Information and directional signs containing no advertising are permitted to direct traffic flow, indicate parking space, identify points of interest or provide other essential information to guide vehicular or pedestrian traffic flow and may be erected by the Town of Wareham Department of Municipal Maintenance as a matter of right, or by others with a license from the Director of Inspectional Services.

**8. Public Service Signs**

Such signs necessary for public safety and convenience shall not exceed two (2) square feet, except for vehicular traffic control. Such signs shall bear no advertising. Such signs are not included in computing total sign area allowed by any part of this section.

**9. Window Signs**

Window signs shall not exceed more than 25% of the total window glass area of the wall of each business facing each street or parking lot in which they are displayed. The area of such sign(s) in excess of two (2) square feet in area shall be deducted from the total area allowed for wall signs.

**10. Off-Premises Directional Signs**

Off –premises directory boards and/or informational and directional signs, for the purpose of locating businesses, may contain identification signs not larger than two (2) square feet for each business and may be permitted along public ways if a license is granted by the Director of Inspectional Services. The identification signs may be erected below one (1) sign that may not exceed eight (8) square feet. Off-premises directional signs that do not restrict visibility, not larger than six (6) square feet, may be displayed on a public or private way for a maximum of eighteen (18) hours for such one (1) – day events as yard sales, open houses, road races, lost pets, etc. However, they may not be placed on public trees, poles, lightpoles, etc. These signs may be erected as a matter of right without the necessity of a license or a sign permit. \*Exception – any sign under Town control on Town owned land is exempt from this provision.

E. The Director of Inspectional Services shall affix a seal denoting sign approval on all signs.

## **1120. FEES**

A schedule of fees for such permits may be established and amended from time to time by the Director of Inspectional Services, in accordance with the rules and regulations under MGL, Town of Wareham Charter, Town of Wareham Bylaws, and/or Town of Wareham Zoning Bylaws. However, fees may be waived for signs for governmental, religious and non-profit civic organization use.

## **1121. REMOVAL OF SIGNS**

- A. Any sign that has been ordered to be removed by the Director of Inspectional Services or his/her agent shall be removed by the person, firm, trust, realty trust or corporation responsible for the sign within thirty (30) days of written notice to remove.
- B. In the event the business occupant ceases operation all letters, numbers, logos, words and /or numbers shall be removed from the sign face(s), within sixty (60) days of this cessation (occurrence).
- C. Illegal signs shall be subject to the removal provisions of Article 1118.

## **1122. VIOLATIONS AND PENALTIES**

Violations of any provision of this bylaw or any lawful order of the Director of Inspectional Services or his/her agent(s) shall be subject to a fine of not more than \$250.00 per offense. Each day that such violation continues shall constitute a separate offense. Enforcement shall be in accordance with Section 1111 of this bylaw.

- A. The Director of Inspectional Services shall issue citations for violations of these regulations.
- B. Continued violation, even with payment of penalties, for a period of sixty (60) days, shall be grounds for removal of the sign(s) in question, following the procedures for illegal signs.
- C. Applicants for signs who have previously had penalties for illegal or non-conforming signs may be required to post a form of security for new permits. The Director of Inspectional Services shall review the sign one (1) year from the issuance of a permit and either issue a certificate of compliance, release the deposit, or order necessary corrective action utilizing the deposited funds, with any remaining funds and a full accounting of monies spent returned to the applicant.

## **1123. MEASUREMENT OF SIGN AREA**

- A. Sign area shall be the entire area of the sign, bounded by a single continuous line that encloses the extreme limits of the sign surface.
- B. For a sign applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color, or finish material of the building.
- C. For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to include the circle, rectangle, triangle or other shape which encompasses all of the letters and symbols. Such signs shall be no greater than three (3) feet in height.
- D. The area of supporting framework (for example, brackets, posts, etc.) shall not be included in the sign area measurement if such framework is incidental to the display. The area of the supporting framework shall be considered incidental if the total is eight (8) square feet or less. The Zoning Board of Appeals shall have the discretion of allowing an additional eight (8) square feet.
- E. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two (2) faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

## **1124. MEASUREMENT OF HEIGHT**

The height of any sign shall be measured from the surface of the road or sidewalk up to the highest point of the sign. In situations where a sign is intended to be visible from two (2) roads of different elevations, measurement shall be from the surface of the lower roadway.

## **1125. VARIANCES/SPECIAL PERMIT**

- A. In those instances where the strict application of this article would be impractical, impossible, or create undue hardship, a majority vote of the Zoning Board of Appeals may permit variances from this article. Such variances shall only be permitted when it is determined that the architecture of the building(s), the location of the building(s) with reference to a street or the nature of the use being made of the building(s) is such that variance would be in the public interest. In granting such variance, the Zoning Board of Appeals shall specify the size and location of the sign(s) and impose such other terms and restrictions as deemed to be in the public interest.

- B. Applicants seeking a variance and/or special permit from these regulations shall provide the Zoning Board of Appeals with information in the form of perspectives, renderings, photographs, models, or other representations sufficient to show the nature of the proposed sign and its effect on the immediate surroundings in addition to the material specified for application under Section 1119 A.
- C. The Zoning Board of Appeals shall hold a public hearing within forty-five (45) days of receipt of the written variance and/or special permit request. It shall make a written decision within thirty (30) days of the close of the hearing and file said decision with the Town Clerk. Any person aggrieved by a decision of the Zoning Board of Appeals, whether or not previously a party to the proceeding, may appeal to a court of competent jurisdiction within twenty (20) days after the entry of the decision with the Town Clerk.
- D. In those instances where a sign would not, in the opinion of the Zoning Board of Appeals, substantially derogate from the intent of this bylaw and would be in the public interest, it may grant a special permit allowing particular uses as noted in this bylaw. In granting such special permit, the Zoning Board of Appeals shall specify the size and location of the sign(s) and impose such other terms and restrictions as deemed to be in the public interest.

## 1126. FREESTANDING SIGNS

- A. Dimensional standards for freestanding signs in different zoning districts, according to use, are specified in the table below:

Dimension	Uses				
	Shopping Mall	Shopping Center	Other Commercial & Industrial	Residential	Institutional
Height (Max. Ft.)	18	18	18	8	12
Total outward surface of signs	120	60	100	2	18
Ground Clearance (Min SF)	7	7	7	4	7

1. In all other districts, each premises on which there exists or is permitted any business activity, including agriculture, horticulture, aquaculture and floriculture (other than home occupation), duly authorized by special permit, variance or exception shall be allowed to use the business and industrial use column of this table. However,
  - a. Commercial accommodations with sleeping accommodations for five (5) to twenty (20) guests may have a maximum sign area of eight (8) square feet.
  - b. Commercial accommodations with sleeping accommodations for less than five (5) guests shall have a maximum sign area of four (4) square feet.
2. Exception: The sign may be constructed with less than the minimum ground clearance if there is adequate visibility for vehicles and adequate protection for pedestrian safety.
3. For permitted uses, a multi-tenant building with two (2) commercial tenants can have eight (8) square feet for each tenant for a sixteen (16) square-foot sign. A multi-tenant building with three (3) commercial tenants can have eight (8) square feet for each tenant for a twenty-four (24) square-foot sign. A multi-tenant building with four (4) commercial tenants can have eight (8) square feet for each tenant for a thirty-two (32) square-foot sign.

- B. Attachments, number of sides, more than one (1) sign, directory and gasoline or diesel fuel price signs.
1. Freestanding signs and/or their supports shall not have any attachments of additional signs or banners (i.e. credit card, auto clubs, open, rates, pool, air conditioned, television, menus, live entertainment, special events, temporary promotions, etc.) Such information shall be incorporated within the main sign itself. However, this shall not prohibit multiple or ladder signs as permitted in Section 1132. Exception: Commercial accommodations may have one (1) "(no) vacancy" sign attached to the freestanding sign, with a maximum of two (2) square feet in area.
  2. Freestanding signs over six (6) feet high may have no more than two (2) sides; those less than six (6) feet high may have three (3) or four (4) sides.
  3. Only one (1) freestanding sign is allowed per parcel of land upon which there exists a permitted business(es), except that a lot with frontage on two (2) streets, having 300 feet or more of total street frontage, may have two (2) freestanding signs, one (1) for each street, not less than 175 feet apart. A lot with frontage on more than one (1) street, that is not contiguous frontage, may have one (1) additional sign for each driveway entrance. However, only one (1) sign may exceed sixteen (16) square feet in total area, if allowed.
  4. In addition to Section 1126, A and B freestanding directory signs for properties containing nine (9) or more businesses may be erected in accordance with Section 1119.
  5. In addition to the above, retail businesses selling automotive fuel may have one (1) additional freestanding sign that only indicates the price of motor fuel only. The maximum size shall be twelve (12) square feet with no additional advertising on the same sign or supports.

## **1127. ILLUMINATION**

- A. Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare.
- B. Internal illumination is permitted for up to forty (40) square feet of area for any sign, except that no internal illumination is permitted for residential and/or home occupation signs or for any signs in the Historic District(s) other than time-and-temperature signs, Residential Districts and Village Districts, regardless of the use of the property. In no case shall internally illuminated signs create glare.
- C. Neon window signs may be permitted as in Section 1139.
- D. Gas-filled light tubes shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the public roadway or sidewalk.

## **1128. INDIVIDUAL LETTERS OR SYMBOLS**

Individual letters or symbols may be attached to an awning, marquee, building surface, wall or signboard.

- A. Letters or symbols shall not project more than twelve (12) inches from the building surface.
- B. Letters or symbols shall have an aggregate area (per Section 1124) not exceeding one and one-half (1.5) square feet for each horizontal foot of building face parallel to a street line or 10% of the wall area to which they are affixed, whichever is less. When a lot fronts on more than one (1) street, the aggregate sign area facing each street frontage shall be calculated separately. See Section 1126 above.
- C. See also Section 1138, Wall and Roof Signs.

## **1129. LANDMARK SIGNS**

The character of such signs warrants their preservation in original condition or their restoration. These signs fall under the jurisdiction of the Wareham Historical Commission and /or the Wareham Historical District Commission.

## **1130. MARQUEE SIGNS**

- A. Such signs may be painted on or attached flat against the surface of but not extended beyond or be attached to the underside of the overhang.
- B. Letters or symbols shall not exceed twelve (12) inches in height.
- C. A minimum clearance of ten (10) feet above the sidewalk or street level must be allowed for pedestrian clearance.

## **1131. MOVABLE, PORTABLE OR MOBILE SIGNS**

Movable, portable or mobile signs are not permitted in any district, except as follows:

### **A. Flags**

- 1. Except during national holidays, a maximum of two (2) governmental flags are permitted and one (1) additional nongovernmental flag with a maximum size of fifteen (15) square feet (i.e. 3' x 5') is permitted for each business. Any flag with words advertising a business shall be considered a sign.
- 2. Nautical signal flags attached to a yardarm from a single flagpole are exempt.

### **B. Pennants**

- 1. Exception is granted for pennants and similar devices intended for charitable or civic event purposes only.

### **C. Special Events**

Special events or promotions are permitted up to seven (7) days:

A business or community service may have one (1) moveable, portable or mobile banner or sign on its premises not to exceed thirty two (32) square feet for a period not to exceed seven (7) days, not more than two (2) times per calendar year, in addition to other permitted signs. Bunting, pennants and flags will be permitted during this period. Balloons and other air-filled devices shall not exceed 12 inches in diameter. A total of three (3) off-premises signs not exceeding six (6) square feet each are permitted. Such signs shall be required to have permits, but permit fees may be waived by the Director of Inspectional Services.

### **D. Sandwich Board Signs**

- 1. A business or community service may have one (1) sandwich board sign not to exceed eight (8) square feet in area on each side.
- 2. The sign shall advertise perishable goods for sale only, such as food goods or a menu.
- 3. For any business in its first year of operation, the sign may be used in the absence of a multi-tenant or freestanding sign. Such signs may be used for a maximum continuous four (4)-month period for one (1) time only.



4. The sign shall be placed within fifteen (15) feet of the main building entrance to the business. The sign must be of a shape to conform to the space it will occupy outside of the business and it may not block pedestrian traffic on any sidewalk, street or public way. The sign must be brought indoors at the close of business each day.

## **1132. MULTIPLE AND LADDER SIGNS**

A multiple or ladder sign may be erected to advertise several occupants of the same building OR building complex.

- A. The display board shall be of an integrated and uniform design and colors.
- B. The maximum allowable dimensions permitted for a sign that is located within the minimum building setbacks allowed under Article 6 shall be in accordance with the table in Section 1127. The sign with the name of the building or office park and all horizontal crosspiece signs shall be included within the maximum allowable sign dimensions.
- C. One (1) sign, allowable under Subsection B, is permitted for each street frontage in lieu of the freestanding sign allowed under Section 1127.
- D. Signs located beyond the minimum building setbacks are permitted in addition to the signs permitted above in Subsections A and B for properties containing nine (9) or more Businesses. However, the maximum sign area permitted is eight (8) square feet for the sign bearing the name of the building or office park and two (2) square feet for the name of each business or office located there. There shall be no limit on the number of such signs erected since they are primarily for informational and directional purposes.

## **1133. OFF-PREMISES SIGNS**

- A. Informational and directional signs containing no advertising are permitted to direct traffic flow, indicate parking space, identify points of interest or provide Other essential information to guide vehicular or pedestrian traffic flow and may be erected by the Town of Wareham Department of Municipal Maintenance as a matter of right or may seek approval of such signs from the Director of Inspectional Services.
- B. Off-premises signs as permitted above in Subsection A shall not be larger than two (2) square feet in area and must be freestanding.
- C. Off-premises directory boards and/or informational and directional signs, for the purpose of locating businesses, may contain identification signs no larger than two (2) square feet for each business and may be permitted along public ways if a license is granted by the Director of Inspectional Services after complying with Section 1126. The identification signs may be erected below one (1) sign that may not exceed eight (8) square feet.
- D. Off-premise directional signs that do not restrict visibility no larger than six (6) square feet may be displayed on a public or private way for a maximum of twenty-four (24) hours for such one (1) – day events such as yard sales, open houses, road races, etc. These signs may be erected as a matter of right without the necessity of a license or a sign permit.

## **1134. PAINTED WALL AND ROOF SIGNS**

- A. Painted wall signs are not permitted.
- B. No sign shall be painted on any roof surface.

### **1135. POLITICAL SIGNS**

- A. Such signs are permitted on private property if they are stationary, unlighted and temporary.
- B. Such signs may not exceed six (6) square feet in area.
- C. Such signs shall be removed within seven (7) days of posted election results.

### **1136. PROJECTING SIGNS**

- A. One (1) projecting sign is allowed for each business property in lieu of a freestanding sign.
- B. The sign must not exceed six (6) square feet in area.
- C. The bottom of such signs, when placed over a pedestrian way, must be ten (10 ) feet above such way.
- D. The sign will not have interchangeable letters or be internally illuminated.
- E. All projecting signs must be reviewed by the designated sign permit granting authority for any recommendations.

### **1137. PUBLIC SERVICE SIGNS**

- A. Such signs necessary for public safety and convenience shall not exceed two (2) square feet except for vehicular traffic control.
- B. Such signs shall bear no advertising.
- C. Such signs are not included in computing total sign area allowed by any part of this chapter.

### **1138. WALL AND ROOF SIGNS**

- A. No part of a wall or roof sign, including the display surface, shall project more Than fifteen (15) inches from the surface of a building at which point the sign is attached.
- B. Such sign shall not obscure architectural features of the building, not limited to features such as arches, sills, molding, cornices and transoms.
- C. Such sign shall not extend above the highest point of the roof or parapet if one exists, nor beyond the ends of the wall to which it is attached.
- D. For walls up to fifty (50) feet in length, wall signs and roof signs above such walls shall have a total area not exceeding one (1) square foot for each horizontal foot of the building face parallel to a street line. For walls between fifty (50) feet and one hundred (100) feet in length, wall signs and roof signs above such walls shall have a total area not exceeding (5%) of the wall length over 50 feet times 10 plus 50 square feet. The following chart may be used to calculate the allowable square footage of the signs. Wall and roof signs shall have a maximum area allowed of 75 square feet. The area of window signs shall be deducted per Section 1139. For walls facing a street, parking lot for a business or a body of water, allowable roof or wall signage shall be calculated as follows: One (1) square foot

for each linear foot of contiguous wall or roof, up to 50 square feet for 50 linear feet of the wall; for walls and roofs, between 50 feet and 100 feet additional signage of ½ square foot for each linear foot up to a maximum signage area of 75 square feet is allowed. A wall or roof signage calculator is incorporated herein.

	<b>Wall or Roof Signage Calculator</b>									
<b>Length of Wall (Linear Feet)</b>	10	20	30	40	50	60	70	80	90	100
<b>Area of Sign (Square Feet)</b>	10	20	30	40	50	55	60	65	70	75* max

- E. A roof sign may be used in place of a wall sign.
- F. Where two (2) or more wall or roof signs are affixed to one (1) wall or roof, the gross sign area shall be the sum total area of all signs.
- G. Wall or roof signs shall not extend higher than the highest point of the roof or top of the parapet wall of the principal building.

### **1139. WINDOW AND NEON SIGNS**

- A. Window signs shall not exceed more than 25% of the total window glass area of the wall of each business facing each street or parking lot in which they are displayed.
- B. The area of such sign(s) in excess of two (2) square feet in area shall be deducted from the total area allowed for wall signs in Section 1138.
- C. A maximum of two (2) window neon signs may be permitted per business.

### **1140. MAINTENANCE**

A sign shall be maintained in a secure and safe condition. If the Director of Inspectional Services or his/her agent believes that a sign is not secure, safe or in a good state of repair, written notice of this fact with a specified time for correction of the violation shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time specified, the Director of Inspectional Services may revoke the sign permit and require the owner to remove the sign at his/her expense. Failure to comply will render the sign subject to the removal provisions of Section 1118 and 1121 and/or the sign owner may be found in violation of this Section and be liable for penalties as specified in Section 1122.

### **1141. SEVERABILITY**

The provisions of this Article are severable from each other and the invalidity of any provision or section shall not invalidate any other provision or section thereof.

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# ARTICLE 12:

## Performance Standards

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### 1200 PERFORMANCE STANDARDS

#### 1201 LAND CLEARING AND GRADING

#### 1202 PURPOSES OF THIS BY-LAW ARE TO

1. Protect the health, safety and property of the residents of the Town by regulating clearing and grading activities associated with land development preserving existing trees and vegetation, preventing erosion and sedimentation of inland and coastal wetlands, ponds and other water bodies, controlling stormwater runoff, minimizing fragmentation of wildlife habitat and loss of vegetation;
2. Limit land clearing and alteration of natural topography prior to development review;
3. Protect specimen trees and significant forest communities from damage or removal during site development;
4. Protect water quality of adjacent wetlands and surface water bodies;
5. Encourage the use of Best Management Practices that prevent and reduce non point source of pollutants;
6. Promote land development and site planning practices that are responsive to the Town's scenic character without preventing the reasonable development of land;
7. Protect archaeological and/or historic resources.

#### 1203 DEFINITIONS

In this By-Law, the following words have the meanings indicated: Applicant Any person proposing to engage in or engaged in any non-exempt clearing of trees or under-story vegetation or grading within the Town. Best Management Practices (BMPs) A structural, nonstructural, or managerial technique recognized to be the most effective and practical means to prevent and reduce non point source pollutants. BMPs should be compatible with the productive use of the resource to which they are applied, and should be cost-effective. Caliper American Association of Nurserymen standard for measurement of trunk size of nursery stock. Caliper of the trunk shall be taken 6 inches above the ground up to and including 4-inch caliper tree, and 12 inches above the ground for larger sizes.

##### **Certified Arborist**

A professional who possesses the technical competence through experience and related training to provide for or supervise the maintenance of trees and other woody plants in the residential, commercial, and public landscape.

##### **Clearing**

Removal or causing to be removed, through either direct or indirect actions, trees, shrubs, sand and gravel and/or topsoil from a site, or any material change in the use or appearance of the land. Actions considered to be clearing include, but are not limited to: causing irreversible damage to roots or trunks; destroying the structural integrity of vegetation; and/or any filling, excavating, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage.

##### **Dripline**

An area encircling the base of a tree, which is delineated by a vertical line extending from the outer limit of a tree's branch, tips down to the ground.

##### **Essential Root Zone**

An area located on the ground between the tree trunk and 10 feet beyond the dripline of a tree which is required for protection of a tree's root system.

**Diameter/Diameter Breast-Height (dbh)**

The diameter of any tree trunk, measured at 4.5 feet above existing grade.

**Filling**

The act of transporting or placing (by any manner or mechanism) material from, to, or on any soil surface or natural vegetation.

**Grading**

Any excavating, filling, clearing, or the creation of impervious surface, or any combination thereof, which alters the existing surface of the land.

**Hazardous Tree**

A tree with a structural defect or disease, or which impedes safe sight distance or traffic flow, or otherwise currently poses a threat to life or property.

**Landscape Architect**

A person licensed by the Commonwealth of Massachusetts to engage in the practice of landscape architecture.

**Protected Tree/Vegetation**

A tree or area of understory vegetation identified on an approved landscape plan to be retained and protected during construction.

**Specimen Tree**

A native, introduced or naturalized tree that is important because of its impact on community character, its significance in the historic/cultural landscape or its value in enhancing the effects of wildlife habitat. Any tree with a dbh of 6 inches or larger is eligible to be considered a specimen tree. Trees that have a small height at maturity or are slow growing, such as flowering dogwood or American holly with a dbh of 4 inches or larger are eligible to be considered specimen trees.

**Significant Forest Community**

Unfragmented forests including forest types that provide habitat for rare species, unusual ecological processes, highly diverse forest communities, rare forest types, and those forest types which maintain connections between similar or different habitat patches.

**Site Alteration Special Permit**

A special permit issued by the Planning Board authorizing land clearing and grading activities in the Town.

**Understory Vegetation**

Small trees, shrubs, and groundcover plants, growing beneath and shaded by the canopy of trees.

## **1204 APPLICABILITY**

The Special Permit Granting Authority under Section 1201 shall be the Planning Board. No person shall undertake clearing or grading activities of an area greater than 50,000 square feet at any one time or in increments such that the total land area of abutting property within the control of any person graded in a thirty-six (36) month period will exceed 50,000 square feet, without first obtaining a Site Alteration Special Permit from the Planning Board unless specifically exempted under Section 1206 of this By-Law.

## **1205 REVIEW AND DECISION**

Upon receipt of a completed application and required plans as described in Section 1207 below, the Planning Board shall transmit one copy each to the Conservation Commission, Zoning Enforcement Officer and Municipal Maintenance department. Within 45 days of receipt of completed application/plans, these agencies shall submit recommendations to the Planning Board. The Planning Board shall act on applications according to the procedure specified in G. L. c 40A, sec.9 and Section 1450 of the Zoning By-Law.

## 1206 EXEMPTIONS

The provisions of this By-Law shall not apply to the following activities:

1. Clearing and grading in conjunction with construction of structures intended for residential habitation if the land area to be cleared or graded is less than 50,000 square feet.
2. Removal of hazardous trees, as defined herein;
3. Routine maintenance of vegetation and removal of dead or diseased limbs and/or trees necessary to maintain the health of cultivated plants, to contain noxious weeds and/or vines in accordance with a Department of Environmental Management (DEM)-approved Forest Management Plan, or to remedy potential fire or health hazard or threat to public safety;
4. Construction and maintenance of public and private streets and utilities within Town approved roadway layouts and recorded easements;
5. Work conducted in accordance with a valid earth removal permit issued pursuant to Section 7 of Article I of Division IV of the Town By-Laws;
6. Agricultural activities work conducted in accordance with an approved Natural Resource Conservation Service Agricultural Plan;
7. Construction of roadways, associated infrastructure and related slope and view easements for subdivisions shown on a definitive plan approved and endorsed by the Planning Board in accordance with Wareham Subdivision Rules and Regulations;
8. Construction or installation of public utilities; and
9. Construction of structures, roadways, parking lots, and associated activities for residential or nonresidential structures or uses in receipt of a special permit from the Board of Appeals or Planning Board.

## 1207 APPLICATION REQUIREMENTS

The Planning Board may require the submission of some or all of the information listed as 1 through 9 below.

Said determination to be made in relation to the extent of clearing proposed by the applicant. For example, the clearing of 55,000 square feet to create a residential dwelling would not typically require the same degree of information necessitated by a proposal to clear 100,000 square feet of land for a commercial structure.

1. Survey of existing vegetation conducted by an individual qualified through appropriate academic credentials and field experience. A statement of credentials should be submitted with the survey.
  - a. Major upland vegetation communities located on the site, including trees, shrub layer, ground cover and herbaceous vegetation;
  - b. Size and height of trees, noting specimen trees and/or forest communities; and
  - c. Location of any rare and endangered species as mapped by the Massachusetts Natural Heritage and Endangered Species Program.
2. Submission of a locus map at a scale of 1" = 500' showing the proposed site in relation to the surrounding area.
3. Submission of a plan at a scale of 1" = 40' of the project site showing existing and proposed contour lines at intervals of not more than 2 feet prepared by a registered land surveyor or a professional engineer.
4. Soil survey or soil logs indicating predominant soil types on the project site, including information on erosion potential from the Natural Resources Conservation Service.
5. Delineation of all bodies of water, including wetlands, vernal pools, streams, ponds, and coastal waters within 100 feet of the project site/limit of work and delineation of the 100 - year floodplain.
6. Submission of a plan at a scale of 1" = 40' indicating the limit of work. The limit of work shall include all building, parking, and vehicular use areas, and any grading associated with the proposed development. The plan or accompanying narrative shall document the species and quantities of specimen trees and/or other vegetation to be removed or relocated within the project area.

7. Construction schedule that describes the timing of vegetation removal, transplanting or replacement in relation to other construction activities.
8. Plans and/or description of Best Management Practices to be employed in development of the project site.
9. Submission of an erosion and sedimentation control plan at a scale of 1" = 40'. This plan shall include BMPs for erosion and sediment control (vegetative and/or structural) to prevent surface water from eroding cut and fill side slopes, road shoulders and other areas and measures to avoid sedimentation of nearby wetlands and ponds. The following information shall be submitted on erosion control and sedimentation plans submitted with the project application:
  - a) Plans and details of any sediment and erosion control structure drawn at a scale of 1" = 40';
  - b) Spillway designs showing calculations and profiles;
  - c) Notes and construction specifications;
  - d) Type of sediment trap;
  - e) Drainage area to any sediment trap;
  - f) Volume of storage required;
  - g) Outlet length or pipe sizes; and
  - h) A description of the sequence of construction activities that specifies the time frame for soil stabilization and completion and any necessary winter stabilization measures.

## 1208 REVIEW STANDARDS

The applicant shall demonstrate that the following measures are employed in the clearing or grading of the site:

1. Minimize site alteration/land clearing:

Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage channels on the site.
2. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utility installation should be utilized wherever feasible to protect root systems of trees.
3. Protect scenic views within Wareham:

Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape. Building sites shall be directed away from the crest of hills, and foundations shall be constructed to reflect the natural terrain.
4. Protect wildlife habitat

Sites shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.
5. Avoid impacts to archaeological resources:

Applicants shall submit a response from the Massachusetts Historical Commission (MHC) regarding the potential for archaeological or historical resources on the site.
6. Preserve open space and specimen trees on the site:

In the design of a development, priority shall be given to retention of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.
7. Understory vegetation beneath the drip line of preserved trees shall also be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

8. Forested areas shall be preserved if they are associated with:
  - a) Significant forest communities as defined herein;
  - b) Wetlands, water bodies and their buffers;
  - c) Critical wildlife habitat areas; and
  - d) Slopes over 25%.
9. Minimize cut and fill in site development:
  - a) Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading;
  - b) Other efforts to minimize the clearing and grading on a site associated with construction activities shall be employed, such as parking of construction vehicles, offices/trailers, stockpiling of equipment materials, etc. in area already planned for permanent structures. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers;
  - c) Finished grades should be limited to no greater than a 2:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible;
  - d) Employ proper site management techniques during construction;
    1. BMPs shall be employed to avoid detrimental impacts to existing vegetation, soil compaction, and damage to root systems, and
    2. The extent of a site exposed at any one time shall be limited through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.
  - e) Protect the site during construction through adequate erosion and sedimentation controls.
10. Temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as are necessary may be required by the Planning Board to intercept and divert surface water runoff. Runoff flow shall not be routed through areas of protected vegetation or revegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed to BMPs such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of\_\_\_\_\_.
11. Erosion and sedimentation controls shall be constructed in accordance with the Department of Environmental Protection's Stormwater Management Policy.
12. Erosion control measures shall include the use of erosion control matting, mulches and/or temporary or permanent cover crops. Mulch areas damaged from heavy rainfalls, severe storms and construction activity shall be repaired immediately.
13. Erosion control matting or mulch shall be anchored where plantings are on areas subject to mulch removal by wind or water flows or where side slopes are steeper than 2:1 or exceed 10 feet in height. During the months of October through March, when seeding and sodding may be impractical, anchored mulch may be applied at the Planning Board's discretion.
14. Runoff from impervious surfaces shall be recharged on the site by stormwater infiltration basins, vegetated swales, constructed wetlands or similar systems covered with natural vegetation. Runoff shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are not feasible. All such basins and wells shall be preceded by oil, grease, and sediment traps. The inlets of all catch basins shall be fitted with filter fabric during the entire construction process to minimize siltation or such basins shall be designed as temporary siltation basins with provisions made for final cleaning.
15. The applicant shall be required to conduct weekly inspections of all erosion and sedimentation control measures on the site to ensure that they are properly functioning as well as to conduct inspections after severe storm events.
  - f) Revegetate the site immediately after grading:
    1. Proper revegetation techniques shall be employed using native plant species, proper seedbed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within 7 (seven) calendar days of final grading.



2. A minimum of four inches of topsoil shall be placed on all disturbed surfaces that are proposed to be planted.
3. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. If a grade change of six inches or more at the base of the tree is proposed, a retaining wall or tree well may be required.

## **1209 REQUIRED SECURITY**

The Planning Board may require a performance guarantee in a form acceptable to the Town to cover the costs associated with compliance with this By-Law under a Site Alteration Special Permit

1. The required performance guarantee in the amount of 150% of the cost of site restoration shall be posted prior to the issuance of a Site Alteration Special Permit for the proposed project.
2. The performance guarantee shall be held for the duration of any prescribed maintenance period required by the Planning Board, and may be reduced from time to time to reflect completed work. Securities shall not be fully released without a final inspection and approval of vegetation replacement by the Town.

## **1210 MONITORING AND INSPECTIONS**

1. Prior to commencement of construction, the applicant, land owner, contractor and construction crew, Director of the Municipal Maintenance department, Zoning Enforcement Officer or their designee and site engineer shall conduct a meeting to review the proposed construction phasing and number and timing of site inspections.
2. Initial site inspection of erosion and sedimentation controls and placement of tree protection measures shall occur after installation of barriers around preserved areas and construction of all structural erosion and sedimentation controls, but before any clearing or grading has begun.
3. Routine inspections of preserved areas and erosion and sedimentation controls shall be made at varying intervals depending on the extent of site alteration and frequency and intensity of rainfall.
4. Effective stabilization of revegetated areas must be approved by the Town before erosion and sedimentation controls are removed. The Town shall complete an inspection prior to removal of temporary erosion and sedimentation controls.

## **1211 ENFORCEMENT**

The Town may take any or all of the enforcement actions prescribed in this By-Law to ensure compliance with, and/or remedy a violation of this By-Law; and/or when immediate danger exists to the public or adjacent property, as determined by the Zoning Enforcement Officer. The Town, in carrying out any necessary enforcement actions, may use securities described in Section 1209 above.

1. The Zoning Enforcement Officer may post the site with a Stop Work order directing that all vegetation clearing not authorized under a Site Alteration Permit cease immediately. The issuance of a Stop Work order may include remediation or other requirements that must be met before clearing activities may resume
2. The Town may, after written notice is provided to the applicant or after the site has been posted with a Stop Work order, suspend or revoke any Site Alteration Special Permit issued by the Town.
3. No person shall continue clearing in an area covered by a Stop Work order, or during the suspension or revocation of a Site Alteration Special Permit except work required to correct an imminent safety hazard as prescribed by the Town.

## **1230 ANALYSIS OF DEVELOPMENT IMPACT: IMPACTS ON TRAFFIC AND CIRCULATION**

### **1231 PURPOSE:**

The division and development of land for residential and non-residential development leads to quantifiable impacts regarding traffic and circulation upon the Town of Wareham, private property abutting or nearby the development and the region in general. To analyze these impacts and adjudicate as to how to minimize these impacts while respecting the statutory purpose and intent of the Zoning Act unless otherwise exempted as noted below, all residential and non-residential applications shall contain answers to the following questions and/or related analysis. The Planning Board or Board of Appeals shall incorporate the following analysis in its deliberations of definitive plans, special permits and/or variance applications submitted to the Board(s) and shall approve an application only, if in the opinion of the Board(s), the resulting application will not threaten public health, safety or welfare of the residents of the Town of Wareham, or, violate any of the provisions of the Wareham Zoning By-Law.

### **1232 APPLICABILITY:**

The division and/or subdivision of land held in single ownership as of the effective date of this By-Law into five (5) or more lots, the construction of five (5) or more dwellings on land that does not require land division and/or subdivision whether on one or more contiguous parcels held in single ownership as of the effective date of this By-Law or anytime thereafter or the development of a non residential project that will result in the need for ten (10) or more parking spaces pursuant to Section 920 of the Zoning By-Law, regardless of the number of parking spaces existing on the premises, shall be required to conform to the Levels of Service and Mitigation standards contained in Sections 1233 and 1234, below.

### **1233 LEVELS OF SERVICE:**

Any development or redevelopment of land subject to this By-Law shall not degrade existing levels of service (LOS) of surrounding roads and intersections based on summer peak hour traffic volumes. Levels of service shall be measured using performance indicators such as reserve capacity, delay at intersections and volume to capacity ratio as defined in the Highway Capacity Manual, latest edition.

### **1234 MITIGATION**

Developments and redevelopment of land subject to this By-Law shall mitigate traffic impacts that would be created or exacerbated by such developments. The mitigation strategies shall include both structural and non-structural improvements with special emphasis on alternatives to automobile transportation. Necessary improvements shall occur concurrently with any development and/or a contribution of funds toward the necessary improvements deemed required by the Planning Board or Board of Appeals.

## **1240 ANALYSIS OF DEVELOPMENT IMPACT: LIGHTING**

### **1241 PURPOSE:**

The Lighting Regulations contained in this Section are intended to provide for the erection, design, or placement of outdoor light fixtures which provide for illumination levels on individual lots which are adequate for the safe and efficient movement of individuals or vehicles to and from a lot and within a lot (i.e., areas that are dangerous if unlit, such as stairs, intersections or changes in grade); are designed to protect against the spillover of light onto abutting properties which may negatively impact occupants of abutting properties; and, are designed to protect against objectionable glare onto public rights-of-way which may impair the vision of motorists.

### **1242 GENERAL REQUIREMENTS:**

All outdoor light fixtures on a lot shall comply with the following regulations:

1. **Applicability.** The Lighting Regulations contained in this Section, unless specifically stated otherwise, are applicable in all non-residential zoning districts.
2. **Minimum Setback.** A freestanding outdoor light fixture may be located within a required front yard, side yard or rear yard, provided that the freestanding outdoor light fixture is located adjacent to the interior edge of such yard and adjacent to a permitted driveway, parking area, interior access drive, interior access driveway, or other outdoor use area requiring illumination.

## **1243 LIGHTING STANDARDS:**

1. Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.
2. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.
3. Lamp types shall be selected for optimum color rendering as measured by their color-rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color-rendering index lower than 50 are not permitted. This paragraph shall not apply to temporary decorative lighting that may include colored lamps, such as holiday lighting.
4. Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the exception that a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases.
5. Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

## **1244 MOUNTING OF FIXTURES:**

Full cutoff, cutoff and semi-cutoff outdoor light fixtures shall be mounted parallel to the ground and shall utilize a rigid mounting arm with no built-in up tilt and no adjustment feature.

## **1245 HEIGHT OF FIXTURES:**

All outdoor light fixtures used to illuminate a particular area on a lot (i.e. a parking area; a loading area; or, an entry way, sidewalk or walkway areas) shall, within those areas, be of uniform size, design and height.

## **1246 POWER SUPPLY:**

Outdoor light fixtures located on light poles shall be provided power by underground wiring.

## **1247 VEHICULAR CANOPY LIGHT FIXTURES:**

Outdoor light fixtures located under a vehicular canopy of drive through structures (e.g., gasoline service station canopies, bank drive through canopies, etc.) shall be full cutoff fixtures with a maximum intensity of four hundred (400) watts.

## **1248 AWNING AND CANOPY LIGHTING:**

Awnings and canopies used for building accents over doors, windows, walkways, and the like, may be internally illuminated or back-lit (i.e., lit from underneath or behind) provided, however, that the primary material is opaque and that translucent material is limited to the actual text or logo of the sign, if any, incorporated into the awning or canopy.

## **1249 GLARE ON PUBLIC RIGHT-OF-WAY:**

Flag and statue lights, architectural lights, floodlights, or sign lighting shall be so directed and shielded that the light element is not visible from any point along an adjacent public right-of-way.

## **1250 FLOODLIGHTS:**

Outdoor light fixtures equipped with floodlights may only be permitted on a lot as follows:

1. Floodlights shall be focused on the primary building or the area of the lot located between the floodlight and the primary building; or,
2. Floodlights shall be shielded to the extent that the main beam from the luminaire is not visible from or causes any glare onto adjacent properties or rights-of-way.

## **1251 SPECIAL REGULATIONS FOR SPORT AND ATHLETIC FIELD LIGHTS**

Notwithstanding anything in this Section to the contrary, the following special regulations shall apply to Sport and Athletic Field Lights.

- 1.) Freestanding outdoor light fixtures for sport and athletic fields shall not exceed one-hundred and ten (110) feet in height above grade and shall be of a type and manufacturer that offers a spill and glare control package and shall be fitted with the manufacturer's spill and glare control package.

## **1252 EXEMPT LIGHTS**

The following types of outdoor light fixtures are exempt for the provisions of this Section:

1. Holiday Decorations - Outdoor light fixtures used for holiday decorations.
2. Public Lighting - All outdoor light fixtures originating from public areas and ways, including but not limited to parks, rights-of-way, public art or other public facilities, that are installed for the benefit of the public health, safety and welfare.
3. Fossil Fuel Lights - All outdoor light fixtures producing light directly from the combustion of fuels (*i.e.* kerosene lanterns or gas lamps).
4. Construction / Emergency Lighting - All outdoor light fixtures provided in connection with construction work or the abatement of an emergency situation necessitating said lighting, provided that the use of such outdoor light fixtures are discontinued during hours when construction activity or emergency abatement is not in progress and that such outdoor light fixtures are removed upon completion of the construction activity or the abatement of the emergency.
5. Internal Illumination of Signs: All outdoor light fixtures which are completely enclosed within a sign cabinet and which provide illumination only for a sign face.
6. Single Family Dwelling or Two Family Dwellings: All outdoor light fixtures used for the illumination of personal property, provided, however, that such outdoor light fixtures shall be subject to this Section regarding glare and the common law of nuisance.

## **1253 TEMPORARY LIGHTS**

The following types of outdoor light fixtures may be approved on a temporary basis by the Zoning Enforcement Officer prior to placement or use.

1. Civic Events - Temporary outdoor light fixtures used for civic events.
2. Special Events - Temporary outdoor lighting fixtures for such activities as circuses, fairs, carnivals, sporting events, and the like. Such temporary lights shall not be installed more than thirty (30) days prior to the civic

## **1254 PROHIBITED LIGHTS:**

1. Flashing Lights: Any lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation.
2. Floodlights: Floodlights not in compliance with the regulations set forth above, or other form of outdoor light fixtures not specifically authorized by this Section that are ground mounted or attached to light poles, and used to light poles, and used to illuminate the site, buildings or structures. (Amended April 2006)

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# ARTICLE 13:

## Zoning Protection

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### 1310 NONCONFORMING USES, STRUCTURES, AND LOTS, GENERALLY

#### 1311 DEFINITIONS

[Reserved]

#### 1312 APPLICABILITY OF ZONING BY-LAW

The provisions of this By-Law shall not apply to nonconforming uses, structures or lots, but shall apply to:

- Any change or substantial extension of a nonconforming use,
- Any reconstruction, extension or structural change of a nonconforming structure,
- Any alteration of a nonconforming structure to provide for its use for a substantially different purpose, or to a substantially greater extent.

### 1320 CONTINUATION AND RESTORATION

#### 1321 CONTINUATION OF EXISTING USES

The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of the By-Law may be continued, although such structure or use did not conform with the provisions of the By-Law as adopted or amended.

#### 1322 RESTORATION OF DAMAGED OR DESTROYED STRUCTURES

A nonconforming building or structure which has been damaged or destroyed may be repaired or rebuilt provided that such restoration shall not exceed the original area and height and shall be placed no nearer the street line than the building or structure which the restoration replaces and that there is no material change in exterior appearance except according to the terms of a Special Permit issued by the Board of Appeals.

#### 1323 RESTORATION OF UNSAFE STRUCTURES

Nothing shall prevent the strengthening or restoring to a safe condition of any structure, or part thereof, declared unsafe by the Inspector of Buildings.

### 1330 EXTENSION, CHANGE OR ALTERATION

#### 1331 Changes Of Use And Limitation On Intensity And Size Of Use – Other Than Single Or Two-Family Residential Dwellings:

#### 1332 PROCEDURES

As provided in G. L. c. 40A, sec 6, a lawfully pre-existing nonconforming use and/or structure, other than a single or two-family residential dwelling, may be reconstructed, altered or extended only if: (1) said reconstruction, alteration or extension itself conforms to all the provisions of the Zoning By-Law; (2) there is a finding by the Board of Appeals that such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use; (3) that said extension, alteration or change is in accordance with the standards noted below; and (4) that the Board of Appeals grants a special permit as provided in Section 1450.

Guidelines for Review of Extensions, Alterations or Changes to Pre-existing, Nonconforming Uses and Structure recognizing the need to provide guidelines for determining relative impacts upon the Town and the immediate neighborhood from an expansion, alteration or change of preexisting nonconforming uses and structures, and recognizing the basis and consistent principles of zoning with

respect to minimizing nonconforming uses and structures, the following shall apply to the review of special permit applications under this Section:

1. The Board of Appeals shall encourage extensions, alterations or changes to nonconforming structures and uses toward greater, if not complete, conformance with the provisions of the Zoning By-Law and to reduce the degree of nonconformity.
2. The Board of Appeals shall not encourage the expansion of a nonconforming structure or use as measured by either the:
  - a. Amount of floor space or land area used or;
  - b. Volume of activity, including but not limited to an increase in the intensity of use and/or a change in the nature of purpose of the use;
3. The Board of Appeals shall prohibit the expansion of nonconforming structures and uses unless there will be no demonstrable adverse impacts on abutting properties and those properties that generally characterize the neighborhood or locus within which the expansion is sought, and;
4. The Board of Appeals shall not encourage the expansion of nonconforming structures and uses if the expansion will negatively impact the Town's ground, coastal or surface water bodies.

### **1333 Table Of Presumptively Not More Detrimental Extensions, Alterations, Or Changes To Pre-existing, Nonconforming Uses And Structures:**

An extension, alteration or change to a lawfully preexisting nonconforming use or structure shall be presumed not to be substantially more detrimental to the neighborhood if the guidelines and standards of Section 1332 are met and if the extension, alteration or change also is in compliance with the following:

#### **TABLE OF PRESUMPTIVELY NOT MORE DETRIMENTAL EXTENSIONS, ALTERATIONS, OR CHANGES TO OTHER THAN SINGLE OR TWO-FAMILY RESIDENTIAL DWELLINGS**

##### **ISSUE:: Presumptively Allowable Changes, Alterations, or Extensions**

If current site coverage requirements are exceeded	The extension, alteration, or change decreases the percentage of site coverage.
If the structure exceeds current height requirements	The extension, alteration, or change decreases the violation of the current height requirements.
If the structure of use exceeds current parking or loading area requirements	The requirements of Article 9 of the Zoning By-Laws are met or if the Board of Appeals determines that the existing use and proposed expansion or site conditions do not warrant the number of parking Spaces required by Section 920.
If the structure or use exceeds, or is in violation of, Or violates any other provision of the Zoning By-Law	The extension, alteration, or change meets the guidelines specified in Section 1332 above.

### **1334 Alteration, Reconstruction, Extension Or Structural Changes To Pre-existing Nonconforming Single And Two-Family Residential Structures.**

### **1335 PROCEDURES**

As provided for in M.G.L. C. 40A sec. 6, a nonconforming single or two-family dwelling or structure accessory thereto may be altered, reconstructed, extended or otherwise structurally changed provided that: (1) the proposed alteration, extension or structural change itself conforms to the requirements of the present By-Law and does not intensify any existing non-conformities or result in any additional non-conformities in which event the Building Inspector may issue a building permit and an application to the Board of Appeals need not be made; or (2) as provided below the Board of Appeals finds that (i) there is no substantial increase in the nonconforming nature of said structure; and (ii) such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

Recognizing the need to provide guidelines for determining the meaning of the phrases "increase the nonconforming nature of said structure" and "substantially more detrimental to the neighborhood," the following shall apply to the review of applications subject to this provision to alter, reconstruct extend or structurally change a preexisting nonconforming single- and two-family residential structure:

- (i) An application must be made to the Board of Appeals to expand or change the structure;
- (ii) The Board of Appeals must make a determination as to the particular respect or respects in which the existing structure or lot does not conform to the requirements of the present By-Law;
- (iii) Should the Board of Appeals conclude that the proposed change would substantially increase the nonconforming nature of the structure or lot, the applicant will not be entitled to the issuance of a special permit;
- (iv) If the Board of Appeals determines, that the proposal will not substantially increase the nonconforming nature of the structure or the lot, the applicant will also be required to show that the change will not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood;
- (v) If the Board of Appeals determines that the proposal will be more substantially detrimental to the neighborhood, the special permit sought will be denied unless the Board of Appeals determines that a special permit can be approved with conditions that would make the change substantially not more detrimental, in which case the Board of Appeals may approve a special permit with such conditions.
- (vi) For the purposes of this Section, determination of "substantially more detrimental to the neighborhood" shall include consideration of and impacts to, the general and immediate neighborhood from the resulting height, building coverage, impervious coverage, and width of the altered, reconstructed, extended or structurally changed structure. Additionally, a determination whether an altered, reconstructed, extended or structurally changed structure will be substantially more detrimental to the neighborhood. Shall include the resulting impacts to views and vistas from abutting properties and public and private ways, increase in traffic, noise, surface water runoff and related site planning issues.

#### **1340 ABANDONMENT OR CHANGE OF USE**

#### **1341 PERIOD OF ABANDONMENT OR DISCONTINUATION**

All nonconforming agricultural, horticultural and floricultural uses, which have been abandoned or discontinued for more than five years, shall not be re-established. All other nonconforming uses, which have been abandoned or discontinued for more than two years, shall not be re-established. In both cases, any future use shall be in conformity with the provisions of this By-Law.

#### **1342 NO REVERSION TO NONCONFORMING USE**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

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# ARTICLE 14:

## Administration

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### 1410 PERMIT AND SPECIAL PERMIT GRANTING AUTHORITY

#### 1441 BOARD OF APPEALS

- 1411.1 There shall be a Board of Appeals of five members and three associate members appointed by the Selectmen as provided in Chapter 40A, Section 12 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.
- 1411.2 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 shall be the "Special Permit Granting Authority" as provided in Chapter 40A, Section 9 of the General Laws, except where the Planning Board is specifically designated as the Special Permit Granting Authority by this By-Law.
- 1411.3 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.

#### 1412 PLANNING BOARD

- 1412.1 The Planning Board shall be the "Special Permit Granting Authority" as provided in Chapter 40A, Section 9 of the General Laws, for Residential Cluster Development, and for such other uses as this By-Law may designate.
- 1412.2 The Appointing Authority for the Planning Board shall have the authority to appoint an Associate Member to the Planning Board, under Chapter 40A, Section 9 of the General Laws.

### 1420 ENFORCEMENT

#### 1421 ZONING ENFORCEMENT OFFICER

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. This enforcement power includes enforcement of Article 16, Site Plan Review.

#### 1422 APPEALS

An appeal to the Board of Appeals may be taken by any person aggrieved by the decision of, or failure to act by, the Permit Granting Authority whether or not previously a party to the proceeding, and any municipal officer or board. Such appeals shall be made in accordance with the provisions of Chapter 40A of the General Laws.

### 1430 VIOLATIONS AND PROSECUTION OF VIOLATIONS

#### 1431 VIOLATIONS

- 1431.1 The Zoning Enforcement Officer shall serve a notice of VIOLATION AND ORDER to any owner or person responsible for a violation 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 of this By-Law. Violations shall include the erection, construction, reconstruction, conversion, and alteration of a structure or change in use, increase in intensity, or extension of displacement of use. Such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation.



- 1431.2 Any owner who has been served with a notice and ceases any work or other activity shall leave the structure or lot in such condition as not to be a hazard or menace to the public safety, health, morals or general welfare.

## **1432 PROSECUTION OF VIOLATION**

- 1432.1 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.
- 1432.2 Any person, firm or corporation violating any of the provisions of the By-Law shall be liable for a fine of not more than three hundred dollars (\$300.00) for each violation. Each day that a violation shall continue shall constitute a separate offense.

## **1440 APPLICATION AND VALIDITY**

### **1441 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.

### **1443 ORDER OF APPLICATIONS FOR PERMITS**

Whenever a use or structure requires a special permit pursuant to the requirements of the By-Law or the applicant seeks a variance for use or dimension and the resulting use also requires license approval from the Board of Selectmen acting in their capacity as the Board of Selectmen and/or in other licensing capacities as the Local Licensing Authority, application shall be made first or simultaneously to the local Licensing Authority for license/permit approval. (added October 25,2004)

### **1450 SPECIAL PERMITS**

Certain uses, structures, or conditions may be designated as Special Permits in a table of uses and elsewhere in this By-Law.

### **1451 PROVISIONS**

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 of the General Laws, as amended, and subject to the following provisions:

- 1451.1 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 n 65 days after the filing of an application with the appropriate Special Permit Granting Authority.
- 1451.2 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 the size, form, contents, style, and number of copies of plans and specifications and the procedure for submission and approval of such permits.
- 1451.3 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 by the granting of a Special Permit by the Board of Appeals, provided such accessory uses do 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.
- 1451.4 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 two years 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 Special Permit Granting Authority.

## **1460 USE VARIANCES**

The Board of Appeals is specifically empowered to grant variances from the restrictions imposed by this By-Law as to use.

## **1470 PROJECT REVIEW FEES**

Fees for the employment of outside consultants may be collected and deposited in a special account subject to the rules and regulations adopted by the Planning Board and the Board of Appeals for Special Permits and Variances.

The applicant may appeal the Planning Board's selection of an outside consultant to the Wareham Board of Selectman. The grounds for such appeal shall be linked to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educated degree in the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action by the Permitting Authority shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectman within one month following the filing of the appeal, the selection made by the Permitting Authority shall stand.

## **1480 SITE PREPARATION WORK**

It is the intent of this By-Law 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 – a subdivision plan, a Special Permit, a Site Plan Review – until such approvals have been obtained.

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# ARTICLE 15:

## Site Plan Review

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### 1510 PURPOSE

Each use for which a site plan submission is required is a potentially significant addition to a developing or developed area of the town, and to a residential, commercial or industrial neighborhood. The purpose of site plan review special permit is to ensure the design and layout of certain developments permitted as a matter of right or by special permit will constitute suitable development and will not result in a detriment to the neighborhood or the environment. It is intended that the site plan for each use be prepared with due consideration for:

- a) Protection of adjacent areas against detrimental or offensive uses on the site by provisions of adequate surface water drainage, buffers against lighting, sight, sound, dust, vibration, and the allowance of sun, light, and air;
- b) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- c) Adequacy of facilities of handling and disposal of refuse and other production by-products;
- d) Protection of environmental features on the site and in adjacent area;
- e) Promotion of appropriate arrangement of structures within the site and in relation to existing structures within the district and neighborhood;
- f) Coordination with and improvement of systems of vehicular and pedestrian access, drainage, water supply, sewage disposal, lighting, landscaping, wetlands, water courses, buildings and other features that support the neighborhood;
- g) Compliance with all applicable sections of the Zoning By-Laws

### 1520 APPLICABILITY

Any new development expansion, or change of use other than a single-family or two family residence which would, under the parking schedule "Number of Parking Spaces Required" of Section 920, require ten (10) or more parking spaces, regardless of the number of parking spaces existing on the premises, shall be permitted only upon the issuance of a special permit from the Planning Board for Site Plan Review. In addition, any development of any type on 30 acres or greater shall be subject to Section 1510. A special permit shall be granted only if the Special Permit Granting Authority finds that it is consistent with the purposes outlined in Section 1510 of this By-Law.

The Special Permit Granting Authority (SPGA) under Section 1510 of this By-Law shall be the Planning Board provided, however, that where the applicable development requires a special permit, comprehensive permit or variance from the Board of Appeals, the Special Permit Granting Authority (SPGA) under Section 1510 of this By-Law shall be the Board of Appeals. Special Permits under this Section 1510 shall be granted only in conformance with this Section 1510 and Section 1450 of the Wareham Zoning By-Law and the requirements of MGL Chapter 40A, Section 9. Applications shall be accompanied by at least fourteen (14) prints of the plans of the proposal.

### 1530 INFORMATION REQUIRED:

#### 1531 GENERAL INFORMATION

- a) Developer name, address, telephone number;
- b) Property owner name, address, telephone number legal;
- c) Relationship between developer and property owner;
- d) Date of application;
- e) Statement briefly describing project;
- f) Locus map (1" = 2000');
- g) 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.);
- h) Zoning district (square feet within each district if more than one district);
- i) Total area of project in square feet to include wetland and 100 - year floodplain (both in square feet);
- j) All contiguous land owned by the applicant or by the owner of the property;
- k) At the discretion of the Permitting Authority photographs of the site at size of 8" by 10".

## 1532 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:

### 1532.1 Existing Natural Features

- a) Tree line of wooded area;
- b) Individual trees 18" dbh or over;
- c) Bogs or agricultural areas;
- d) All wetlands protected under 310 CMR 10.02 (1) (a - d);
- e) Floodplain (100 years) with base flood elevation data;
- f) Contour lines (2' intervals);
- g) General soil types.

### 1532.2 Existing Man-Made Features

- a) Vehicle accommodation areas;
- b) Streets, roads, private ways, walkways;
- c) Curbs, gutters, curb cuts, drainage grates;
- d) Storm drainage facilities including manholes;
- e) Utility lines including water, sewer, electric, telephone, gas, cable TV;
- f) Fire hydrants and location of dumpsters;
- g) Buildings, structures, and signs (free standing) including dimensions of each;
- h) Exterior lighting fixtures.

### 1532.3 Existing Legal Features

- a) Zoning of property (district lines);
- b) Property lines (with dimensions identified);
- c) Street right-of-way lines;
- d) Utility or other easement lines;
- e) Monuments.

## 1533 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:

- a) Area of each new lot in square feet;
- b) Lot dimensions;
- c) 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;
- d) Building elevations (side, front, and back) showing building height and any proposed signs;
- e) Location, dimension, and designated use for all recreation areas;
- f) Location and dimension of all open space (indicate whether such open space is to be dedicated to public use or to remain private);
- g) Streets (including street names) which conform to the design standards of the Planning Board's Rules and Regulations Governing the Subdivision of Land;
- h) Curbs and gutters, curb cuts, drainage grates;
- i) Drainage facilities including manholes, pipes, drainage ditches, and retention ponds;
- j) Sidewalks and walkways showing widths and materials;
- k) Outdoor illumination with lighting fixture size and type identified;
- l) Utilities; water, sewer, electric, telephone, gas, cable TV;
- m) Fire hydrant locations;
- n) Dumpster (trash collection facilities);
- o) New contour lines resulting from earth movement (at 2 foot intervals) and indications of types of ground cover and other precautions to stabilize slopes;
- p) Vehicle parking, loading, and circulation areas showing dimensions and layout of parking spaces, travel lanes, aisles, and driveways (see also Article 9);
- q) Proposed new plantings by size and location or construction of other devices to comply with screening and shading requirements (see also Article 10).

## **1534 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 Site Plan Reviews an impact statement in two parts.

1534.1 Part one (1) shall describe the impact of the proposed development on the following:

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

1534.2 Part two (2) shall describe what actions have been taken to mitigate the impacts described in part one.

## **1540 EVALUATION STANDARDS:**

In evaluating and rendering a decision on an application for a Site Plan Review Special Permit, the SPGA shall consider if the development could achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize those objectives:

## **1541 NATURAL FEATURES**

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

- a) reduce the volume of cut and fill;
- b) reduce the number of removed trees;
- c) reduce the pollutants reaching the water table;
- d) reduce the area of wetland vegetation displaced;
- e) reduce soil erosion;
- f) reduce the area of impervious surface;
- g) reduce the amount of stormwater runoff from the site.

## **1542 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.

## **1543 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.

- 1543.1 Vehicular and pedestrian circulation layout shall be designed to reduce traffic hazards to pedestrians and vehicles both on and off the site.
- 1543.2 Street layouts shall be designed to minimize through traffic movement, excessive vehicular travel, and excessive speed.
- 1543.3 Local streets shall not be over designed or overbuilt and their appearance shall be appropriate to their use.
- 1543.4 Ingress and egress points, commensurate with safety, shall be kept to a minimum along major abutting streets.
- 1543.5 A minimum amount of space shall be devoted to streets and streets shall be constructed to adhere to topography.
- 1543.6 Sufficient off-street parking shall be provided to minimize curb parking.
- 1543.7 All streets shall be designed to the specifications of the Planning Board's Rules and Regulations Governing the Subdivision of Land.

## **1544 PEDESTRIAN CIRCULATION**

- 1544.1 Sidewalks shall ordinarily be provided along streets used for pedestrian access to schools, parks and shopping.
- 1544.2 Sidewalks shall be separated from the roadway edge by a border area of at least five (5) feet to increase pedestrian safety.
- 1544.3 Sidewalk ramps for handicapped accessibility shall be provided where appropriate.

## **1545 PARKING**

- 1545.1 Parking areas shall be designed so that vehicles may exit without backing onto a public street.
- 1545.2 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.
- 1545.3 Parking areas shall be designed so that vehicles cannot extend beyond the perimeter of such areas onto adjacent properties or public rights-of-way.
- 1545.4 Circulation within parking areas shall be designed so that vehicles can proceed safely without danger to pedestrian or other vehicles.
- 1545.5 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.
- 1545.6 Parking areas shall be designed to provide visual relief from large areas of unbroken pavement by including landscaped islands within the parking area.

## **1546 LANDSCAPING**

All site plans shall be subject to the Landscaping requirements of this By-Law.

## **1550 RELATION TO SUBDIVISION PLAN**

Permitting Authority approval of a Site Plan Review shall neither oblige the Permitting Authority to approve any related preliminary or definitive plan for subdivision nor substitute for such approval. However, the Permitting Authority may allow an applicant to combine a submission for a Special Permit or a 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 Site Plan Review and subdivision approval. In such case, the Permitting Authority may conduct a combined public hearing for both a Special Permit or Site Plan Review and subdivision approval.

## **1551 RELATION TO CONSERVATION COMMISSION APPROVALS**

- 1551.1 The applicant shall submit to the Planning Board or other Permit Granting Authority in addition to other requirements for Site Plan Review, either:
  - (a) A Determination of Non-Applicability of Massachusetts Wetlands Protection Act Massachusetts General Laws, Chapter 131, Section 40 and, Wareham Wetland protective By-Law issued by the Conservation Commission, as described in that Act, or
  - (b) An Order of Conditions or Order of Resource Area Delineation, covering the proposed work, or approving the wetland Resource Area delineations issued by the Conservation Commission for the purpose of protecting those interests described in the Massachusetts Wetlands Protection Act and the Wareham Wetlands Protective By-Laws, Division VI. Section 1, (Purpose).
- 1551.2 The Planning Board may issue Site Plan Approval only after receipt of the original certified copy of either 1551.1 (a) or (b). (added October 25, 2004)

## **1560 PROCEDURES**

### **1561 ENFORCEMENT**

The Zoning Enforcement Officer shall have enforcement powers over any Site Plan Approval and Orders of Conditions on Comprehensive Permits approved under MGL Chapter 40B. The Zoning Enforcement Officer shall inspect and enforce any and all stipulations and/or conditions placed upon the approval of any Site Plan. Failure to satisfy the conditions of any Site Plan Approval will result in the withholding of the Certificate of Occupancy.

### **1562 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 Permitting Authority's designated agent for informal review to ensure that the requirements of Section 1530 have been met.

### **1563 APPLICATION**

Subsequent to a completed Pre-Application Review, application for a Site Plan shall be filed with the Permitting Authority 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 Articles 14. The applicant for a Site Plan Review shall accompany the application to the Permitting Authority with fourteen (14) prints of the plans and fourteen (14) copies of any additional plan information required of the applicant. Failure of the applicant to submit the information required under Section 1530, herein, may be grounds for a recommendation of disapproval to the Permitting Authority or disapproval of the application for Site Plan Review.

### **1564 REVIEW AND DECISION**

The Permitting Authority shall evaluate all site plans for uses subject to Site Plan Review. All site plans subject to Site Plan Review 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 Permitting Authority shall be submitted for Site Plan Review to the Permitting Authority at the first regularly scheduled meeting following submission of the plans to the appropriate SPGA. The Permitting Authority 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 Site Plan Review without receipt of a report from the Permitting Authority or until thirty-five days have elapsed from the date of receipt of such plans by the Permitting Authority without receipt of such report. The SPGA shall give due consideration to the report of the Permitting Authority and where the decision of the SPGA differs from such report or recommendation, the reasons for such difference shall be stated in writing.

### **1565 SITE PLAN REVIEW AND APPROVAL PROCEDURE**

#### **1565.1 Use of Outside Consultants**

After the applicant has filed a site plan, the Permitting Authority may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or its potential impact on the Town. In hiring outside consultants, the Permitting Authority may engage the services of engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Permitting Authority in analyzing the application and project to ensure compliance with all relevant laws, By-Laws and regulations. If the Director of Planning determines that such services are required, the applicant shall pay a Site Plan Review Fee prior to the public hearing and the substantive review of the application by the outside consultants.

#### **1565.2 Review by Town Officials**

- a) The Permitting Authority shall not hold a public hearing on a site plan application until Town Boards, Commissions and Departments have been notified and have been allowed twenty-one (21) days from delivery of site plan documents to submit a written report or recommendations thereon. If reports are not received within the twenty-one (21) day period, this shall be deemed lack of opposition thereto.

- b) The Permitting Authority shall circulate one copy of the site plan documents to the following boards, commissions, agencies and/or departments for their information and to request their review and comments:
1. Board of Selectmen/Sewer Commissioners
  2. Conservation Commission
  3. Fire Department
  4. Police Department
  5. Water Department
  6. Health Department
  7. Building Department
  8. EMS
  9. Town/Consulting Engineer
  10. Municipal Maintenance
  11. Others as determined to be appropriate

### 1565.3 Public Hearing

a) General

In cases where the Planning Board must approve a site plan for a by right use, the Planning Board shall hold a Public Hearing and act as the Permitting Authority. In cases where the site plan involves a Special Permit, the Zoning Board of Appeals acts as the Permitting Authority with a recommendation, on the site plan, from the Planning Board. In cases where any site plan requires a variance from the Zoning By-Law, the Zoning Board of Appeals will hold a Public Hearing on the variance and the Planning Board, acting as the Permitting Authority, will hold another on the site plan itself.

b) Timing

The Permitting Authority shall hold a Public Hearing within 65 days of the submission of the site plan application.

c) Abutter Notice

The Permitting Authority shall provide the public hearing notice to the applicant who will notify all abutters and parties of interest within two hundred (200) feet of the parcel of the time, date and nature of the public hearing. Said notification shall be by certified mail, return receipt requested at least ten (10) days prior to the hearing. The cost of certified mailing shall be borne by the applicant. The signed green cards from all abutters and parties of interest shall be submitted to the Permitting Authority prior to the hearing.

d) Legal Notice

The Permitting Authority shall provide notice of the public hearing by advertisement in a newspaper of general circulation in the town, fourteen (14) days prior to the public hearing and, again, 5 days prior to said hearing. The cost of the advertisement shall be borne by the applicant who shall present a check for the advertisement(s) as part of the submission.

e) Permitting Authority Action

After the close of the Public hearing, the Permitting Authority shall approve, conditionally approve or deny a site plan within 60 days. If the Permitting Authority approves a plan with conditions, those conditions shall be stated on the Certificate of Approval. Four (4) copies of the final approved plans, with conditions, shall be provided to the Permitting Authority within 21 days of the decision and be distributed as follows:

1. Planning Board –2 sets
2. Building Inspector –1 set
3. Persons/Agency Inspecting the Site –1 set



- f) Notice of Extension  
If at any time during the process of Site Plan Review the applicant wishes an extension of the time period, the request shall be made in writing to the Permitting Authority.
- g) Failure to Take Action  
In the event that the Permitting Authority fails to hold a public hearing or take action on a site plan application within the times set forth in these regulations, or within any extended time period as requested by the applicant, the site plan shall be deemed to be approved.
- h) Validity of Approval  
The approved site plan shall be in effect for two (2) years from the date of approval. The applicant or assignees must have begun construction within the two (2) year period. At least thirty (30) days prior to the expiration date of the approval period, the applicant may request, in writing, that the Permitting Authority grant an extension of time. The request shall state the reasons for the requested extension and also the length of time requested.

## 1566 ADMINISTRATION

### 1566.1 Fee Structure

Site Plan Filing Fee a non-refundable filing fee shall be remitted to the Permitting Authority at the time the application is filed.

The following fee schedule shall be followed:

- Multi-family/Condominium \$500 (plus \$20 for each unit over 3 units)
- Commercial/Industrial Building (Up to 5000 sq. ft.) \$500
- Commercial/Industrial Building (Over 5000 sq. ft.) \$750

#### Site Plan Review Fee.

1. Applicability: Pursuant to M.G.L Chapter 40, 22 f , a Site Plan Review Fee may be established by the Permitting Authority for review of the site plan based on an itemized budget estimate prepared by an outside consultant. This fee shall be the reasonable costs to be incurred by the Permitting Authority to assist in the review of the proposed project. The Site Plan Review Fee shall not be a fixed amount but will vary with the costs incurred by the Permitting Authority.
2. Fee Submittal. The applicant shall submit the Site Plan Review Fee from to the Permitting Authority upon the receipt of notice and estimate of fee from the Permitting Authority and prior to the Public Hearing. The failure to pay the Site Plan Review Fee shall constitute grounds for denial of the proposed site plan.
3. Additional Review Fees: If the consultant(s) review of the site plan exceeds the original estimate or should the services of outside consultants be required after the initial Site Plan Review fee has been expended, then the applicant shall be required to pay all additional fees incurred to cover the cost of additional reviews. A new estimate for additional review services shall be prepared and remitted to the applicant. The applicant's failure to pay these fees in their entirety shall be reason for the Permitting Authority to deny approval of the plan.

#### Construction Observation/Inspection Fee

1. The Permitting Authority may decide that the assistance of outside consultants is warranted to observe and inspect the construction of required underground infrastructure and required public improvements that are not within the purview of the

Building Inspector, due to the size, scale or complexity of the approved plan or because if its impact on the town.

2. If the Permitting Authority determines that construction observation/inspection services are required, the applicant shall pay a construction observation/inspection fee prior to the issuance of a building permit. This fee shall not be a fixed amount but will vary with the costs incurred. This fee shall be the reasonable costs to be incurred to observe and inspect the construction of the proposed improvements and shall be based on an estimate provided by the consultant.

#### Other Costs and Expenses

All expenses for use of outside consultants reviews (consistent with Section 1565.1), ancillary report reviews, supplemental studies, advertising, publication of notices, postage and mailings and all other expenses in connection with the site plan including without limitation, sampling and/or testing, shall be borne by the applicant.

#### 1566.2 Payment of Fees

- a) Fees paid by the applicant shall be by a certified bank check made payable to the Town of Wareham and submitted to the Permitting Authority.
- b) When the Site Plan Review Fee and the Construction Observation/Inspection Fee are received by the Permitting Authority pursuant to this Section, they shall be deposited with the Town Treasurer who shall establish an account for this purpose. Expenditures from this account may be made at the discretion of the Permitting Authority without further appropriation. Expenditures from this account shall be made only for services rendered in connection with a specific project or projects for which a fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose.
- c) At the completion of the project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. For the purpose of these regulations, any person or entity claiming to be the applicant's successor in interest shall provide the appropriate Board with documentation establishing such succession in interest.

#### 1566.3 Performance Guarantee

- a) Requirement
- b) The Permitting Authority may require that a performance guarantee be posted with the Town of Wareham to secure faithful and satisfactory construction of all proposed improvements in situations it deems appropriate. The Permitting Authority shall set the guarantee, which shall be in the form of a cash bond. The improvements shall be made within two (2) years of the approval of the plan unless an extension is approved by the Permitting Authority.
- c) Performance Guarantee Filing Fee  
Performance Guarantee Filing Fee shall be imposed and the minimum filing fee shall be \$200 or \$00.01 /square foot of existing and proposed building footprint, whichever is greater.
- d) Amount  
The amount of the performance guarantee shall reflect the estimated cost to the Town of Wareham for completing the work or remediating environmental concerns caused by construction activities should the applicant fail to do so.
- e) Cash Bond  
If a performance guarantee is required by the Permitting Authority, a deposit of funds shall be made in a joint passbook with the Town of Wareham in an amount set by the Permitting Authority. A signed withdrawal slip shall be provided to the Permitting Authority for this account. The required funds shall be deposited in this account prior to the issuance of a building permit by the Director of Inspectional Services.
- f) Release  
Upon the submission of the as built plans, an electronic copy of the as-built plans, and a final inspection, the Permitting Authority shall vote to release the applicant from the performance obligation.

#### 1566.4 Revisions to Approved Site Plans

- a) Minor Revisions  
If revisions to an approved site plan are needed, changes, which in the opinion of the Zoning Enforcement Officer are minor and not substantive, may be reviewed by the Permitting Authority and approved without a public hearing.

b) Major Revisions

1. If revisions to an approved site plan are needed, changes, which in the opinion of the Zoning Enforcement Officer, are significant in terms of size or location of the building, relocation of access and exit curbs, overall parking layout, landscaping and buffers, overall appearance of the building, or intensity of use, or in the conditions specifically addressed in the decision by the Permitting Authority, then a public hearing for these modifications is required.
2. The Permitting Authority shall review the proposed revisions and either approve, approve with conditions or deny the proposed revisions.

c) Revision Expenses

Whenever additional reviews by the Permitting Authority, its staff or consultants are necessary due to the proposed site plan modifications, the applicant shall be billed and be responsible for the supplemental costs incurred, including filing fees, review fees, and all costs associated with another public hearing including legal notice and abutter notification. If the proposed revisions affect only specific, limited aspects of the site, the Permitting Authority may reduce the scope of the required review and waive, all or part of the filing and review fees. Supplemental fees must be paid in full before modifications to a site plan are approved by the Permitting Authority.

d) Project Completion Prior to receipt of an occupancy permit, the applicant shall:

1. Provide a written certification from a registered professional engineer in the Commonwealth of Massachusetts that the stormwater management system was constructed and completed in accordance with the approved site plan in accordance with Best Management Practices (BMPs)
2. Construct or install any improvements required by the Permitting Authority to the satisfaction of the Zoning Enforcement Officer.

## **1570 EXPENSES INCURRED**

Expenses incurred by the SPGA in connection with site plan review, including the reasonable fees and expenses of any consultants retained by the SPGA, shall be borne by the applicants for site plan approval.

## **1575 PERFORMANCE GUARANTEE**

As a condition of the granting of special permits for any uses or structures requiring a special permit under this Section, the SPGA shall require that construction and site alteration permitted and specified by said special permit be secured by one, or in part by one and in part by the other, of the following methods, which method may be selected and from time to time varied by the applicant upon receiving written approval from the Planning Board:

1. By a proper bond or deposit of money or negotiable securities sufficient in the opinion of the SPG A to secure performance of the construction of buildings, parking areas and appurtenances thereto required for completion of the project as noted in the special permit and shown on any accompanying plans. The SPGA may require that said construction shall be completed within a specific period of time; or
2. By a covenant executed and duly recorded by the owner of record, running with the land, whereby said construction will be completed before such buildings or appurtenances thereto may be eligible for an occupancy permit

## **1580 RELEASE OF GUARANTEE**

Performance bonds, deposits or covenants may be released in whole or from time to time, in part, when the work has been satisfactorily completed in the opinion of the SPGA. The SPGA shall then release the interest of the town in such bond and return the bond or the deposit to the person who furnished the same or release the covenant by appropriate instrument duly acknowledged which shall be recorded at the Plymouth County Registry of Deeds. Request for all releases shall be by certified, return receipt letter to the SPGA and the Town Clerk and shall outline that portion of the work to be released and shall be accompanied by an engineer's or surveyor's certification that the work has been done in accordance with the requirements of the granted special permit. If the SPGA determines that said construction or site alteration has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the Town Clerk, the details wherein said construction or site alteration fails to comply with the special permit and upon failure to do so within forty-five (45) days after the receipt by said Town Clerk of said request by the applicant all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned, and such other covenant shall become void. In the event that said forty-five day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the said Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

## **1585 OTHER REGULATIONS**

This Section 1510 is supplementary to the other existing Zoning By-Laws affecting the access, circulation, design and landscaping of parking areas. Where the application of Section 1510 imposes a greater restriction than is imposed by other Zoning By-Laws, the application of Section 1510 shall control.

## **1590 DECISION**

Special permits may be granted and plans may be approved provided that the SPGA determines that subject to any conditions that may be imposed the requirements of Sections 1510 and 1450 will be satisfied and that no other conflicts between the proposal and the Zoning By-Laws have been observed.

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# ARTICLE 16:

## Definitions

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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.

### **1-FAMILY DWELLING:**

(See Section 350 Use Definitions)

### **2 FAMILY DWELLING:**

(See Section 350 Use Definitions)

### **3 TO 4 FAMILY DWELLING:**

(See Section 350 Use Definitions)

### **5 OR MORE FAMILY DWELLING:**

(See Section 350 Use Definitions)

### **ABANDONMENT:**

The visible or otherwise apparent intention of an owner to discontinue a or premises, or removal of the characteristic equipment or furnish used in the performance of the non-conforming use, without its replacement by similar equipment or furnishings, or the replacement of the non-conforming use or building by a conforming use or building.

### **ACCESSORY USES TO SCIENTIFIC RESEARCH, SCIENTIFIC DEVELOPMENT, OR RELATED PRODUCTION ACTIVITIES:**

(See Section 350 Use Definitions)

### **ADULT CABARET:**

Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Chapter 272, Section 31 of the General Laws.

### **ADULT MOTION PICTURE THEATER:**

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conductor sexual excitement as defined in Chapter 272, Section 31 of the General Laws.

### **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 Chapter 272, Section 31 of the General Laws.

### **ADULT USE:**

(See Section 350 Use Definitions)

### **AGRICULTURAL USES:**

(See Section 350 Use Definitions)

### **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:**

(See Section 350 Use Definitions)

**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 auxiliary building housing electronics and communications equipment is permitted as part of this use.

**ANTENNA, DIRECT BROADCAST:**

(See Section 350 Use Definitions)

**APARTMENT IN MIXED USE BUILDING:**

(See Section 350 Use Definitions)

**APARTMENT, ACCESSORY:**

(See Section 350 Use Definitions)

**APARTMENT (Apartment House, Apartment Dwelling):**

(See 2,3 and 5+ family dwelling)

**AUXILIARY COMMUNICATIONS BUILDING:**

An unmanned, self-contained structure housing electric and communication equipment, which shall not be more than 600 square feet in area, not more than 12 feet in height

**AVIATION FIELD:**

(See Section 350 Use Definitions)

**BANKS:**

(See Section 350 Use Definitions)

**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.

**BED AND BREAKFAST:**

(See Section 350 Use Definitions)

**BOWLING ALLEY:**

An establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment and playing area.

**BUILDING AREA:**

The aggregate of the maximum horizontal plane area of all buildings on a lot measured to their outer wells, including cornices, eaves, porches, enclosed porches, enclosed stairs, decks, bay windows and balconies.

**BUILDING COVERAGE:**

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

**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, 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, ATTACHED:**

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

**BUILDING, DETACHED:**

A building having open spaces on all sides.

**BUILDING, PRINCIPAL:**

A building in which is conducted the principal use of the lot on which it is located.

**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.

**BUSINESS, RETAIL**

(See Section 350 Use Definitions)

**BUSINESS, WHOLESALE:**

(See Section 350 Use Definitions)

**CAMPGROUND:**

(See Section 350 Use Definitions)

**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.

**CEMETERY:**

(See Section 350 Use Definitions)

**CLUB, GOLF:**

(See Section 350 Use Definitions)

**CLUB, MEMBERSHIP:**

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.

**CLUB, TENNIS:**

(See Section 350 Use Definitions)

**CLUSTER DEVELOPMENT:**

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

**CONDOMINIUM:**

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.

**CONFERENCE CENTER:**

(See Section 350 Use Definitions)

**CONVENIENCE STORE:**

A small retail establishment, usually located within or associated with another use that offers for sale convenience goods, such as prepackaged food items, tobacco, periodicals, and other household goods.

**DAY CARE CENTER:**

(See Section 350 Use Definitions)

**DISTRICT:**

A zoning district as established by this By-Law.

**DRIVE-IN ESTABLISHMENT:**

(See Section 350 Use Definitions)

**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.

**DRY CLEANING ESTABLISHMENTS:**

(See Section 350 Use Definitions)

**DWELLING UNIT, SEASONAL:**

A dwelling unit that cannot be occupied on a year-round basis without alteration(s) being made requiring a permit from the Building Department.

**DWELLING UNIT:**

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.

**DWELLING, MULTIPLE FAMILY:**

(See 2, 3 and 5+ family dwelling)

**DWELLING, YEAR-ROUND:**

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.

**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.

**EDUCATIONAL USES, EXEMPT:**

(See Section 350 Use Definitions)

**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.

**FARM STAND OR ROADSIDE STAND:**

(See Section 350 Use Definitions)

**FILLING STATIONS:**

(See Section 350 Use Definitions)

**FISH PROCESSING PLANTS:**

(See Section 350 Use Definitions)

**FLOODWAY:**

The floodway is that portion of the available flow cross Section that cannot be obstructed without causing an increase in the water-surface elevations resulting from a flood with a 100-year average return period of more than a given amount.

**FLOOR AREA RATIO:**

The ratio of the gross floor area to the total lot area.

**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.

**GOLF COURSE:**

(See Section 350 Use Definitions)

**GRAVEL, LOAM, SAND OR STONE REMOVAL:**

(See Section 350 Use Definitions)



**GUEST HOUSE:**

(See Section 350 Use Definitions)

**HAZARDOUS WASTE FACILITY:**

(See Section 350 Use Definitions)

**HEALTH OR ATHLETIC FACILITY:**

(See Section 350 Use Definitions)

**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:**

(See Section 350 Use Definitions)

**HORTICULTURE:**

(See Section 350 Use Definitions)

**HOSPITAL:**

(See Section 350 Use Definitions)

**HOTEL-**

(See Section 350 Use Definitions)

**INCIDENTAL USE:**

Premises to which it pertains.

**INDUSTRIAL:**

(See Section 350 Use Definitions)

**INTERMEDIATE CARE CENTER:**

(See Section 350 Use Definitions)

**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.

**JUNKYARDS:**

(See Section 350 Use Definitions)

**LAUNDROMATS:**

(See Section 350 Use Definitions)

**LIGHT MANUFACTURING:**

(See Section 350 Use Definitions)

**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.

**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 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:**

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 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.

**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, 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:**

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.

**MANUFACTURED HOME PARK:**

(See Section 350 Use Definitions)

**MANUFACTURED HOME:**

(See Section 350 Use Definitions)

**MANUFACTURING:**

(See Section 350 Use Definitions)

**MARINA:**

(See Section 350 Use Definitions)

**MARINE CONNECTED USES:**

(See Section 350 Use Definitions)

**MEDICAL MARIJUANA TREATMENT CENTER**

Any medical marijuana treatment center, as defined under state law, as a not-for-profit entity (as defined by Massachusetts law only), that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

**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.

**MOBILE HOME:**

(See Manufactured Home)

**MOTEL:**

(See Section 350 Use Definitions)

**MOTOR VEHICLE SALES:**

(See Section 350 Use Definitions)

**MOTOR VEHICLE SERVICE:**

(See Section 350 Use Definitions)

**NEIGHBORHOOD GROCERY STORE:**

(See Section 350 Use Definitions)

**NONCONFORMING USE:**

A use lawfully in existence or lawfully begun at the time of the enactment of this By-Law or any amendment thereof.

**NONCONFORMING STRUCTURE:**

A structure lawfully in existence or lawfully begun at the time of the enactment of this By-Law or any amendment thereof.

**NONCONFORMING LOT:**

A lot that is not in accordance with all provisions of this By-Law, but that lawfully existed at the effective date of this By-Law or conformed to all dimensional requirements of the By-Law prior to any amendment thereof.

**NON-PROFIT RECREATION:**

(See Section 350 Use Definitions)

**NURSING HOME:**

(See Section 350 Use Definitions)

**OFFICE:**

(See Section 350 Use Definitions)

**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.

**OUTDOOR ADVERTISING:**

(See Section 350 Use Definitions)

**OVERNIGHT CABIN:**

An overnight cabin is any cabin, trailer or any building, tent, or structure, house, car 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.

**PLACE OF ASSEMBLY:**

(See Section 350 Use Definitions)

**PLANNING DEVELOPMENT:**

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

**PUBLIC SERVICE OR OTHER PASSENGER STATIONS:**

(See Section 350 Use Definitions)

**RECREATION, COMMERCIAL FACILITIES:**

(See Section 350 Use Definitions)

**RECREATION, COMMERCIAL INDOOR:**

A commercial recreational land use conducted entirely within a building.

**RECREATION, COMMERCIAL OUTDOOR:**

Primarily participant uses conducted in open or partially enclosed or screened facilities.

**RELIGIOUS USES:**

(See Section 350 Use Definitions)

**RESIDENTIAL CLUSTER DEVELOPMENT:**

(See Section 350 Use Definitions)

**RESTAURANT**

(See Section 350 Use Definitions)

**RIDING STABLE:**

(See Section 350 Use Definitions)

**SALVAGE YARDS:**

(See Section 350 Use Definitions)

**SEASONAL CONVERSION:**

(See Section 350 Use Definitions)

**SERVICE ESTABLISHMENTS:**

(See Section 350 Use Definitions)

**SERVICES, PERSONAL:**

Establishments primarily engaged in providing individual services generally related to personal needs, such as beauty and barbershops, and tailor shops.

**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, FREE 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.

**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 not 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.

**SOLID WASTE FACILITY:**

(See Section 350 Use Definitions)

**STORAGE FACILITIES:**

(See Section 350 Use Definitions)

**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.

**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.

**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 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, 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.

**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.

**THEATRE:**

A building or part of a building devoted to showing motion pictures, or for dramatic dance, musical, or other live performances.

**TRANSPORTATION TERMINAL**

(See Section 350 Use Definitions)

**TRUCKING TERMINALS:**

(See Section 350 Use Definitions)

**UPLAND:**

All land not defined herein as wetland.

**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.

**USE:**

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

**UTILITY, PUBLIC:**

(See Section 350 Use Definitions)

**VETERINARY HOSPITAL:**

(See Section 350 Use Definitions)

**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 Chapter 131, Section 40 of the General Laws and in 310 C.M.R. 10.00, Wetland Protection.

**WIRELESS COMMUNICATIONS FACILITY:**

(See Section 350 Use Definitions)

**WIRELESS COMMUNICATIONS SERVICES:**

The provision of personal wireless services such as cellular telephone, personal communications and enhanced specialized mobile radio services; but not including the provision of video programming through over-the-air television broadcast signals, multi-channel multi-point distribution services, or direct broadcast satellite services.

**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.

**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.

**YOUTH CAMP:**

(See Section 350 Use Definitions)

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# APPENDIX 1:

## Boundaries of Districts

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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, are declared to be a part of the Town of Wareham Zoning By-Laws:

### **MULTIPLE RESIDENTIAL MR-30 DISTRICT:**

All of that part of the Town of Wareham not hereinafter described as being Within the limits of Residence R-130, Residence R-60, Residence R-43, Residence R-30, Onset Village 1, Onset Village 2, Wareham Village, Strip Commercial, Conference Recreational, Marine, Institutional or Industrial.

### **MR 30 DISTRICT**

- a) That area of land from the southwesterly corner of Charlotte Furnace Road at the intersection of Route 28, in a northwesterly direction to the Weweantic River, thence, northerly along the Weweantic River to a point where the Weweantic River meets the southerly layout of Route 25, thence in a southeasterly direction along the southerly layout of Route 25 to a northwesterly point at the juncture of the southerly layout of Route 25 and Charlotte Furnace Road, thence southeasterly to the southwesterly corner of Charlotte Furnace Road and Route 28. (Revised Oct. 23, 2012).
- b) That area of land beginning at the Northwest corner of Lot 1028 with Route 25 and Besse's Brook; Thence Easterly along the Southern Right of Way of Route 25 to the Eastern corner of Lot 1022A as shown on Wareham As Assessors' Map 115; Thence Southwesterly along the Eastern property line of Lot 1022A to the Northern Right of Way of Route 28; Thence Easterly along the Northern Right of Way of Route 28 to a point directly across from the Northeastern corner of Lot 1003 as shown on Wareham Assessors' Map 133; Thence South across Route 28 and along the Eastern property line of Lot 1003 to a point 500 feet south of Route 28 as shown on Wareham Assessors' Map 133; Thence Westerly by a line Parallel to and 500 feet from the southerly sideline of Route 28 to the Eastern property line of Lot 1043 A as shown on Wareham Assessors' Map 132; Thence North along the Eastern property line of Lot 1043 A across Route 28 to the Northern Right of Way of Route 28 as shown on Wareham Assessors' Map 132; Thence Easterly along the Northern Right of Way of Route 28 to the corner of Lot 6 and Division Avenue as shown on Wareham Assessors' Map 115. Thence North along the Property line of Lot 6 and Division Avenue to the Northern Right of Way of Route 28 as shown on Wareham Assessors' Map 115; Thence Westerly along the rear lots lines of Lots 9, 8, 7A and 6 to Division Avenue as shown on Wareham Assessors' Map 115; Thence Westerly from the rear Lot corner of Lot 9, across Willard Street and along Southern property lines of Lot 1020B and 1020A to Besse's Brook as shown on Wareham Assessors' Map 115; Thence Northerly along Besse's Brook to the Point of beginning. (April 24, 2006).
- c) West Wareham or Tremont Northwesterly by Tremont Pond; Northerly by Main Street; Easterly by Lots L, T, U, S, R, a Private Way and Main Street as shown on plans of the Bass River Land Company situated in West Wareham; Southerly by land formerly of Alice Tobey Jones; Southwesterly by land of New York, New Haven and Hartford Railroad Company.
- d) Bounded on the West by the Lazy Harbor; Thence on the northwest by the center line of Marion to Wareham 23KV Electric transmission Line; Thence on the northeast by a line parallel to and 200 feet from the Centerline of Cromessett Road to the southern property line of Lot 10 as shown on the Wareham Assessors' Map 54; Thence along the southern property lines of lots 10 and 9 as shown on Wareham Assessors' Map 54 to the point of beginning". New from Strip Commercial. (April 2006)

## **RESIDENTIAL R-130 DISTRICT: (Formerly Agricultural Watershed)**

Westerly: by Charge Pond Road: Northerly: by the Plymouth-Wareham Town line: Southerly: by the Plymouth-Wareham Town line: Generally in an easterly direction by Red Brook (Plymouth-Wareham Town line); Southerly: by the present commercial District D boundary from Red Brook Road on the East to Glen Charlie Road on the West, and continuing Westerly by the proposed sideline of Route 25, so called, and Route 25 as presently laid out.

## **RESIDENTIAL R-60 DISTRICT: (formerly Residential C-2 and Rural Residential)**

Wickets Island plus Indian Neck and Great Neck, bounded and described as follows: Northerly by Crooked River; Westerly by Indian Neck Road; Northerly again by Crooked River Road; Westerly again by Great Neck Road; Northerly again by brook draining out of the cranberry bog of Frank Lane et al and running through Broad Marsh. Northeasterly by Sunset Cove sometimes called Shell Point Bay and Onset Bay; Easterly and Southerly by Buzzards Bay; Westerly by the Wareham River; except that portion now known as Wareham Shores owned by Resort Properties, Inc., and bounded as described in Section B-10. (Article #85; April 28, 1986) and further,

- a) Northerly by Fearing Hill Road, Horseshoe Pond and the Weweantic River; Easterly by Route 195; Southerly by the Wareham-Marion and the Wareham-Rochester Town Lines.
- b) Northerly by the rear property lines of parcels of land fronting on Paper Mill Road; Easterly and Northerly by the Weweantic River; Southerly by Fearing Hill Road; and Westerly by the Wareham-Rochester Town line.
- c) Northerly by the Carver-Wareham Town line and the Plymouth-Wareham Town line; Easterly by Charge Pond Road Southerly by the rear lot lines of parcels of land fronting on Route 28 to Parker Mills Pond, then by the sideline of Tihonet Road, then five hundred (500) feet back from the Northerly sideline of Route 28; Westerly by the Westerly sideline of Route 195; Southerly by the southerly sideline of Route 25; Westerly by the Rochester-Wareham Town line; Southerly and Westerly by the Middleboro-Wareham Town line; excepting therefrom the area now known as Westfield or Bayberry Estates on the plans approved as of this date.

## **RESIDENTIAL R-43 DISTRICT: (formerly Residential C-1 and C-3)**

Land reserved by Henry M. Channing, Jr., adjacent to the Town Forest, bounded as follows: Northerly by a line 150 feet Southerly of and parallel to the Southerly line of Minot Avenue; Northeasterly by the Town Forest Southeasterly by land of Frank Lane et al; Southeasterly by a line about 100 feet northeasterly of and about parallel to the northeasterly Line of Indian Neck Road leading from said Indian Neck Road to the Agawam Cemetery and further, Sias Point, Robinwood, Nemasket Park, Long Neck and that portion of Buttrville, bounded as follows: Northwesterly by Onset Avenue; Northerly by Onset Avenue and land of the New York, New Haven and Hartford Railroad Company; Easterly by Cohasset Narrows and Buzzards Bay; Southerly by Onset Bay; Westerly by Pleasant Harbor, Lot H-4 shown on Land Court Plan 2433L and Powers Avenue; Southerly again by Lot H-TB, J-18, Wild Rose Avenue and Lot J-13 as shown on Sheet 3 of the Wareham Assessors' Plans; Westerly again by land of Constantimos Gouloupoulos et al, formerly of Abbie M. Ramsdell.

## **RESIDENTIAL R-30 DISTRICT: (formerly Single Residential B)**

- a) Weweantic Shores, bounded as follows: Northerly by a line shown on the County Commissioner's layout of Hathaway Street, Decree No. 904, as being the division line between land of Hills Brothers Company and Alice Tobey Jones Estate; Easterly by Hathaway Street, Southerly by the southerly line of lots 1,3,4,5,6,7,8,9,10,11,12,13,14, and 14a in said Weweantic Shores; Westerly by the Weweantic River so-called.
- b) Briarwood Beach, bounded as follows: Northerly by a straight line that extends from Marion Road to Beaver Dam Creek, said line being the division line or its extension thereof in an Easterly direction between the subdivision known as Briarwood Beach and land of Peter LeSage formerly of John W. Dodge, Easterly by Beaver Dam Creek and Lazy Harbor; Southerly by the Weweantic River; Westerly and Northeasterly by the Weweantic River and the Southeasterly line of said Marion Road.



- c) Cromesett Point, Cromesett Park, Swift's Beach, Swift's Neck, Hamilton Beach and adjoining areas, bounded as follows: Northwesternly by the Southeasterly right of way line of the Marion to Wareham 22KV electric transmission line now or formerly owned by the New Bedford Gas and Edison Light Company; Northeasterly by Broad Marsh River; Easterly by the Wareham River; Southerly and Southwesterly by the Weweantic River; Northwesternly and Westerly by the bounds of the Weweantic River Marine District.
- d) Pinehurst Beach, Pine Point and area South of Church Avenue bounded as follows: northeasterly by Church Avenue and Warr Avenue; Northwesternly by Fourth Street or its extension to Wareham River; Northeasterly and Easterly by the Wareham River; Southerly and Southwesterly by Broad March River; Northwesternly by the Southeasterly side line of Kennedy's Lane and its extension in a Southwesterly direction to said Broad Marsh River.
- e) Tempest Knob Terrace and vicinity, bounded as follows: Northerly by Narrows Road; Northeasterly and Southeasterly by land now known as the Town Forest; Southerly by land of Jeremiah Murphy; Southwesterly and Westerly by the Wareham River.
- f) Parkwood Beach, bounded as follows: Northerly by Crab Cove and land of Jeremiah Murphy; Easterly by Indian Neck Road; Southerly by Crooked River; Westerly by Wareham River.
- g) Riverside and Kenmere Beach, bounded as follows: Northerly by land of the New York, New Haven and Hartford Railroad Company; Easterly by Long Neck Road; Southeasterly by land of Smith Hammond Company and Broad Cove; Southwesterly and Westerly by Muddy Cove or Swift's River.
- h) Onset Heights and adjacent area, bounded as follows: Northerly by land of Smith Hammond Company; Easterly by Long Neck Road and Cahoon Road Extension; Southerly by Town Road shown of the Harry C. Gleason plan recorded with Plymouth County Plans Book, Page 458; Westerly by land of the Hammond Estate; Southerly again by land of the Hammond Estate; Westerly again by Broad Street and Broad Cove.
- i) Indian Heights, Cohasset Park, Buzzards Bay Terrace, Buzzard's Bay Highlands, Jefferson Shores and adjacent areas, bounded as follows: Northeasterly by Red Brook; Easterly by Buttermilk Bay; Southerly by a line 200 feet Northerly of and parallel to the Northerly line of the Massachusetts State Highway Route No. 28 sometimes known as Sawyer Road; Westerly by Cedar Street and Cohasset Road; Northwesternly by Red Brook Road.
- j) Wareham Shores (now Standish Shores), bounded and described as follows: Northwesternly by Wareham River; Northerly by Crooked River; Easterly by Indian Neck Road; Southerly by Indian Neck Road, Long Beach Road, and the Southerly lines of Lots 93,94,95,96,97, and 98; Southwesterly by the Southwesterly lines of Lots 99,100,101,102,103, the Southwesterly line of Eldredge Road and the Southwesterly lines of Lots 136,137,138, and 139; Southerly again by the Southerly line of Lots 140,141,142,143,144,145,146,147, Covell Road and the Southerly line of Lot 166; Southwesterly again by land of Joseph A. Locke.
- k) Rose Point, bounded as follows: Westerly by Sippican River and Cohackett Brook; Northerly by Route 1-195; Easterly and Southerly by the Weweantic River and further. All that area South of Minot Avenue and Onset Avenue Which is now zoned Residential A, bounded and described as follows: Northerly by the Southerly line of Minot Avenue; thence Northeasterly by the Southwesterly bound of an area zoned Commercial D as of January 1,1981, along the southerly side of Onset Avenue; thence Northeasterly by a line drawn 300 feet southerly of the Southerly sideline of Onset Avenue; thence Southeasterly by a ditch beginning roughly 50 feet Northerly of North Avenue and running Westerly to Sunset Cove; thence Southeasterly and Southerly by Sunset Cove; thence Southerly by the fresh water brook draining out of the cranberry bog now or formerly of Frank Lane, et al and running through Broad Marsh; thence Southeasterly and Easterly by Great Neck Road; thence Southerly by Crooked River Road; thence Westerly and Southwesterly by that area zoned Single Residential B as of January 1,1981, and generally known as Parkwood Beach; thence Westerly by the waters of Crab Cove; thence Northerly and Westerly by that area zoned Single Residential B as of January 1,1981, and generally known as Tempest Knob Terrace; thence Northerly along Minot Avenue to a point where the Southerly line of Minot Avenue begins. (Amended 4/28/87)

**ONSET VILLAGE 1 DISTRICT: (formerly Onset Village Commercial, Village Commercial D-1 and Resort Commercial D-2)**

Land in the Vicinity of Onset Avenue, Union Avenue, and East Central Street, comprising lots on Assessors' Sheet 1 (revised December 31, 1969) numbers 201 through 212, 227, 228A, 228B, 229, 537, 538, 539, 589 53A, 53B, 54A, 54B, 55, 74, 75, 76, 89, and 90, plus intervening public land; Also, in Point Independence an area bounded by North Water Street, South Water Street, Myrtel Street, the south sideline of Lots 79 and 82A on Assessors' Sheet 2, revised December 31, 1975, Fourth Avenue, Grove Street, Locust Street, and Holly Street and further, Land in the vicinity of Onset Avenue, Wareham Avenue, and the East River comprising the following parcels on Assessors' Map 1 revised December 31, 1969: 50, 51 A, 51B, 52, 56A, 56B, 57, 58B, 72, 73, 77, 78, 86, 87, 88, 91, 92, 93, 117A, 117B, 118 through 124, 125A, 125B, 126 through 131, 132A, 132B, 132C, 136 through 141, 213 through 219, 230, 231, 485 through 490, 503 through 508, 510, 512, 514, 515A, 515B, 516A, 516B, 517, 518, 532, 533, 534A, 534B, 536, 540, 541 B, 5428, 5438, 560, 590, 591, 1000 through 1014, 1017, 1032, 1033, 1048 from the Town Pier to South Boulevard extended to Onset Bay, 1052A, 1052B, 1053, and 1054 plus intervening public lands.

**ONSET VILLAGE 2: (formerly Onset Village Residential and Village Development D-3)**

- a) Onset Avenue, North: All of the area within a strip of land 300 feet in Width on the North-easterly side of Onset Avenue extending from a line parallel to and 400 feet southerly of the railroad right-of-way in the vicinity of Great Neck Road, Southeasterly to the area described under "3. Onset" below.
- b) Onset Avenue, South: All of the area within a strip of land 300 feet in width on the South-easterly side of Onset Avenue extending from a line parallel to and 300 feet Southeasterly of Great Neck Road southeasterly to the area described under "3. Onset" below.
- c) Onset: All that area bounded by Swifts River, Broad Cove, Onset Bay, Sunset Cove, a ditch roughly 200 feet Northerly of North Boulevard, a ditch roughly diverging 100 to 300 feet Westerly of Camp Street, a Westerly headed ditch beginning roughly 50 feet Northerly of North Avenue and running Westerly to Sunset Cove, and the areas described under "1. Onset Avenue, North" and "2. Onset Avenue, South" above: except excluding those areas zoned Village Commercial D-1 or Resort Commercial D-2. (Article #85; April 28, 1986); Also, in Point Independence an area bounded by Broad Cove, the East River, Onset Bay, Seventh Avenue, and the extension of its center line across Onset Avenue, and a line parallel to and 200 feet Northeasterly of the Northeast sidelines of Onset Avenue, Grove Street and Locust Street, extended to Broad Cove, excluding those areas zoned Village Commercial D-1.

**WAREHAM VILLAGE I DISTRICT: (formerly Center Residential Commercial D-5 and Center Commercial D-6)**

- a) Beginning at the NORTHEASTERLY corner of Lot 1088 and running EASTERLY along the Northern lot line of Lot 1088 as shown on Wareham Assessors' Maps 61 and 132 to the Western side of Wankinco River.

Thence NORTHEASTERLY along the Western side of the Wankinco River to the Southern Lot line of Lot 1008C as shown on Wareham Assessors' Map 132.

Thence EASTERLY to the Southeastern corner of Lot 1008C as shown on Wareham Assessors' Map 132.

Thence NORTHERLY along the eastern lot line of 1008C across to the Centerline ELM Street as shown on Wareham Assessors' Map 132.

Thence EASTERLY along the Centerline of Elm Street to the Center of the intersection with Route 28 /Cranberry Highway (Lot 1005A) as shown on Wareham Assessors' Map 132.

Thence WESTERLY along the Centerline of Route 28 / Cranberry Highway to the Center of the intersection with Tihonet Road (Lot 1000A) as shown on Wareham Assessors' Map 132.

Thence SOUTHERLY along the Centerline of Tihonet Road to the Center of the intersection with Elm Street (Lot 1000B) as shown on Wareham Assessors' Map 132.

Thence SOUTHERLY crossing Elm Street to the West side of the Railroad Right of Way (Lot 1210) as shown on Wareham Assessors' Map 61.

Thence SOUTHERLY along the Western side of the Railroad Right of Way to the Northwestern corner of Lot 1088, more or less to the point of beginning.

- b) That area of land Beginning at the Centerline of Sandwich road (Route 6) directly south of the eastern property line of Lot 1006 as shown on Wareham Assessors' Map 134;

Thence North for a distance of 250 feet along the Eastern property line of Lot 1006 and 16 as shown on Wareham Assessors' Map 134;

Thence Westerly by a line Parallel to and 250 feet from the Centerline of Sandwich Road (Route 6) Across Avenues A and B to the present Wareham Village 1 district as shown on Wareham Assessors' Map 134 and 47:

Thence Easterly along the Centerline of Sandwich Road (Route 6) to the Southern Right of Way line of Narrows Road as shown on Wareham Assessors' Map 45;

Thence Southeasterly along the Southern Right of Way of Narrows Road to a point directly across from the Southeastern corner of Lot 1000B as shown on Wareham Assessors' Map 45;

Thence across the Narrows Road and the Railroad Right of Way and along the eastern lot line of Lot 1000B to the Centerline of Sandwich Road (Route 6) as shown on Wareham Assessors' Map 45;

Thence Easterly along the Centerline of Sandwich Road (Route 6) to the Point of beginning.

## **WAREHAM VILLAGE II**

### **Description of Proposed Wareham Village II District**

- a) Beginning at the intersection of the existing Institutional and MR-30 Districts on Lots 1123B and 1123C and Cedar Street as shown on Wareham Assessors' Map 47 and running WESTERLY along the Centerline of Cedar Street and along the Southern property lines of Lots 1044 and 1045 and across a portion of Lot 1041 to the centerline of Church Avenue as shown on Wareham Assessors' Map 47.

Thence NORTHERLY along the Centerline of Church Avenue to a point directly across the intersection of Kennedy Lane on Lot 1008 as shown on Wareham Assessors' Map 47.

Thence WESTERLY along the Centerline of Kennedy Lane to the Western Corner of Lot 1006 as shown on Wareham Assessors' Map 47.

Thence NORTHEASTERLY along the Westerly Lot lines of Lots 1006, 1009 and 1010 to a point on the Centerline of Marion Road / Route 6 across from Lot M1 5 as shown on Wareham Assessors' Map 61.

Thence WESTERLY along the Centerline of Marion Road to the Easterly side of the Center of the intersection with Gibbs Avenue (Western corner of Lot G11) as shown on Wareham Assessors' Map 61.

Thence NORTHERLY along the Centerline of Gibbs Avenue to the Center of the intersection of High Street as shown on Wareham Assessors' Map 61.

Thence NORTHERLY along the Centerline of Gibbs Avenue to the Center of the intersection with Main Street to a point on the Northern Side of Lot 1011 as shown on Wareham Assessors' Map 61.

Thence WESTERLY along the Centerline of Main Street to the Center of the intersection with Tremont Road as shown on Wareham Assessors' Map 84.

Thence NORTH along the Centerline of Tremont Road to the Center of the intersection with Route 28 / Cranberry Highway (Lot 1041) as shown on Wareham Assessors' Map 109A.

Thence EASTERLY along the Centerline of Route 28 / Cranberry Highway to the Center of the intersection with Tihonet Road (Lot 1049) as shown on Wareham Assessors' Map 109A.

Thence SOUTHEASTERLY along the Centerline of Tihonet Road to the Southwestern corner of the Railroad Right of Way (Lot 1210) as shown on Wareham Assessors' Map 61.

Thence SOUTHEASTERLY along the Western sideline of the Railroad Right of Way (Lot 1210) to the Northern point of the existing Wareham Village I District.

Thence West along the Existing boundary line with the existing Wareham Village I District (along the Northern Lot line of Lot 1021) to the Centerline of Main Street.

Thence Southeasterly along the Existing Boundary line with the Wareham Village I District to more or less to the point of beginning (Lots 1123B and 1123C and Cedar Street.

- b) That area of land beginning at the Centerline of Sandwich road (Route 6) directly south of the eastern property line of Lot 1006 as shown on Wareham Assessors' Map 134;

Thence North for a distance of 250 feet along the Eastern property line of Lot 1006 and 16 as shown on Wareham Assessors' Map 134;

Thence Westerly by a line Parallel to and 250 feet from the Centerline of Sandwich Road (Route 6) Across Avenues A and B to the present Wareham Village 1 district as shown on Wareham Assessors' Map 134 and 47;

Thence Easterly along the Centerline of Sandwich Road (Route 6) to the Southern Right of Way line of Narrows Road as shown on Wareham Assessors' Map 45;

Thence Southeasterly along the Southern Right of Way of Narrows Road to a point directly across from the Southeastern corner of Lot 1000B as shown on Wareham Assessors' Map 45;

Thence across the Narrows Road and the Railroad Right of Way and along the eastern lot line of Lot 1000B to the Centerline of Sandwich Road (Route 6) as shown on Wareham Assessors' Map 45;

Thence Easterly along the Centerline of Sandwich Road (Route 6) to the Point of beginning.

## **STRIP COMMERCIAL DISTRICT: (formerly Commercial D)**

- a. Route No. 28 North: All of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route No. 28 extending from County Road on the West, Easterly to the Town Park or the extension of its Westerly boundary line in a Northerly direction at Tihonet Road; also all of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route 28 extending from the Easterly side of Parker Mills Pond Easterly to Maple Spring Road; also all of the area within the limits of a strip of land 200 feet in width on the Northerly side of Route No. 28 extending from Maple Spring Road on the West; Easterly to Dick's Pond sometimes called Swift's Pond; also all of the area within the limits of a strip of land 500 feet in width on the Northerly side of Route No. 28 extending from said Dick's Pond on the West, Easterly to Red Brook Road; also all of the area within the limits of a strip of land 200 feet in width on the Northerly side of Route No. 28 extending from Red Brook Road on the West, Easterly to the waters of Buttermilk Bay at Cohasset Narrows. Except that area North of Route 28 zoned Industrial and described under "Description of Industrial E (5; also the area bounded Southerly by Route 28, Westerly by Carver Road, Northerly by Route 25, and Easterly by the Westerly boundary of the Industrial Zone; also the area bounded on the South by Route 28, on the North by proposed layout of Route 25, Westerly by Glen Charlie Road, and Easterly as follows: by the Westerly shore of Dick's Pond, the Easterly boundary of Lake Breeze, Inc, Lot47, and the Westerly boundary of land now or formerly of Charles E Whitlock and Helen E. Rice.
- b. Route No. 28 South: All of the area between the Southerly line of Route 28 and the following described line, said line beginning at a point in the Easterly line of County Road and situated 500 feet Southerly of the Southerly line of said Route 28, thence running Easterly and Southeasterly by a line parallel to and 500 feet Southerly of said line with Northerly Right of Way line of the New York, New Haven and Hartford Railroad Company near Mackies Bridge; thence running Easterly and Southeasterly by said Railroad Right of Way line to the Wareham River; thence turning and running Northwesterly and Northerly by the Wareham River to a point 500 feet Southerly of the Southerly line of Route No. 28; thence turning and running Easterly and Southeasterly by a line parallel to and 500 feet Southerly from the Southerly line of said Route No. 28 to the Northerly line of Sandwich Road; thence turning and running Easterly along the Northerly line of Sandwich Road, crossing the new By-Pass for South bound traffic at East Wareham to a point in the Northeasterly sideline thereof; thence turning and running Southeasterly crossing Sandwich Road and by the Northeasterly sideline of said By-Pass to the Easterly line of Tyler Avenue; thence turning and running Southerly by the Easterly line of Tyler Avenue and by a line, being the extension of the Easterly sideline of Tyler Avenue in a Southeasterly direction to the intersection of said line with the Northeasterly Right of Way line of the New York, New Haven and Hartford Railroad Company; thence turning and running Easterly and Southeasterly in said Northerly Right of Way line of the New York, New Haven and Hartford Railroad Company to the waters of Buttermilk Bay at Cohasset Narrows. Except that portion of the above described area lying between Weaver Street on the North and Gault Road on the South; and that said area be included under the Multiple Residence MR-30 District. Also except that area South of Route 28 zoned Industrial and described under "Industrial District".
- c. Sandwich Road North "Lot 4A Agawam (or Sandwich) Road North, Southeasterly by Agawam Road; Westerly by Wareham River; Northerly by a line three hundred (300) feet from and parallel to the center line of Agawam Road; Easterly by the Easterly sideline of the property formerly known as Anderson's Boat Shed." (Amended May 12,1982)
- d. Depot Street, West: Bounded Southerly by the Southerly sideline of the New York, New Haven and Hartford Railroad Company, being the North boundary of Commercial D, Minot Avenue, North about 1600 feet; Westerly and Northerly by the Agawam River; Northeasterly by the northeasterly boundary of Lots 1067 and 1066; Southeasterly by Lot 1054; Northeasterly by Lots 1054,1055 and 1056; Southeasterly by Lots 1058,1059, and 1060; Northeasterly by Lot 1060; and Easterly by Depot Street. All of the Lot numbers mentioned in this paragraph refer to Assessors' Plat No. 43.
- e. Onset Avenue, North: All of the area within a strip of land 200 feet in width on the Northeasterly side of Onset Avenue extending from intersection of Great Neck Road and Onset Avenue in East Wareham to line 300 feet southerly of a parallel to the railroad right-of-way in the vicinity of Great Neck Road.
- f. Onset Avenue, South: All of the area within a strip of land 200 feet in width on the Southwesterly side of Onset Avenue extending from Great Neck Road in East Wareham, Southeasterly to the north boundary of lot 1006 and the west boundary of lots 1006 and 1013 on Assessors' Sheet 17, revised December 31,1972.

- g. Marion Road, Northwest All of the area bounded and described as follows: Beginning at a point at the intersection of the Easterly side of Weweantic River and the Northwesterly line of Marion Road; thence running Northeasterly and Northerly by the Northwesterly line of Marion Road to the Westerly line of Hathaway Street; thence turning and running Northerly by Hathaway Street to the Southerly line of Lot No. 1 in Weweantic Shores; thence turning and running Westerly in the Southerly line of Lots 1 to 14A inclusive in Weweantic Shores, and in said line extended in a Westerly direction to Weweantic River; thence turning and running in a general Southwesterly and Southerly direction by the Weweantic River to the point of beginning.
- h. Marion Road, Southeast All of the area within a strip of land 500 feet in width on the Southeasterly side of Marion Road, extending from a line on the Southwest which line is known as the division line of land of Peter LeSage and Briarwood Beach. Northeasterly to a line running Southeasterly and at right angles to the Southeasterly line of Marion Road at Station 27 plus 84.38 of the 1930 Alteration Layout of said Marion Road. Sixty (60) acres of land, more or less situated on the Northwesterly side of Marion Road (Route 6) and the Easterly side of the old road to Lincoln's Hill (Hathaway Road) bounded and described as follows: Southeasterly by said Marion Road, ten hundred thirty (1030) feet more or less; Westerly by the center line of a brook, three hundred (300) feet more or less; Southwesterly by an old road known as Nichols right-of-way, five hundred (500) feet more or less; Southerly by land now or formerly of Peter LeSage sixteen hundred (1600) feet more or less; Westerly by said Hathaway Road, eight hundred (800) feet more or less; Northerly by land now or formerly by Jeremiah Murphy, twenty-six hundred seventy (2670) feet more or less; Easterly by land or owners unknown and by land now or formerly of Gurney, Seven hundred fifty (750) feet more or less, and; Southeasterly by Gibbs Avenue, two hundred (200) feet more or less. Said premises being known as Kiernan land containing sixteen (16) acres more or less, the Galligan land containing twenty and 17/100 (20.17) acres more or less, the Nichols land containing one (1) acre more or less and the Walter E. Nichols lot containing twenty-two (22) acres more or less.

#### **CONFERENCE RECREATION DISTRICT:**

All land known as the Wareham Golf Course being described as recorded in Book 4798, Page 362 at the Plymouth County Registry of Deeds and at the office of the Assistant Recorder for Plymouth County Registry, certificate of Title No. 63221, excluding that portion on the southerly bound defined by a line drawn parallel to and 150 feet back from the northwesterly sideline of Onset Avenue.

#### **MARINE DISTRICT:**

Lot 1002, Assessors' Sheet 46, now the property of Warr's Marina. Bounded on the West by Lazy Harbor, on the Northwest by the Center line of the Marion to Wareham 23KV Electric Transmission Line, on the Northeast by a line parallel to and 200 feet Southwesterly from Cromesett Road, on the Southeast by the Northwesterly line of Cromesett Park, and on the Southwest by the Weweantic River.

#### **INSTITUTIONAL DISTRICT:**

##### **Description of Proposed Institutional District**

Beginning at the intersection of the existing Institutional zoning district with the Centerline of Cedar Street said intersection being situated 200 feet southwesterly of the Centerline of Main Street; and running SOUTHWESTERLY by the Centerline of Cedar Street to the southeasterly corner of Lot 1044 as shown on Wareham Assessors' Map 47; it being land now or formerly of Marvin D. Spinner;

Thence SOUTHEASTERLY in the easterly line of land of Tobey Hospital a distance of 350 feet more or less to the southerly line of land of Tobey Hospital;

Thence SOUTHWESTERLY in the southerly line of land of Tobey Hospital and the extension thereof the Centerline of Church Avenue;

Thence SOUTHEASTERLY In the Centerline of Church Avenue to the Centerline of Driftwood Lane (formerly First Street);

Thence SOUTHWESTERLY in the Centerline of Driftwood Lane and the extension thereof to Broad Marsh River;

Thence WESTERLY, NORTHERLY and WESTERLY by Broad Marsh River a distance of 5780 feet more or less to the southeasterly corner of lot 1006 as shown on Wareham Assessors' Map 48; it being land now or formerly of The Donamon Co, Inc;

Thence NORTHERLY, SOUTHEASTERLY AND NORTHEASTERLY in line of said Lot 1006 to the southeasterly corner of Lot L-21 as shown on Wareham Assessors' Map 48;

Thence NORTHERLY in line of said Lots L-21, L-22, L-23< L-24, L-25, L-26, and L-27 as shown on Wareham Assessors' Map 48, a distance of 469.92 feet, more or less to the Centerline of Marion Road;

Thence NORTHEASTERLY in the Centerline of Marion Road a distance of 1435 feet more or less to Lot 1010 as shown on Wareham Assessors' Map 47; it being land now or formerly of the Town of Wareham;

Thence SOUTHEASTERLY in line off said Lot 1010 and Lot 1009 as shown on Wareham Assessors' Map 47 and the extension thereof a distance of 290 feet more or less to the Centerline of Kennedy Lane;

Thence NORTHEASTERLY in the Centerline of Kennedy Lane to the Centerline of Church Avenue;

Thence SOUTHEASTERLY in the Centerline of Church Avenue a distance of 1450 feet more or less to a point opposite the northwesterly extension of Lot 1041 as shown on Wareham Assessors' Map 47; it being land now or formerly of Tobey Hospital;

Thence NORTHEASTERLY across Church Avenue in line of said Lot 1041 to the southwesterly line of Lot 1039 as shown on Wareham Assessors' Map 47; it being land now of formerly of Karen I. Cascone;

Thence SOUTHEASTERLY in line of said Lot 1039 and Lot 1040 as shown on Wareham Assessors' Map 47; it being land now or formerly of Deolinda Souza Life estate and

NORTHEASTERLY by said Lot 1040 and the extension thereof to the Centerline of High Street;

Thence NORTHWESTERLY in the Centerline of High Street to the northwest corner of Lot 1118 as shown on Wareham Assessors' Map 47; it being land now or formerly of Tobey Hospital.

Thence EASTERLY, SOUTHERLY AND EASTERLY in line of said corner being northwesterly corner of the current Institutional zoning district; said corner being southwesterly a distance of 200 feet from the southwesterly sideline of Main Street.

Thence SOUTHEASTERLY in the southwesterly line of the current Institutional Zoning District by a line running parallel to and 200 feet distant southwesterly from the southwesterly sideline of Main Street a distance of 1100 feet, or more or less to the point of beginning.

## **BUSINESS DEVELOPMENT OVERLAY DISTRICT**

Lots 1002,1002P, 1003,1013,1014 and 1016 of the Town of Wareham Assessors' Map 105; Lots 1001,1002,1005, 1006,1007,1011,1013,1014,1000A, 1000B, A, B, C, D and 1002P,Town of Wareham Assessors' Map 106; and Lots 1000,1001,1002,1003,1004,1005,1006,1007,1008,1009,1010 and 1012, Town of Wareham Assessors' Map 107 (April 28,2003)

## **METES AND BOUNDS DESCRIPTION**

Parcels to be rezoned to Business Development Overlay District being described as those parcels or portions of parcels shown on Town of Wareham Assessors' Map 109, Parcels 1000,1001,1001-A, 1002 thru 1012,1051,1052,1053 and Map 109-A, Parcel 1038 and Mosquito Dam Road, currently zoned as Residential R-60:

**Southerly** 5,700 feet more or less by Tihonet Road, to a point at the intersection of the southeasterly corner of Assessors' Parcel 1012 on Map 109 at the intersection of Tihonet Road and the Lot line, thence running;

**Westerly and Northwesterly** 330 feet more or less by the southerly lot line of Assessors' Parcel 1012 on Map 109, to a point at the intersection of the Lot Line and the Zone Line that divides the Residential R-60 and Strip Commercial Zone, thence running;

**Westerly** 4500 feet more or less by the current Zone Line and land owned by A.D. Makepeace to the easterly sideline of Interstate Route 195, thence running;

**Northeasterly** 2,500 feet more or less by the easterly sideline of Interstate Route 195, to the point of beginning. Containing 300 Acres more or less. (April 2006).

## **INDUSTRIAL DISTRICT:**

Beginning at a point on Route 28 marking the westerly corner of land owned now or formerly by Josephine V. Lopes; thence southerly by Route 28 to a point in the Westerly sideline of a road known as Bates Nail Works Road; thence northeasterly by this road to a point in the southerly sideline of the proposed Route 25, thence northwesterly by said sideline of Route 25 to a point in the northwesterly sideline of land owned now or formerly by Josephine V. Lopes, thence southerly by said northwesterly boundary to the point of beginning. The area bounded southerly by Route 28, westerly by the easterly boundary of the existing industrial zone, northerly by Route 25 and easterly by Route 6 relocation (Route 195). The area bounded northeasterly by Route 28 approximately 1,750 feet; Southeasterly by a line drawn from Route 28 to the Penn Central Railroad, which follows in part the northwesterly line of the land of Tobey Old Ladies Home, Inc., and its extension in a northeasterly and southeasterly direction; Southwesterly by the right-of-way of the Penn Central Transportation Company and Main Street approximately 2,220 feet; Northwesterly by a line drawn from Main Street to Route 28, which follows in part the northwesterly line of the Taylor and Holmes land and its extension in a northeasterly direction, terminating at a point approximately opposite the boundary of the Industrial area which lies on the north side of Route 28. Also, the area Northwesterly by the boundary of the area now zoned "Industrial", Northeasterly by Route 28; Easterly by Route 195; Southwesterly by Main Street and by land now or formerly of the New York, New Haven and Hartford Railroad.

## **BUTTERMILK BAY OVERLAY DISTRICT**

(As Amended: April 23, 1991)

The enclosed map "Buzzards Bay Overlay District Amended April 23, 1991" is intended to serve as the description of the Buzzards Bay Overlay District.

## **GENERAL COMMERCIAL DISTRICT**

- a.) Beginning at the South westerly corner of Lot 1001A and Route 195 as shown on the Assessors' Map 84 (as of 2005);

Thence Northerly along Route 195 across Route 28 Along the western property lines of Lots 1018-A, 1018-B, 1017-A and 1002 to a depth of 500 feet north of the Northern Right of Way line of Route 28 as shown on the Assessors' Maps 109 and 109A (as of 2005);

Thence Southeasterly parallel to Route 28 at a depth of 500 feet from the Northern Right of Way line to the Western Right of Way line of Tihonet Road as shown on Assessors' Maps 109 and 109A (as of 2005);

Then along the Northern Right of Way line of Route 28 Westerly to the intersection of Tremont Road as shown on Assessors Maps 109 (as of 2005);

Thence along the existing Wareham Village II and MR-30 districts westward along the Northern Boundary Line of the Railroad Right of Way (Former New Haven RR) to a depth of 560 feet north of the Northern Right of Way line of Route 28 as shown on the Assessors' Map 83 and 84 (as of 2005);



Thence Northwesterly parallel to Route 28 at a depth of 560 feet from the Northern Right of Way line to a point more or less of the beginning as shown on Wareham Assessors Maps 83 and 84 (as of 2005);

- b.) Beginning at the southwesterly corner of Lot 1044 and Wankinco River and running northerly across Route 28 to the Northwesterly corner of Lot 17 and Parker Mill Pond as shown on Wareham Assessors' Map 132 (as of 2005);

Thence Easterly by a line Parallel to and 500 feet from the Northern Right of Way line of Route 28 to the Center line of Charge Pond Road;

Thence Northeasterly along the Centerline of Charge Pond Road to the Southern Right of Way of Route 25;

Thence easterly along the Southern Right of Way of Route 25 to Besse's Brook as shown on Wareham Assessors' Maps 110 and 115 (as of 2005);

Thence Southerly along Besse's Brook to the South west corner of Lot 1020B as shown on Wareham Assessors' Map 115 (as of 2005);

Thence easterly along Southern property lines of Lot 1020B and 1020A across Williard Street to the rear Lot corner of Lot 9 as shown on Wareham Assessors Map 115 (as of 2005);

Thence Easterly along the rear lot lines of Lots 9, 8, 7A and 6 to Division Avenue as shown on Wareham Assessors' Map 115 (as of 2005);

Thence South along the Property line of Lot 6 and Division Avenue to the Northern Right of Way of Route 28 as shown on Wareham Assessors' Map 115 (as of 2005);

Thence West along the Northern Right of Way of Route 28 to a point directly across from the Northeast corner of Lot 43A as shown on Wareham Assessors' Map 132 (as of 2005);

Thence south across Route 28 and along the Eastern property line of Lot 1043A to a depth of 500 feet south of Route 28 as shown on Wareham Assessors' Map 132 (as of 2005).

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## APPENDIX 2:

# Zoning By-Law History

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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.

### ITEM Description and Reference

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, Section 25 through 30B of the General Laws. Four (4) Zoning Districts were first established, as follows:

Designation Minimum Dimensions	
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 made by Articles 33, 34, 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 Massachusetts 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:

<b><u>District</u></b>	<b><u>Frontage</u></b>	<b><u>Lot Area</u></b>
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:

<b><u>District</u></b>	<b><u>Frontage</u></b>	<b><u>Lot Area</u></b>
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 and 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 By-Law 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 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
30. PURPOSE section Land Use Regulations Associated with the 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.
31. Article 36 of the April 23, 2012 Town Meeting amended Article 222 and Article 421 to 425 relative to the Flood Plain District in Order to be in compliance with Title 44, Chapter I, Part 67, Section 67.11 of the Code of Federal Regulation.
32. Article 51 of the April 23, 2012 Town Meeting repealed Article 5, Section 580, "Wind Energy Facilities" in its entirety.
33. Article 31 of the October 22, 2012 Town Meeting amended the Commercial Strip (CS) zoning district by removing from the Multiple Residence 30 (MR-30) district the following:  
  
Bounded to the south by Cranberry Highway, to the west by Carver Road, to the north by Route 25 and to the east by the Weweantic River.