

CHAPTER II

Zoning By-law

Section I

Title and Authority

This By-law shall be know and may be cited as the “Harwich Zoning By-law” which herein is called “this By-law” and is adopted by virtue of and pursuant to the authority granted the Town by Chapter 40A of the Commonwealth of Massachusetts as now existing or hereafter amended (herein called “The Zoning Enabling Act”).

Section II

Definitions

For the purpose of this By-law certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular; the words ‘building’, “structure”, “lot”, “land”, or “premises” shall be construed as though followed by the words “or any portion thereof”; and the word “shall” is always mandatory and not merely directory.

The word “person” includes a firm, association, organization, partnership, trust, company as well as an individual. The words “used” or “occupied” include the words “intended”, or “designed or arranged to be used”. The word “lot” includes the words “plot” or parcel”.

Access: the point from which one enters a property.

Accessory Apartment: See "Dwelling, One Family, with Accessory Apartment".

Accessory Building – Residential: A detached structure located on the same lot with the principal structure to which it is accessory. Such structures include, but are not limited to, tool shed, boathouse, playhouse, shelter for domestic pets, private swimming pool and one private garage for not more than three automobiles. A residential accessory building may contain bedrooms.

Addition/Extension: Any construction, reconstruction, or other action resulting in a change in the structural parts or height, number of stories, size, use or location of a structure.

Adult Entertainment: (Refer to Section XIII)

Agriculture Use: The commercial raising of agricultural crops and/or livestock, horticultural and floricultural products on the same lot or abutting lots in the same

ownership. Necessary structures and storage of equipment used on the premises are included.

Alterations: Changes in the interior or exterior of a building, but without changing the exterior dimensions.

Animal Hospital: A place where animals or pets are given medical or surgical treatment by or under the supervision of a veterinarian and boarding is short-term care incidental to hospital use and care.

Animal Kennel, Commercial: A commercial establishment for the raising, boarding, breeding and/or training of small domestic animals (dogs, cats, etc.).

Animal Kennel, Residential: The keeping of more than four (4) small domestic animals as pets and not for commercial purposes.

Apartment(s) Incidental to Commercial – See Section X.G.11

Aquaculture Use: The science, art, and business of cultivating marine or freshwater food fish or shellfish such as oysters, clams, salmon, and trout, under controlled conditions.

Assisted Living Facility: A residential facility for the elderly or disabled that provides rooms, or individual apartments, meals, personal care, and supervision of self-administered medication. It may also have communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation service, and other support services appropriate for the residents.

Automotive Service and Repair Facility: Any premises upon which the business of maintenance, serving, repair, or painting of vehicles is conducted or rendered, without the dispensing or sale of vehicular fuels.

Bed and Breakfast: A residence, where an owner/occupant in its home provides lodging and a morning meal to no more than five (5) transients for compensation.

Bedroom: Any room used or intended to be used for sleeping purposes. For the purpose of determining the number of bedrooms in a proposed multi-family dwelling unit, all rooms which meet the minimum size requirements for habitable rooms under this By-law other than a kitchen, bathroom and living/dining room shall be considered as bedrooms.

Board: Where appropriate to the context, the term Board shall include the Board of Appeals or Planning Board of the Town of Harwich

Boat Storage: The commercial storage of boats and water crafts. This excludes repair and maintenance, sales and service. See Marine Use.

Building: A combination of any materials, whether portable or fixed, having a roof or similar covering, to form a structure for the shelter of persons, animals or property.

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.

Church or Other Religious use: Any structure or use entitled to the religious exemption set forth in M.G.L. c.40A, §3.

Cluster Development: Open Space Residential Development as defined herein.

Common Open Space: Open space created within an Open Space Residential Development which is designated to be held and maintained by a homeowners association, conveyed to the Town, or conveyed to a private land conservation organization. Common open space shall not include open space which may be established on individual building lots.

Construction Industry: A premises, other than a construction site on which a building permit is issued, which is used by a building contractor or any other tradesman or landscaper, for the fabrication of subassemblies or the storage of supplies or equipment.

Demolition: The act or process of wrecking, destroying or removing, temporarily or permanently, 50% or more of an existing structure. Demolition of a structure requires a demolition permit from the Building Department. Should the Building Official approve less than 50% of a structure for removal, and should the remainder of the structure, following an inspection by the Building Official, be found to not be structurally sound, the Building Official may authorize the removal of the remainder of the structure without issuance of a demolition permit. In no case, however, should the rebuilt portion be built outside the footprint of the remainder of the structure.

Drive-Up or Drive-Through Window: Any use, which provides goods or services to customers at exterior stations, fixed or transient, roofed or unroofed, that is accessible by motorized vehicles. This definition shall not apply to food sales, which is defined separately. (TM 5-6-02, AG 8/26/02)

Dwelling Unit: A building or portion thereof, consisting of one (1) or more rooms containing cooking and sanitary facilities and designed for human habitation by one family independent of other facilities.

Dwellings, Multi-Family: A detached building containing three (3) or more dwelling units, including apartment house, garden apartment house, town house or row house.

Dwelling, One Family: A single, separate dwelling unit, designed for occupancy by one (1) family only.

Dwelling, Two Family: A building containing two (2) dwelling units, whether side-by-side, over each other or in any other combination provided there is a common roof or a series of roofs connecting the dwelling units.

Dwelling, One Family with Accessory Apartment: An owner-occupied building containing two (2) dwelling units, one of which has a net floor area not exceeding 1/3 of the net floor area of the building, but in no event more than 600 square feet and includes not more than one (1) bedroom, a kitchen, living room and bath which are separate from and not used in common with the principal dwelling, and at least one (1) wall (at least eight (8) linear feet in length) of living space for both the principal dwelling and the apartment is common to both dwelling units. For the purpose of this definition, such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absence during which the owner's unit is not rented.

Educational – For-Profit: Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

Educational - Non-Profit: Any structure or use entitled to the education exemption set forth in M.G.L. c.40A, §3.

Essential Service: Services and appurtenant structures, facilities, uses of equipment provided by governmental agencies, including the Town of Harwich or provided by public utility or public service companies including, but not limited to, water distribution systems, Town-owned Marinas, docking areas, fish piers, off-loading facilities, retaining walls, jetties and similar structures, gas and electric distribution systems for telecommunications and sewerage systems.

Family: One (1) or more persons living as a single, non-profit housekeeping unit.

Filling Station: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and oil.

Fish Processing Facilities: Establishments engaged in the business of cleaning, cutting, cooking, shucking, block freezing or packing sea foods for sale primarily at wholesale, but not excluding retail, but not including packing of fish in connection with off-loading of fishing vessels.

Floor Area, Net: The sum of the areas of the several floors of a building, measured from the exterior faces of the walls, but not including cellars, unenclosed porches, attics not used for human occupancy, or any floor space in accessory buildings or in the principal building designed for the parking of motor vehicles in order to meet the parking requirements of this By-law.

Food Sales With Drive-Up or Drive-Through Facilities:

Any use, which provides food products to customers at exterior stations, fixed or transient, roofed or unroofed, that is accessible by motorized vehicles. This term shall not include food service establishments where customers park their vehicles in designated parking spaces and access exterior food service tables, stations, windows, or counters without their vehicles.

Frontage: The boundary of a lot coinciding with a Road, Street or Way as defined in this by-law.

Guest House: A building in which living space, with or without common cooking facilities is let for compensation to four (4) or less persons, but not including hotel or motel.

Height: The height of a building or structure above-ground level, computed by averaging the distance between the lowest grade point at the base of the structure and the top of said structure, and the distance between the highest grade point at the base of the structure and the top of said structure.

Home Occupation: A business, trade or profession, exclusive of real estate offices, firms or establishments, conducted in the proprietor's legal residence or within an accessory building.

Hospice: A facility designed to provide a caring environment for supplying the physical and emotional needs of the terminally ill.

Hospital: A building providing in-patient services used for diagnosis, treatment or other care of human ailments, including a sanitarium, sanatorium, rest home, nursing home and convalescent home. Not to be interpreted to include a doctor's office (see "Medical Clinic").

Hotel: A building or complex of buildings containing thirteen (13) or more units providing transient lodging, food and other related services within which access to the individual units is provided by common interior corridors. The individual units do not have cooking facilities.

Hotel or Motel, Incidental Uses to: Uses, including but not limited to stores selling dry good, apparel and accessories, gifts, notions, photo supplies, personal and health care supplies, personal services, travel agency, car rental office, tennis courts, swimming pools, restaurant, private pool or beach club, which are incidental to a hotel or motel use.

Inn: A building or complex of buildings containing at least five (5) but no more than twelve (12) units providing transient lodging accommodations, and may include food service. The individual units do not have cooking facilities.

Institutional Use, Other: A public service use operated by a nonprofit corporation or organization which is not entitled to exemption from zoning requirements as set forth in M.G.L. c.40A, §3.

Lodging House: A building in which five (5) to ten units, with or without cooking facilities is let for compensation on a long term transient basis, but not including hotel, inn or motel.

Lot: A parcel of land described in a deed, or shown on a plan of land.

For the purpose of this By-law, any lot hereafter laid out to be buildable must contain contiguous upland area totaling at least 100% of the minimum lot area requirement for the zoning district in which the land is situated as established by this By-law. The term “upland” shall mean any land area not subject to the provisions of the Wetlands Protection Act - Massachusetts General Laws Chapter 131, Section 40, as amended in 1978.

Lot, Corner: A lot at the intersection of two (2) or more intersecting roads, streets or ways, or abutting a curve in a road, street or way; provided the angle of the intersection is less than 135 degrees or, in the case of a lot abutting a curve in the road, street, or way, the radius of said curve is less than one hundred fifty (150) feet.

Lot, Depth: The mean horizontal distance between the front lot line and the rear lot line.

Manufacturing: A use involving the processing, assembling, or packaging of previously prepared or refined materials.

Marine Use: A commercial or industrial activity serving or deriving its nature from water crafts, including but not limited to boat repair or maintenance, sales and service of water crafts, motors, electronics, and other goods or services associated exclusively with water crafts. This may include dispensing of marine fuels. See Boat Storage.

Medical Clinic: A facility for providing medical treatment on an out-patient basis.

Membership Club: A building used to house a non-profit social, sports or fraternal association or organization not connected or associated with any business, which is used exclusively by members and their guests, and usually contains bar facilities.

Motel: A building or complex of buildings providing transient lodging accommodations with separate outside entrances for each unit. The individual units do not have cooking facilities.

Municipal Use: A use, whether in a structure and/or on a parcel of land, owned and/or operated by the Town of Harwich.

Nonsanitary Wastewater Treatment Facility: Any wastewater treatment or disposal works subject to 314 CMR 5.00 for wastewater other than sanitary sewage, except the following:

- a. The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s).
- b. Treatment works approved by the Massachusetts Department of Environmental Protection and the Harwich Board of Health, designed for the treatment of contaminated ground or surface waters.
- c. Publicly owned treatment works.

NOTE: Readers are encouraged to contact the Harwich Water or Health Departments for the most current version of the above CMR (“Code of Massachusetts Regulations”) section as such regulations are subject to frequent amendment.

Nursing Home: a privately or publicly operated establishment providing maintenance and personal or nursing care for persons (as the aged or the ill) who are unable to care for themselves.

Open Space: The area within an open space residential (or cluster) development which shall not be developed for any purpose other than recreational or agricultural use pursuant to other requirements of this By-law, provided the natural or installed vegetation may be maintained through mowing, trimming, and removal of dead or diseased specimens. Open space may be designated on portions of building lots within an Open Space Residential Development to achieve some of the design objectives of this By-law but shall be distinct from common open space.

Open Space Residential Development: An optional form of development of single family dwelling subdivisions that permits lots with lesser area and frontage than conventional development, provided there is no increase in the number of lots that would be permitted under a conventional development, as provided in section 4.2, and the balance of the land not included in single-family building lots is set aside as permanent open space. Open space residential development is synonymous with the concept of “cluster” development set forth in MGL Chapter 40A, Section 9. Open Space Residential Development shall require both a special permit and definitive subdivision approval from the Planning Board.

Outside display for retail sales: The outdoor display of goods sold on the premises for retail sale, provided the goods are not located within required setbacks for the zoning district or in the public right-of-way.

Outside Storage: The open storage of construction, manufacturing, service wholesale equipment, materials, junk or heavy motorized equipment of any type or open storage of unregistered motor vehicles, automobiles or other vehicles.

Overlay District: a specifically delineated area that overlays an existing zoning district and provides for specific regulations and requirements. Overlay districts in Harwich include:

- Drinking Water Resource Protection District – See Section X.G.2
- Elderly Affordable Housing – See Section XII
- Harwich Center Overlay District – See Section X.G.14
- Personal Wireless Service Overlay District – See Section XI
- Six Ponds Special District – See Section XVII
- Village Commercial Overlay District – See Section X.G.11

Parking Lot/Garage, Commercial: A structure or designated area used for the parking and storage of motor vehicles that is operated as a business and open to the public for a fee.

Parking Space: An off-street or space at least nine (9) feet in width and twenty-one (21) feet in length on its shortest side for angle parking, having an area of not less than one hundred eighty nine (189) square feet, plus access and maneuvering space, whether inside or outside a structure for exclusive use as a parking stall for one (1) motor vehicle.

Permit Granting Authority: The Board of Appeals established hereunder shall be the Permit Granting Authority.

Personal Service Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her apparel. These uses include, but are not limited to beauty shops, barbershops, shoe repair, etc.

Personal Wireless Service Facility: Facility for the provision of personal wireless services, including antennae, telecommunication equipment, communications towers, monopoles and/or other support structures, including existing and proposed structures having personal wireless services devices attached thereto as accessory uses, installed and operated for the purpose of providing personal wireless services. NOTE: Please refer to Section XI, PERSONAL WIRELESS SERVICES FACILITIES, of this by-law for additional definitions that are specific to personal wireless services facilities.

Professional or Business Office: An office or place of business where professional or business services are offered and do not involve the sale of goods, or the keeping of a stock in trade.

Recreation and Amusement Services: Establishments engaged in providing amusement, entertainment, sports or leisure time activities or facilities for a fee or admission charge.

Repair Service, miscellaneous: Any premises upon which the business of maintenance, serving, repair, or painting of equipment or goods, other than motorized vehicles, is conducted or rendered.

Restaurant, Fast Food/Take Out: An establishment offering prepared food service in paper, plastic or other containers which can be removed from the premises, whether or not seating is available to patrons. This definition does not apply if such food is offered as wholly incidental to a conventional restaurant operation or retail food service. All such uses that pre-exist this by-law will be required to file for a special use permit, and a site plan special permit or waiver within twelve months of the effective date of this by-law.

Restaurant or Lounge: An establishment where food and drink is prepared served and consumed primarily on the premises.

Retail Sales: The selling of goods or merchandise to the general public and providing services incidental to the sale of such goods.

Road, Street or Way:

1. For the purpose of subdivision control, a road, street or way is defined as follows:

- a) a public way or a way which the Clerk of the Town certified is maintained and used as a public way, or
 - b) a way shown on a plan heretofore approved and endorsed in accordance with the subdivision control, or
 - c) a way in existence when the subdivision control law became effective in the Town (6/6/51) having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services thereon.
2. For the purposes of determining any building or other setback requirements of this By- law, road, street or way is defined as follows:
- a) as described (defined) in paragraph 1, above.
 - b) any alley, right of way, lane, court, square, place or like area of passage which are a matter of public record.

Seasonal Use: A temporary use or occupancy on an intermittent or short-term basis, primarily during the summer months and/or weekends, the total time of which use shall constitute less than six (6) months during any one (1) calendar year.

Scientific Research or Development: An activity or accessory activities that are necessary in connection with scientific research or scientific development or related production.

Self-Storage Facility: A building or buildings made up of smaller individual storage units for the keeping of goods and property for lease or rent and does not include outside storage on the premises.

Shared Housing for the Elderly: A dwelling unit which contains not more than six (6) bedrooms and not more than six (6) occupants who shall and must be sixty five (65) years of age or older and may have separate sanitary facilities but share common living space and kitchen facilities.

Sign: (Refer to Section VII)

Sign, Surface, Area of: (Refer to Section VII)

Site Coverage: The aggregate coverage of an individual site by buildings, parking areas and driveways (regardless of surface material), pools, decks and other permanent structures and all impervious surfaces. For the purpose of this definition, the site shall be considered the portion of the subject parcel, which lies within the zoning district wherein the proposed use is allowed.

Special Permit Granting Authority:

The Planning Board, established pursuant to General Laws, Chapter 41, Section 81A shall be the Special Permit Granting Authority in any case where this By-law requires such permit to erect multi-family dwellings, cluster developments, hotels and motels,

structures (except those dedicated to single-family, religious, or educational uses) having a gross floor area of more than 7500 square feet or requiring 20 or more new parking spaces, site plan special permits, all uses requiring special permits in the Drinking Water Resource Protection District, retail sales of gasoline, adult entertainment, or personal wireless service facilities. The Board of appeals established hereunder shall be the special Permit Granting Authority for all other such permits, including special permits to change, alter, or extend a nonconforming use.

Stable, Riding Ring – Commercial: The commercial housing of four (4) or more horses by means of rental of stalls and/or stables and/or the use of property for the purposes of horseback riding lessons, horse training and similar uses. It does not include the breeding of horses, which is considered an agricultural use.

Storage Trailers/Containers: A structure standing, which may be on wheels, that is towed or hauled by another vehicle and used for the storage of goods and/or equipment.

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

Toxic or Hazardous Materials: Toxic or hazardous materials shall include residual oil, hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil and any other substances classified or controlled as toxic, caustic, corrosive, radioactive or infectious pursuant to the provisions of G. L. c21C.

Trailer: Any vehicle which was originally or is still immediately portable or mobile, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate, including a mobile home, house trailer, or camper. Such vehicle, which is no longer immediately portable by virtue of having its wheels removed or skirts attached, still shall be considered a trailer for the purpose of this By-law.

Universal Accessible Parking Space: A parking 21 feet in length and eleven feet wide with an adjacent access aisle 5 feet in width, which is dedicated to parking for appropriately identified vehicles owned or operated by disabled people and so indicated by appropriate signage and pavement markings.

Use, Accessory: A use incidental and subordinate to the principal use of a structure or lot.

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.

Warehousing: The storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishment in a particular industrial or economic field which shall not include the bulk storage of nuclear or radioactive products and/or toxic waste chemicals. Such use may include the transportation of such goods or materials by motor freight.

Wholesale trade: A business or establishment primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or buyer merchandise for, or selling merchandise to, such individuals or companies.

Yards: Those portions of a lot abutting adjoining lots, roads, streets or ways, which may not be built or encroached upon except as hereinafter provided.

Yard, Front: Any yard abutting a road, street or way.

Yard, Rear: The yard abutting adjoining property opposite or approximately opposite the front yard or yards.

Yard, Side: Yards other than front or rear yards.

Yardsale: A means of disposing of used personal property by a householder or several householders who originally acquired the property for personal household use and not for the purpose of sale or re-sale at a profit.

Year Round: For permanent use of occupancy, the total time of which shall constitute more than six (6) months during any one (1) calendar year.

Section III

Establishment of Zoning Districts

A. Division into Districts: The Town of Harwich, Massachusetts, is hereby divided into Zoning Districts, designated as follows:

Residential - Rural Estate	R-R
Residential - Low Density	R-L
Residential - Medium Density	R-M
Residential - High Density 1	R-H-1
Residential - High Density 4	R-H-3
Commercial - Village	C-V
Commercial - Highway 1	C-H-1
Commercial - Highway 2	C-H-2
Industrial - Limited	I-L
Multi-family Residential - Low Density	M-R-L
Multi-family Residential - Low Density 1	M-R-L-1
Drinking Water Resource Protection District	W-R
Personal Wireless Service Overlay District	P-W-S
Elderly Affordable Housing	E-A-H

B. Zoning Map: The location and boundaries of the Zoning Districts are hereby established as shown on a map entitled "Zoning Map of the Town of Harwich,

Massachusetts, dated August, 1972”, which accompanies and is hereby declared to be a part of this By-law. The authenticity of the Zoning Map shall be certified by the signature of the Town Clerk and Imprinted Town Seal, together with the words: “This is to certify that this is the Zoning Map referred to in Section III of the Zoning By-law of the Town of Harwich, Massachusetts”, together with the effective date of this By-law.

The Drinking Water Resource Protection Districts established hereunder are shown on a map entitled “Drinking Water Resource Protection District and Approved Zone II Delineations, Harwich, Massachusetts, dated December, 1997, Scale: 1:12,000”, which map is on file in the Office of the Town Clerk, the authenticity of said map to be established in the same manner as provided above for establishing the authenticity of the Zoning Map.

The Personal Wireless Service Overlay Districts established hereunder are shown on a map entitled, “Town of Harwich Personal Wireless Service Facilities Overlay District Map, dated January 13, 1998, scale: 1:12,000”, which map is on file in the Office of the Town Clerk, the authenticity of said map to be established in the same manner as provided above for establishing the authenticity of the Zoning Map.

The Zoning Map of the Town of Harwich is hereby amended to include the E-A-H District as shown on a sketch plan, a copy of which is on file in the Office of the Town Clerk dated February 25, 1999.

- C. Boundaries of Districts: Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:
1. Where a boundary is indicated as a road, street, alley, railroad, water course or other body of water, it shall be construed to be the sideline thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.
 2. Where a boundary is indicated as following approximately or parallel to a street, alley, railroad, water course, or other body of water, it shall be construed to be a parallel thereto and at such distance from the sideline, or mean high water line, thereof as shown on the Zoning Map.
 3. Where any uncertainty exists concerning the location of the boundary of the Drinking Water Resource Protection District, the precise location of the boundary line on the ground shall be determined by on-site inspection and testing by the Town or, at the option of the Town, by a professional geologist or hydrologist approved by the Town. The purpose of this testing will be to determine location and extent of an aquifer or recharge area and to establish the boundary line of the district accordingly. Any costs of inspecting, testing and surveying to determine the boundary location shall be borne by the property owner, who shall have the burden of establishing to the satisfaction of the Town, the precise district boundary location.

Section IV

Interpretation and Application

A. Interpretation: The provisions of this By-law shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals and the general welfare of the Town of Harwich, Massachusetts and, except for the Zoning By-law approved by the Attorney General on June 6, 1951, and all subsequent amendments thereto, the provisions of this By-law are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted By-law, covenants, regulations or rules. Whenever the regulations made under the authority hereof differ from those prescribed by statute, By-law or other regulation, that provision, which imposes the greater restrictions or the higher standard, shall govern.

B. Application: Except as herein provided or as specifically exempted by the Zoning Act, the provisions of this By-law shall apply to the erection, construction, reconstruction, alteration or use of buildings and structures and to the use and creation of lots. As provided herein and in the Zoning Act, existing uses and structures lawfully established or constructed, which do not comply with the provisions of this By-law, may continue as non-conforming. Existing lots lawfully laid out by plan or deed, which complied at the time of layout with applicable provisions of Zoning By-laws, if any, may be built upon for single family residential purposes, provided:

- a. Said lots to have seventy-five (75) feet of frontage and ten thousand (10,000) square feet of area;
- b. The buildings to be located thereon are set back at least ten (10) feet from side and rear lot lines, and at least twenty-five (25) feet from street lot lines and the buildings to be constructed on said lot will not exceed the maximum site coverage restrictions of the Zoning By-law in effect when the lot was created, or if no such restrictions applied, coverage of buildings shall not exceed 35% of said lot for lots between 10,000 square feet and 15,000 square feet and 25% for lots over 15,000 square feet.
- c. said lots are buildable under other applicable provisions of the law, and
- d. if said lots are shown on a subdivision plan as defined in the Subdivision Control Law, which plan has been approved by the Planning Board, the roads shown on such plan have been installed in accordance with Planning Board requirements, if any, in effect at the time the plan was submitted to the Planning Board and a release of the road covenant or release of other security, if any, has been obtained from the Board prior to five (5) years from the date of endorsement of approval or prior to the lots becoming non-conforming, whichever occurs later.

Existing lots lawfully laid out by plan or deed which complied at the time of layout with applicable provisions of Zoning By-laws, if any, and which had as of January 1, 1984, a single family dwelling constructed thereon may by alteration or addition to said existing dwelling be converted to a One (1) Family Dwelling with Accessory Apartment as herein defined provided:

1. The lot area equals twenty thousand (20,000) square feet if situated in an R-R, R-L or R-M district, fifteen thousand (15,000) square feet if situated in an R-H-1, C-V, C-H-1 or M-R-L district. Substandard lots in other zoning districts cannot be built upon or converted to this use without a variance.
2. The lot has frontage of at least one hundred (100) feet.
3. If an addition is to be built in connection with development of said use, the addition will be set back from front, side and rear lot lines the distance then required in the zoning district for new construction.

Existing lots in a CH-1 zoning district, which complied at the time of layout with applicable provisions of Zoning By-laws, if any, may be used for single-family residential purposes as set forth above and may be used for non-residential purposes as established in the table of regulations provided:

- a. Said lots have one hundred (100) feet of frontage and ten thousand (10,000) square feet of area;
- b. The buildings to be located thereon are set back at least ten (10) feet from side and rear lot lines, and at least twenty-five (25) feet from street lot lines and the buildings to be constructed on said lot will not exceed the maximum site coverage restrictions of the Zoning By-law in effect when the lot was created, or if no such restrictions applied, coverage of buildings shall not exceed 35% of said lot for lots between 10,000 square feet and 15,000 square feet and 25% for lots over 15,000 square feet;
- c. said lots are buildable under other applicable provisions of the lot; and
- d. if said lots are shown on a subdivision plan as defined in the Subdivision Control Law, which plan has been approved by the Planning Board, the roads shown on such plan have been installed in accordance with Planning Board requirements, if any, in effect at the time the plan was submitted to the Planning Board a release of the road covenant or release of other security, if any, has been obtained from the Board prior to five (5) years from the date of endorsement of approval or prior to the lots becoming non-conforming, whichever occurs later.

Existing parking areas lawfully established as of the effective date of this By-law, whether conforming or nonconforming to the current requirements of this By-law, may be altered to accommodate the inclusion of one or more Universal Accessible

Parking Spaces without an approved site plan, variance, or special permit, provided:

- a. Said accommodation does not reduce the conformity of any of the following features with the respective requirements of this By-law by more than the amount indicated:
 - i. Interior landscaping-50% of minimum required as applicable to subject property
 - ii. Front, side, or rear parking setback-50% of required or existing setback, whichever is the greater reduction
 - iii. Site coverage-10% additional site coverage over the maximum allowable site coverage or if existing site coverage exceeds the maximum allowed, an additional 5%
 - iv. Required number of spaces-
Areas with 1-50 parking spaces-1 space less than the total required
Areas with 51-200 parking spaces-2 spaces less than the total required
Areas with more than 200 parking spaces-3 spaces less than the total required; and

A detailed plan, which clearly depicts such accommodation, is approved by the Building Inspector. Said plan shall be accurately scaled at a size no smaller than 1"=40' and shall show for the subject parcel or parcels, all existing structures, parking spaces, access aisles, landscape areas, driveways, loading areas, and accommodation areas for disabled people (when applicable) with legible dimensions for the above features.

Any lawfully nonconforming building or structure which has been damaged or destroyed by fire or other accident or natural disaster may be repaired or rebuilt to its original dimensions, either in its original location or in a more conforming location, provided the owner shall apply for a building permit and start operations for restoring and rebuilding of said premises within eighteen (18) months after such catastrophe. Further, said reconstruction shall comply with all other applicable State laws and regulations and such construction shall be completed within thirty (30) months of the date of the catastrophe or such reconstruction must comply with the current Zoning By-law.

Section V

Use Regulations

- A. Applicability of Use Regulations: Except as provided by the Zoning Act or this By-law, in each district no building, structure, water body or lot shall be used or occupied except for a purpose which is authorized by the Table of Use Regulations in the zoning district wherein the land is located and, if the land, building, structure or water body is located in a Drinking Water Resource Protection District or Personal Wireless Service Overlay District, said land shall not be used or occupied, except for a purpose permitted in the underlying zoning district as well as the Drinking Water Resource Protection District or Personal Wireless Service Overlay District, respectively. Any use not listed shall be construed to be prohibited. Personal wireless service facilities shall be exempt from the use regulations contained in this by-law when located on land owned by the Town of Harwich.
- B. Permitted Uses: In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with Sections X-G and X-1, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district. Any use presently listed as a permitted use in Section V, D. Table of Use Regulations, Table 1. Use Regulations, shall be designated as a special permit if the use proposes a structure or structures having a gross floor area of more than seven thousand five hundred (7,500) square feet or twenty (20) or more new parking spaces on the site, except that single-family, religious and educational uses shall be exempt from this provision. Some uses listed in the Table as allowed as of right (P) or on special permit (S) require a special permit under the site plan provisions of this By-law.
- C. Prohibited Uses in All Zoning Districts:
The following uses are strictly prohibited in all zoning districts.
1. Trailers used for dwelling purposes, when occupied on said premises.
 2. Food sales with drive-up or drive through facilities.
 3. Airport, landing strip and helicopter pad, except for emergency purposes.
 4. Bituminous concrete or cement mixing plants or establishments.
 5. Metal plating establishments.
 6. Chemical and bacteriological laboratories.
 7. Uses involving the storage of commercial fertilizers as defined in MGL c128, §64 unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
 8. Non-residential uses involving the generation, storage, treatment or disposal of hazardous materials as defined in MGL c21E unless such storage is above ground level, on an impervious surface, and in an area that has a containment system designed and operated to hold either 10% of total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is larger.

9. Use involving the storage of animal manure unless said storage is in a manner consistent with all applicable state and local regulations relative thereto and as determined by the Board of Health.
10. The commercial raising or keeping, for use or sale, of swine or fur-bearing animals.

D. Uses Subject to Other Regulations: Uses permitted by right or by special permit shall be subject to applicable regulations set forth in this By-law. Uses permitted by variance from the Board, or changes or extensions of nonconforming uses on permit from the Board shall be required to comply with all applicable provisions of this By-law not specifically and expressly varied by the Board. The grant of one form of relief by the Board shall not constitute a finding that all other elements of the project or proposal comply with applicable Zoning By-laws.

E. No building designed and intended for residential or commercial use or occupation shall be so occupied until any related road construction or improvements have been completed in accordance with Planning Board requirements and the Planning Board has released the road Construction Covenant or other security provided to the board pursuant to G. L. chapter 41, Section 81U. Notwithstanding the foregoing, if in the opinion of the board actual construction of the road or road improvements have been completed in a manner sufficient to warrant occupancy of the building or buildings while the balance of the work is completed, the Board may so certify to the Building Inspector. Thereafter, the Inspector shall not withhold a Certificate of Occupancy for said building based on noncompliance with this provision.

F. Table of Use Regulations: The Table of Use Regulations is divided into paragraphs, as follows:

- Paragraph I- Residential Uses
- Paragraph II- Public and Quasi-Public Uses
- Paragraph III - Agricultural and Related Uses
- Paragraph IV- Commercial Uses

Table 1. Use Regulations

Use	R-R	R-L	R-M	RH-1	RH-2	RH-3	CV	CH-1	CH-2	I-L	MR-L	MRL-1	WR	PWS	
<u>Paragraph I - Residential Uses</u>															
1	Accessory building - residential	P	P	P	P	P	P	P	P	-	-	P	P	P	P
2	Apartment(s) incidental to commercial (X.G.12)	-	-	-	-	-	-	S	S	S	-	-	-	S	-
3	Bed and Breakfast	S	S	S	S	S	S	S	S	-	-	S	S	S	P
4	Cluster development, single fam. dwellings (X.G.4)	S	S	S	-	-	-	-	-	-	-	-	S	P	P
5	Guest houses	-	-	S	P	P	-	P	P	-	-	-	-	S	P
6	Home occupation (VIII)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
7	Lodging House	-	-	-	-	-	-	S	-	-	-	-	-	-	P
8	Multi-family dwelling	-	-	-	-	S	S	-	-	-	-	S	S	S	P
9	One-family dwelling	P	P	P	P	P	P	P	P	-	-	P	P	P	P
10	One-family dw w/Accessory Apartment (X.G.7 & 8)	S	S	S	S	-	-	S	S	-	-	S	S	S	P
11	Shared elderly housing	S	-	S	-	-	-	S	S	-	-	-	-	-	P
12	Trailer, houseboat or other boat storage (V.G.1)	P	P	P	P	P	P	P	P	-	P	P	P	P	P
13	Two-family dwelling (X.G.13)	S	S	S	S	S	S	S	S	S	-	S	S	S	S
<u>Paragraph II - Public and Quasi-Public Uses</u>															
1	Church or other religious purposes	P	P	P	P	P	P	P	P	P	P	P	P	P	P
2	Educational Use - Non-Profit	P	P	P	P	P	P	P	P	P	P	P	P	P	P
3	Essential Service - facility, utilities	S	S	S	S	S	S	S	S	S	S	S	S	S	P
4	Institutional Use, Other	S	S	S	S	S	S	S	S	S	S	S	S	S	P
5	Municipal use	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6	Non-profit library, museum or historical use	S	S	S	-	-	-	-	-	-	-	S	S	P	P
7	Personal wireless facility - 45 to 150 ft (XI)	S	S	S	-	-	-	-	S	S	S	-	-	S	S
8	Personal wireless facility - up to 45 ft (XI)	S	S	S	S	S	S	S	S	S	S	S	S	S	S
9	Hospice	S	S	S	-	-	-	S	S	-	-	S	S	S	P
10	Nursing Home	S	S	S	-	-	-	S	S	-	S	S	S	S	P
11	Assisted Living Facility	S	S	S	-	-	-	S	S	-	-	S	S	S	P

Uses followed by parenthesis designate uses with further requirements. The number referenced is a section(s) of the zoning by-laws

Use	R-R	R-L	R-M	RH-1	RH-2	RH-3	CV	CH-1	CH-2	I-L	MR-L	MRL-1	WR	PWS	
<u>Paragraph III - Agricultural and related uses</u>															
1	Agriculture, horticulture, floriculture - <5 ac. (V.G.2)	S	S	S	S	S	S	S	S	S	S	S	S	S	P
2	Agriculture, horticulture, floriculture 5+ ac. (V.G.2)	P	P	P	P	P	P	P	P	P	P	P	P	P	P
3	Animal Hospital (V.G.3)	-	-	-	-	-	-	-	S	-	S	-	-	-	P
4	Animal Kennel (V.G.3)	-	-	-	-	-	-	-	-	-	S	-	-	-	P
5	Aquaculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6	Commercial stable, riding rings	-	-	-	-	-	-	-	-	S	S	S	S	S	P
7	Pigs, not more than 2 (V.G.4)	S	-	-	-	-	-	-	-	-	-	-	-	S	P
8	Horse(s) (V.G.5)	P	P	P	P	P	P	P	P	P	P	P	P	S	P
<u>Paragraph IV - Commercial Uses</u>															
1	Adult Entertainment (XIII)	-	-	-	-	-	-	-	S	S	-	-	-	S	P
2	Automotive service and repair facility (V.G.6)	-	-	-	-	-	-	-	-	-	S	-	-	-	-
3	Boat Storage	-	-	-	-	-	-	-	P	-	P	-	-	-	P
4	Car wash facility	-	-	-	-	-	-	S	S	-	S	-	-	-	P
5	Commercial parking; garage or lot	-	-	-	-	-	-	P	P	-	P	-	-	-	P
6	Construction industry (V.G.7)	-	-	-	-	-	-	-	-	-	P	-	-	-	P
7	Dry cleaning establishments	-	-	-	-	-	-	S	S	-	-	-	-	-	P
8	Educational Use - For Profit	-	-	-	-	-	-	S	S	S	S	-	-	P	P
9	Filling Station	-	-	-	-	-	-	-	-	-	S	-	-	-	P
10	Fish processing facilities	-	-	-	-	-	-	-	-	-	P	-	-	-	P
11	Funeral Home or Mortuary	-	-	-	-	-	S	S	S	S	-	-	-	-	P
12	Golf Course	P	P	P	-	-	-	-	-	-	-	P	P	S	P
13	Heating fuel resale and storage (V.G.8)	-	-	-	-	-	-	-	-	-	P	-	-	-	P
14	Hospital	S	-	-	-	-	-	-	-	-	-	-	-	-	P
15	Hotel	-	-	-	-	S	S	-	-	-	-	-	-	-	P
16	Hotel, Motel - Incidental Use	-	-	-	-	P	P	-	-	-	-	-	-	-	P
17	Inn	-	-	-	-	S	S	S	S	-	-	-	-	-	P
18	Manufacturing (V.G.9)	-	-	-	-	-	-	-	-	-	S	-	-	-	P

Uses followed by parenthesis designate uses with further requirements. The number referenced is a section(s) of the zoning by-laws

Use	R-R	R-L	R-M	RH-1	RH-2	RH-3	CV	CH-1	CH-2	I-L	MR-L	MRL-1	WR	PWS
19 Marine Use	-	-	-	-	-	-	S	S	-	P	-	-	-	-
20 Medical Clinic	-	-	-	-	-	-	P	P	P	-	-	-	S	P
21 Motel	-	-	-	-	S	S	-	-	-	-	-	-	-	P
22 Motion picture establishment, indoor	-	-	-	-	-	-	-	S	S	-	-	-	S	P
23 Offices, Professional or Business	-	-	-	-	-	S	P	P	P	P	S	-	P	P
24 Outside display for retail sales	-	-	-	-	-	-	S	S	S	S	-	-	S	P
25 Outside storage - Retail (V.G.10)	-	-	-	-	-	-	-	-	-	P	-	-	-	P
26 Outside storage - Other (V.G.10)	-	-	-	-	-	-	-	-	-	P	-	-	-	P
27 Personal service establishment	-	-	-	-	-	-	P	P	P	-	-	-	P	P
28 Photographic developing laboratories	-	-	-	-	-	-	S	S	-	S	-	-	-	P
29 Processing of mined and quarried raw mat. (XV)	-	-	-	-	-	-	-	-	-	P	-	-	-	P
30 Recreation and Amusement services	-	-	-	-	-	-	S	S	S	-	-	-	S	P
31 Repair service, miscellaneous (V.G.11)	-	-	-	-	-	-	P	P	P	P	-	-	S	P
32 Restaurant or lounge	-	-	-	-	-	-	P	S	P	-	-	-	S	P
32A Restaurant, Fast Food/Take Out (V.G.15)	-	-	-	-	-	-	S	S	S	S	-	-	S	P
33 Retail sales (V.G.14)	-	-	-	-	-	-	P	P	P	S	-	-	P	P
34 Road Salt	-	-	-	-	-	-	-	-	-	P	-	-	-	P
35 Sale or rental of aircraft and house trailers	-	-	-	-	-	-	-	-	-	P	-	-	-	P
36 Sale or rental of new or used motor vehicles	-	-	-	-	-	-	-	-	P	S	-	-	S	P
37 Sand, gravel, quarry, raw material removal (XV)	-	-	-	-	-	-	-	-	-	S	-	-	-	P
38 Scientific Research or Development	S	S	S	S	S	S	S	S	S	S	S	S	S	S
39 Self-storage	-	-	-	-	-	-	-	-	-	P	-	-	-	P
40 Storage trailers/containers (V.G.12)	-	-	-	-	-	-	-	-	-	S	-	-	S	P
41 Vending Machine sales as principal use	-	-	-	-	-	-	P	P	P	-	-	-	P	P
42 Warehousing	-	-	-	-	-	-	-	-	-	P	-	-	-	P
43 Wholesale trade	-	-	-	-	-	-	-	-	S	P	-	-	-	P
44 X-Ray facilities	-	-	-	-	-	-	S	S	-	S	-	-	-	P
45 Yard Sales (V.G.13)	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Uses followed by parenthesis designate uses with further requirements. The number referenced is a section(s) of the zoning by-laws

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G. – Supplemental Regulations

1. A trailer, houseboat or other boat shall not be less than 25 feet from any street lot line and not used at any time for sleeping or living purposes.
2. Agricultural uses consistent with MGL c.40A, §3 are permitted by right on lots containing a minimum of five (5) acres. For lots less than five (5) acres, such agricultural uses shall be by special permit.
3. Animal hospitals and/or kennels and their activities, including the keeping of animals, shall be completely enclosed in pens or other structures.
4. The non-commercial raising and keeping of not more than two (2) pigs. Pigs and or swine shall be kept in an enclosure approved by the Board of Health, said enclosure shall be not less than 50 feet from any bound, boundary line or building used for human habitation in any residential zone, and in no case shall the keeping and raising of pigs and/or swine be permitted on any lot containing less than 40,000 square feet.
5. Horse(s) are allowable provided they meet the necessary requirements of the Board of Health. The horse(s) shall be owned by the owner/occupant of the property. There shall be no commercial use of the horse on-site, including, but not limited to riding lessons except for lots greater than 5 acres. Horses are allowable in the Water Resource Protection District with a special permit pursuant to Section X.G.2.
6. Automotive service and repair facilities shall not include a junk yard of any kind or open storage of unregistered vehicles.
7. Construction industry, including suppliers, shall store all equipment and materials within a building or buildings.
8. The storage for resale of heating fuels includes but is not limited to, oil, coal and gas.
9. Manufacturing is permitted per Table 1, provided that at no time will such use result in or cause: excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater.
10. Outside storage of materials and supplies displayed for retail sales on the premises, does not require screening. All other outside storage, including storage of construction, manufacturing, service wholesale equipment, materials, junk or heavy motorized equipment of any type or open storage of unregistered motor vehicles, automobiles or other vehicles shall be completely enclosed by a solid fence or wall not less than eight (8) feet nor more than twelve (12) feet in height or dense shrubbery, which when planted, individual plants are at least three (3) feet in height, with the exception of vehicular entrance and exits not to exceed twenty-four (24) feet in width. Said fence shall be set back a minimum of 15 feet from abutting road sidelines.
11. Miscellaneous repair services shall be conducted entirely within an enclosed building.
12. Storage trailers shall be screened from view at the lot frontage.
13. Yard sales shall not exceed three (3) such sales in any calendar year per property.
14. In the I-L district, retail sale of products is allowed subject to the granting of a special use permit by the Planning Board. Retail sales shall be prohibited in the I-L district along Main Street (North Harwich) from Depot Street west to the

Dennis Town line or any road off said portion of Main Street, as there are existing traffic issues with this dead end road. In addition, a new retail use in an industrial zone will be subject to Site Plan Review, pursuant to Section X.K. The following criteria must be met for granting of the special use permit: the proposed retail establishment or component must offer a product that is allied or connected to a permitted or existing industrial use; the proposed retail establishment or component must be able to coexist with other permitted or existing industrial uses. All such uses that pre-exist this by-law will be required to file for a ~~use~~ special use permit, and a site plan special permit or waiver within ~~six~~ twelve months of the effective date of this by-law.

15. In commercial and industrial districts, fast food/take out restaurants are allowed subject to the granting of a special use permit by the Planning Board. In addition, a new fast food/take out restaurant is subject to Site Plan Review, pursuant to Section X.K. The following criteria must be met for granting of the special use permit: the proposed use will not adversely impact traffic flow and safety; the proposed use will be compatible with surrounding land uses.

Section VI

Area, Height and Bulk Regulations

- A. Applicability of Area, Height and Bulk Regulations: The regulations for each district pertaining to minimum lot area, minimum lot frontage, maximum front yard depth, minimum side yard width, minimum rear yard depth, and minimum residential net floor area shall be as specified in this section and set forth in the Tables of Area Regulations and Height and Bulk Regulations, and subject to the further provisions of this Section. In the Drinking Water Resource Protection Districts, the regulation as herein set forth for the underlying zoning district shall apply. A fence, wall or other enclosure, unless otherwise regulated, shall be regulated as provided in C. below.
- B. Tables of Area and Height and Bulk Regulations: See tables on accompanying pages, plus attached notes, which are declared to be a part of this By-law.
- C. Fence, Wall or Other Enclosures: A fence, hedge, wall or other enclosure may be maintained on any premises. Provided, on a corner lot, no structure or vegetation shall be over three (3) feet in height within the “sight triangle” as hereafter defined. The “sight triangle” is defined as the area within a triangle formed by two (2) lines measured along the center of the nearest lane of the traveled way of intersecting streets from the point of intersection for a distance of twenty five (25) feet and a third line connecting the points on the two (2) legs. The height restrictions shall designate the distance above each point in the plane of the “sight triangle”.
- D. Further Regulations:
1. The required minimum width of any lot hereafter laid out or created, measured along the front yard setback line, shall not be less than eighty (80) percent of the required minimum lot frontage.
- All lots hereafter created for building purposes shall be shaped so that they can contain either one circle of a diameter not less than the frontage requirement of the zoning district within which the lot is located, or two circles tangent to each other, each of a diameter of not less than seventy (70) percent of the frontage requirement of the zoning district within which the lot is located. In either case, one circle must be tangent to the lot frontage. The diameter of circles in cluster subdivision lots may be as small as the minimum allowable frontage for cluster lots.
2. In all districts where one-family dwellings are permitted, no more than one (1) such dwelling shall be allowed on a lot.
 3. Any structure located on a corner lot shall be set back from all streets a distance equal to the front yard setback requirement in the district.
 4. At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the district in which each street frontage is located.

5. On a lot used for multi-family, hotel or motel purposes, parking lots, roads, streets, tennis courts, swimming pools and like amenities and facilities shall not cover more than fifteen (15%) percent of the area of the lot.

For the purpose of this paragraph, golf courses, putting greens, bowling greens and similar amenities which do not involve covering the ground with any impervious material, shall not be included for the purpose of computing the total ground coverage of a project.

6. Projections into required yards or other required open spaces are permitted, subject to the following:
 - a. Balcony or bay window, limited in total length to one-half the length of the building, not more than two (2) feet.
 - b. Open terrace or steps, stoop or similar structure, under four (4) feet in height, up to one-half the required yard setback.
 - c. Window sill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural structures or steps or stoops over four (4) feet in height, not more than two (2) feet.
7. In any district, any permitted accessory building, use or structure shall conform to the applicable setback for the principal structure or use, excepting that any accessory building less than one hundred (100) square feet in area and not exceeding twelve (12) feet in height may be set back five (5) feet from side or rear lot lines.
 - a. In all zoning districts, a shelter for persons awaiting the arrival of public transportation may be erected without observing the area of setback requirements of this By-law.
8. No building permit may be issued for multi-family dwelling project unless and until site plans, showing the entire project to be constructed, are submitted to the Building Inspector with the Application for Building Permit, and this requirement shall apply, whether or not the project is to be built in phases.
9. All ways intended for use by vehicular traffic within the perimeter of a multi-family dwelling project shall be installed and constructed in accordance with the requirements governing road construction, set forth in the Subdivision Rules and Regulations, as adopted from time to time by the Harwich Planning Board.
10. All multi-family dwellings must be connected to a municipal water system.
11. a. No habitable room in a multi-family dwelling unit shall have a minimum floor area of less than one hundred twenty (120) square feet and no major width or length dimension less than ten (10) feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.

- b. All outside entrances to multi-family dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.
 - c. No outside staircase shall be used to furnish primary access to any of the units in a multi-family dwelling, hotel or motel.
12. No multi-family dwellings may be erected on any lot in the MR-L or MR-L-1 zoning districts, the geographical center of which is closer than fifteen hundred (1500) feet from the geographical center of any lot, upon which multi-family dwellings with more than four (4) dwelling units are constructed; provided, for the purpose of this section, contiguous lots in common ownership may be considered as a single parcel and developed for multi-family use. Provided further that lots separated by a road, street or way will be considered contiguous for the purpose of this section and if commonly owned, may be treated as one parcel for the purpose of multi-family construction.
13. Whenever the land upon which a multi-family dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of toxic or hazardous materials and sewage.
14. Whenever a use is established on a parcel in the I-L District and such parcel or parcels abuts or faces a parcel which is zoned or used for residential purposes, the use in the I-L District shall be effectively screened and buffered from the adjoining residential parcel. Screening shall consist of either a contiguous solid fence or wall not less than six (6) feet nor more than eight (8) feet in height or a contiguous staggered row of densely planted evergreen shrubs which, when planted, contains individual plantings which are no less than five (5) feet in height. In no case shall any plantings used for compliance with this screening requirement be planted less than five (5) feet apart on center. Any screening required by this section shall be installed at least ten (10) feet from any side or rear lot line and fifteen (15) feet from any street lot line, shall be maintained in good condition, and may be interrupted only by driveway openings which meet a street. Any plantings or fencing components installed for compliance with this section, which deteriorate to the point where they no longer provide an effective screen shall be replaced.
15. There shall be no site preparation work done in connection with development of any use of land other than single-family or single-family with accessory apartment use and no such work in connection with development of any subdivision until all necessary permits and approvals have been obtained. This section shall not prohibit site work reasonably necessary to the conduct of a land survey or any tests required as a condition precedent to the issuance of any permit or approval. If after obtaining all necessary permits and approvals such work is commenced and later abandoned, any areas of the site which have been disturbed during construction shall be re-vegetated in a manner sufficient to prevent erosion. To secure re-vegetation in the case of abandonment of a project, the Building Inspector, or in the case of a subdivision of land, the Planning Board may require the owner to post a bond or other satisfactory security in an amount reasonably estimated as sufficient to perform the work.

16. A lot with the required legal frontage must take access along the required legal frontage. No alternate access may be granted from other streets, roads, or ways, nor should access be taken from an easement across an adjacent property without the issuance of a Special Permit from the Planning Board. In issuing a Special Permit, the Planning Board shall make the following findings:

- a) The alternate access proposed is superior to the access along the frontage;
- b) The proposed alternate access is cleared to a minimum of 16 feet in width and 16 feet in height; and
- c) When access is proposed from an easement across another lot, the lot providing the easement will have the required legal frontage for the zoning district.

E. In reference to Table 3, any maximum height permitted in this By-law shall not apply to:

- (a) Community facility and essential service structures, provided the side and rear yards of setbacks required in the district for the highest permitted principal structure shall be increased two (2) feet in width for each foot by which the height or such structures exceeds the height permitted in the district.
- (b) Special industrial structures, such as: a cooling tower and other similar structures where the industrial process requires a greater height.
- (c) Any personal wireless service facility, provided no structure erected in connection with such use exceeds 45 feet in height above ground level in all districts and further provided that in a PWS district, no structure erected in connection with such use exceeds 150 feet above ground level.

NOTE: Additional requirements for personal wireless service facilities are contained in SECTION XI, PERSONAL WIRELESS SERVICE FACILITIES, of this by-law.

F. In reference to Table 3 - Maximum permitted height (stories):

In no case may any building used for multi-family dwellings, hotel or motel use exceed fifty (50) feet in height nor contain more than four (4) levels for human occupation. In no case shall a single-family residence contain more than two (2) levels for human occupation provided the basement or cellar of a single family residence can be used as a family room or recreational room, but shall not be used as sleeping quarters unless it is made to comply with the provisions of the building code regulating the design and construction of such rooms. In no case shall any other building provide more than two (2) stories or levels for human use or occupation.

TABLE 2. AREA REGULATIONS

<u>DISTRICT</u>	<u>USE</u>	<u>Minimum Required Lot</u>				
		<u>Area (Sq. Ft.)</u>	<u>Lot Frontage (Contiguous Ft.)</u>	<u>Front (Ft.)</u>	<u>Side (Ft.)</u>	<u>Rear (Ft.)</u>
R-R	Any permitted Use	40,000	150	25	20	20
	Single-Family Dwellings in Open Space Residential Developments	5 contiguous acres with 30% of the applicable land to remain open space - Lot area per unit 12,000 sq. ft.	50 ft. within interior of development ^{*(1)}	25	20 ²	20 ²
	Shared Elderly Housing	40,000	150	25	20	20
R-L	Single-Family Dwellings in Open Space Residential Developments	5 contiguous acres with 30% of the applicable land to remain open space- Lot area per unit 12,000 sq. ft.	50 ft. within interior of the development ^{*(1)}	25	20 ²	20 ²
	Community Facilities	30,000	125	25	20	20
	Any Other Permitted Use	40,000	150	25	20	20
R-M	Guest House	40,000 plus 2,000 per rental unit	150	25	20	20
	Single-Family Dwellings in Open Space Residential Developments	5 contiguous acres with 30% of the applicable land to remain open space- Lot area per unit 12,000 sq. ft.	50 ft. within interior of development ^{*(1)}	25	20 ²	20 ²
	Any Other Permitted Use	40,000	150	25	20	20
R-H-1	Guest House	40,000 plus 2,000 per rental unit	150	25	20	20
	Any Other Permitted Use	40,000	150	25	20	20

TABLE 2. AREA REGULATIONS

<u>DISTRICT</u>	<u>USE</u>	<u>Minimum Required Lot</u>				
		<u>Area (Sq. Ft.)</u>	<u>Lot Frontage (Contiguous Ft.)</u>	<u>Front (Ft.)</u>	<u>Side (Ft.)</u>	<u>Rear (Ft.)</u>
R-H-2	Multi-Family	40,000 plus 7,500 for every dwelling unit	150	50	50	50
	Hotel and Motel	40,000 plus 2,000 per rental unit	150	50	50	50
	Guest House	40,000 plus 2,000 per rental unit	150	25	20	20
	Any Other Permitted Use	40,000	150	25	20	20
R-H-3	Multi-Family	40,000 plus 4,500 per dwelling unit	150	25	20	20
	Hotel and Motel	40,000 plus 3,000 per rental unit	150	25	20	20
	Any Other Permitted Use	40,000	150	25	20	20
C-V	Guest House	40,000 plus 2,000 per rental unit	150	25	10	10
	Shared Elderly Housing	40,000	150	25	20	20
	Single-Family Dwelling	40,000	150	25	20	20
	Dwelling, One-Family with Accessory Apartment	40,000	150	25	20	20
	Any Other Permitted Use	40,000	150	25	20	20

TABLE 2. AREA REGULATIONS

<u>DISTRICT</u>	<u>USE</u>	<u>Minimum Required Lot</u>				
		<u>Area (Sq. Ft.)</u>	<u>Lot Frontage (Contiguous Ft.)</u>	<u>Front (Ft.)</u>	<u>Side (Ft.)</u>	<u>Rear (Ft.)</u>
C-H-1	Guest House	40,000 plus 2,000 per rental unit	150	25	20	20
	Shared Elderly Housing	40,000	150	25	20	20
	Single-Family Dwelling	40,000	150	25	20	20
	Dwelling, One-Family with Accessory Apartment	40,000	150	25	20	20
	Adult Entertainment	50,000	150	50	50	100
	Any Other Permitted Use	20,000	100	25	10	10
C-H-2	Any Permitted Use	50,000	150	50	25	25
	Adult Entertainment	50,000	150	50	50	100
I-L	Any Permitted Use	20,000	100	25	25	50
MR-L	Multi-Family Residential	10 contiguous acres min., 25 contiguous acres max. Max density 8 bedrooms per acre	150	50	50	50
	Any Other Permitted Use	40,000	150	25	20	20
MRL-1	Multi-Family Residential	8 contiguous acres min. Max density 4 bedrooms per acre, provided Planning Board may give a density bonus as elsewhere provided in this By-law	150	50	50	50

TABLE 2. AREA REGULATIONS

<u>DISTRICT</u>	<u>USE</u>	<u>Minimum Required Lot</u>				
		<u>Area (Sq. Ft.)</u>	<u>Lot Frontage (Contiguous Ft.)</u>	<u>Front (Ft.)</u>	<u>Side (Ft.)</u>	<u>Rear (Ft.)</u>
	Single-Family Dwellings in Open Space Residential Developments	5 contiguous acres with 30% of the applicable land to remain open space Lot area per unit 12,000 sq. ft.	50 ft. within interior of the development ^{*(1)}	25	20 ²	20 ²
	Any Permitted Use Other Than Multi-Family Residential	40,000	150	25	20	20
WR	Dwelling, One-Family with Accessory Apartment	60,000	same as underlying district			
	Any Other Permitted Use	-----	same as underlying district			
PWS	Personal Wireless Service Facility	90,000	75	150	150	150
	Any other permitted use	-----	Same as underlying district			

NOTE: These dimensional requirements may be reduced by the Planning Board in its approval of a special permit for a personal wireless service facility which is less than 150 feet in height in this district.

^{*(1)} In an Open Space Residential Development, lots may have a minimum of 25 feet of frontage on any roadway within the development where the building site is generally behind another building site relative to the same road frontage or at least 75 feet from the front lot line.

²May be reduced pursuant to Section X.G.4.4.4

TABLE 3. HEIGHT & BULK REGULATIONS

	Maximum Permitted Height (Ft.)	Maximum Permitted Height (Stories)	Maximum Building Coverage of Lot (Covered Area as % of Total Lot Area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (Sq. Ft.)
R-R	30	2 ½	15	25	None
R-L	30	2 ½	15	30	None
R-M	30	2 ½	20	35	None
R-H-1	30	2 ½	30	35	None
R-H-2	30	2 ½	30	35	None
R-H-3	50	4	15	35	364 (see section VI, D.13A)
C-V	30	2 ½	50	80	None
C-H-1	30	2 ½	30	70	None
C-H-2	30	2 ½	30	70	None
I-L	40	2 ½	40	70	Not Permitted
M-R-L	40	2 ½	15	50	Studio or efficiency unit 250 sq. ft. Bedroom unit 550 sq. ft. 2 bedroom unit 940 sq. ft.

TABLE 3. HEIGHT & BULK REGULATIONS

	Maximum Permitted Height (Ft.)	Maximum Permitted Height (Stories)	Maximum Building Coverage of Lot (Covered Area as % of Total Lot Area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (Sq. Ft.)
M-R-L-1	40	2 ½	15	50	Studio or efficiency unit 250 sq. ft. Bedroom unit 550 sq. ft. 2 bedroom unit 940 sq. ft.
Cluster Development R-R and R-L	30	2 ½	15	Lot area 10,000-20,000 sq. ft.-30	None
				Lot area 20,001-40,000 sq. ft.-30	
				Lot area over 40,000 sq. ft.-25	
Cluster Developments R-M	30	2 ½	20	Lot area 10,000 - 20,000 sq. ft. - 35	None
				Lot area 20,001-40,000 sq. ft. - 30	
				Lot area over 40,000 sq. ft. - 25	

TABLE 3. HEIGHT & BULK REGULATIONS

	Maximum Permitted Height (Ft.)	Maximum Permitted Height (Stories)	Maximum Building Coverage of Lot (Covered Area as % of Total Lot Area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (Sq. Ft.)
W-R	As specified in the underlying district	As specified in the underlying district	20	All uses 40% provided a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality. Otherwise 15% or 2,500 sq. ft. whichever is greater	As specified in the underlying district
Personal Wireless Service Facilities	45	NA	15	40	None
Personal Wireless Service Facilities in PWS Districts	150	NA	15	40	None

SECTION VII SIGN REGULATIONS

1.00 PURPOSE AND SCOPE:

- A. The purpose of this regulation is to permit signs which facilitate communication, promote the safety of motorists and pedestrians, and encourage economic development by identifying businesses and other land uses in ways that complement and enhance the environment.
- B. This sign regulation provides a permitting system to govern the placement of advertising and other informational signs both outdoors and within two (2) feet of any window within the Town of Harwich.

1.01 RELATIONSHIP TO OTHER BYLAWS:

- A. Nothing in this bylaw shall be construed as exempting an applicant from any other applicable town, county, state, or federal bylaws.
- B. To the extent that the requirements of this bylaw differ from, or are not in accordance with any other applicable requirements, the more restrictive requirements shall apply.

1.02 DEFINITIONS:

BOARD: The Harwich Zoning Board of Appeals.

BUILDING OFFICIAL: The Harwich Building Commissioner or Building Inspector.

CLUSTER SIGN: Any sign identifying a business, commercial or industrial development which provides one space per business entity within the development.

GROUND SIGN: A sign supported by poles, uprights or braces extending from the ground but not attached to any part of a building.

SIGN: Sign shall mean and include every advertising message, announcement, declaration, demonstration, illustration, insignia, surface or space erected or maintained in view of the observer thereof primarily for identification, advertisement, or promotion of the interest of any person, entity, product, or service. The definition of a sign shall also include the sign structure, supports, lighting system, and any attachments, flags, ornaments or other features used to draw the attention of observers. Indoor or outdoor displays of merchandise for sale at retail on the premises shall not be considered a sign for the purposes of this by-law. The following are examples of signs:

A-Frame/Easel/Sandwich Signs: Usually a double-faced, free-standing, portable sign

Awning/Canopy Signs: Signage affixed to awnings/canopies associated with a business entity.

Display Box/Menu Board Sign: Usually a free-standing or wall sign, or an erasable chalk board, sometimes enclosed in glass, for the purpose of displaying menus, entertainment announcements or similar items or events.

Window Signs: Signage displayed within two (2) feet of windows primarily for view from outside the business entity.

SIGN PERMIT: A permit issued by the Building Department for the erection, construction, enlargement, alteration, repair, or improvement of any sign.

WALL SIGN: A sign attached to, painted on, or erected against a wall or roof of a building or structure which extends no more than thirty-six (36) inches from the surface

upon which it is attached and whose display surface is either parallel or perpendicular to the face of the building and does not exceed the height of the building on which it is mounted. Projecting wall signs must have at least eight (8) feet of ground clearance.

1.03 PERMIT REQUIREMENTS:

- A. Before any sign is erected, constructed, structurally altered or moved, it shall conform to the requirements contained in this bylaw and shall be approved and shall have received a permit from a Building Official unless the sign is expressly exempted herein from the provisions of this bylaw.
- B. Before any commercial sign receives a permit from a Building Official it shall be reviewed by the Architectural Advisory Committee.
- C. A pre-application conference with the Building Department is encouraged in order for the applicant to become acquainted with application procedures, design standards, and related Town ordinances.

1.04 SIGNS ALLOWED WITHOUT PERMITS:

The following signs do not count towards the total permitted signage unless otherwise indicated, do not require a permit and shall comply as follows:

BUSINESS HOUR SIGNS: "Open/closed" and related hours-of-operation signs which do not exceed one (1) square foot.

CAUTIONARY SIGNS: Signs warning of prohibited activities such as trespassing, hunting, fishing, or swimming may be posted on each lot line, however, no signs may be within one hundred feet (100') of each other. Cautionary signs are limited to one (1) square foot or less per sign.

CONSTRUCTION SIGNS: A temporary wall or ground sign not more than eight (8) square feet advertising the construction, remodeling or rebuilding of a certain structure for a permitted use on which the signs are located. One sign shall be allowed per lot, shall not be illuminated and shall be removed immediately upon final inspection.

DIRECTIONAL SIGN: Any on-premise sign that directs the movement or placement of pedestrian or vehicular traffic without reference to or inclusion of, the name of a product sold or services performed.

ELECTION/TOWN MEETING SIGN: Any sign erected by the Town of Harwich to alert the public to an election or a Town Meeting. The location and size of these signs are to be determined by the Town Clerk with the input of a Building Official.

HOME OCCUPATION SIGNS: Signs identifying any home occupation as defined by the Harwich Zoning Bylaw shall be limited to a wall or a ground sign. The total square footage of any home occupation sign shall not exceed four (4) square feet in area and may be illuminated in commercial zones per section 1.07 of this bylaw. Wall signs may be attached to any structure and/or fence.

"OPEN" FLAG: One "open" flag per business establishment shall be allowed and shall not exceed twenty-four (24) square feet in size.

POLITICAL CAMPAIGN SIGNS: Political signs are permitted. Campaign signs are allowed in all zoning districts with the authorization of the owner of the property on which the sign is displayed. Campaign signs are prohibited on Town-owned property, including road rights-of-way. The signs must be removed within one week following the date of the election.

PUBLIC SIGNS: Signs required or authorized for a public purpose by law or statute.

REAL ESTATE SIGNS: A temporary wall or ground sign not more than eight (8) square feet advertising the sale, rental, or lease of a designated structure or land area for a permitted use on which the signs are located. One sign shall be allowed per street frontage, shall not be illuminated, and shall be removed immediately once the property is rented, leased or sale is completed.

RESIDENTIAL QUARTERBOARD: A traditional quarterboard, not to exceed eighteen (18) inches in height or ten (10) feet in length. A residential quarterboard shall not advertise a business or profession.

SPECIAL EVENT FLYERS: Flyers for special events measuring not more than two (2) square feet in total area shall be permitted for display in the windows of non-residential uses. For those flyers not displayed in windows, they may not be attached to trees, utility poles or be located within a public right-of-way. Such flyers may be erected no sooner than two weeks before the event, and shall be removed within 72 hours after the event; but in no event shall a flyer be erected more than 30 days.

SUBDIVISION SIGNS: Subdivision signs are limited to a maximum of twenty (20) square feet per sign and may not exceed six (6) feet in height. One sign may appear at each entrance. Illumination of subdivision signs is prohibited.

TEMPORARY SIGNS: Signs of more than two (2) square feet in area advertising a special event. Notice of such signs shall be required to be filed by the sponsoring organization with a Building Official prior to display. Such signs may be erected no sooner than two weeks before the event, and shall be removed within 72 hours after the event; but in no event shall a sign be erected more than 30 days.

UMBRELLA SIGNS: Signage as part of an umbrella that advertises a product for sale on the premises. Umbrellas containing the name of a particular establishment shall count against the establishment's total signage.

VENDING MACHINES: The portion of any internally illuminated vending machine which advertises a product shall be counted against the total allowable signage unless it is completely shielded from public view by a fence or other barrier.

WATER DEPARTMENT SIGN: Any sign erected by the Town of Harwich Water Department to alert the public to any drinking water related event, including but not limited to flushing of pipes and water use restrictions. The location and size of these signs are to be determined by the Water Superintendent with the input of a Building Official.

1.05 COMMERCIAL, INDUSTRIAL AND BUSINESS CLUSTER SIGNS:

Business, commercial, or industrial developments may construct one cluster sign containing the name of the development and/or listings of individual businesses, products or services within the development. Signage at the location of each establishment within the development is also allowed per Sections 1.07 through 1.09 of this bylaw.

1.06 NON-CONFORMING SIGNS:

Lawfully pre-existing signs that do not comply with the provisions of this bylaw at the time of its adoption may be maintained so long as they are kept in a state of good repair as specified in Section 1.08 of this bylaw, and so long as they are not relocated, replaced or structurally altered. Pre-existing signs that are relocated, replaced, structurally altered

or not kept in a state of good repair as specified in Section 1.08 of this by-law, shall not be allowed to continue as non-conforming signs and shall require new permits and compliance with this by-law. A lawfully pre-existing non-conforming sign destroyed by natural disaster or accident can be replaced by a sign of the same dimensions in the same location as the original sign.

1.07 GENERAL REQUIREMENTS:

- A. Sign placement shall not interfere with snow removal, or vision or movement of motorists, pedestrians and bicyclists.
- B. Signs shall be externally lit or backlit only and shall be designed, installed and maintained so as to eliminate or minimize upward directed light and glare and so that lights illuminate only the sign, and not property which adjoins or is nearby. Luminous tube/neon/internally illuminated signs are permitted to be displayed in windows only. The total area of all luminous tube/neon/internally illuminated signs shall not exceed six (6) square feet. No animated signs are permitted.
- C. No ground sign may exceed twelve (12) feet in height.

1.08 CONSTRUCTION AND MAINTENANCE:

- A. All signs and sign structures shall be constructed of materials of sufficient strength and quality to withstand weathering or deterioration by wind, moisture and other natural elements, and shall be maintained in a state of good repair with all braces, bolts, supporting framework, fastenings, lettering and design work free from deterioration.
- B. A Building Official shall have the authority to order the repair, alteration or removal of any sign or structure which constitutes a hazard to public health and safety, or which is otherwise not in compliance with this bylaw.

1.09 SIGN AREA MEASUREMENT:

- A. For single tenant businesses accessed directly from a street, right-of-way or parking area, the maximum permitted sign per public entrance façade shall be forty-eight (48) square feet.
- B. Buildings within a project or premise, having more than one (1) tenant or use, shall provide a Master Sign Plan for the entire structure or project for review and approval by the Planning Board prior to any sign permit approval by a Building Official. Once the Planning Board has approved a Master Sign Plan, further approval by the Planning Board will only be required if there are changes to the structure in question that would require Site Plan Review pursuant to Section X.K of the Harwich Zoning By-law. For office buildings, shopping plazas and shopping centers, a cluster sign of up to sixty square feet (60 sq. ft.) is permitted as part of the Master Sign Plan to identify the name of the complex and each individual tenant, plus each tenant may have signage at the location of their business of up to forty-eight square feet (48 sq. ft.) per entrance façade.

Total sign area within the Master Sign Plan is subject to the size limitations of this Section. Sign area cannot be transferred to a single building or facade from other buildings in the project. In addition, the amount of signage assigned to a specific

space in a building shall be tied to that space through the lease or purchase agreement. Under no circumstances may the sign area designated for an individual space be transferred to another space in the same building or complex. In the case where a single tenant occupies more than one space, the sign area may be combined for as long as a single tenant occupies both spaces. If the spaces are separated, the original sign area will be returned to each individual space.

- C. The area of a sign face shall be computed by measurement of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display. This shall include any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The area calculation shall not include structural supporting framework, bracing or wall. If any advertising is present on the supports of a sign, the area of the supports will count towards the total allowable signage. Where there are two faces back to back, the total area of the largest face shall determine the area of the sign.
- D. Where two faces are placed at greater than thirty degree (30°) angles to one another, the sign area shall mean the total area of both faces.

1.10 APPEALS:

Any applicant, who believes a denial is not justified, has the right to appeal to the Board, and to appear at a meeting for which proper notice can be given and agenda time is available. Intention to take an appeal to the Board shall be filed with the Town Clerk in writing within thirty (30) business days following the denial of the permit by a Building Official, pursuant to Chapter 40A. Applicants appealing to the Board may request review of the decision of the Building Official or a variance to the Sign Regulation pursuant to MGL Chapter 40A Section 10.

1.11 VIOLATIONS OF THIS BY-LAW:

Violation of this By-law is subject to enforcement action through the Building Department pursuant to Section X D of the Town of Harwich Zoning By-laws.

1.12 SEVERABILITY:

If any provision of this By-law is held invalid by a court of competent jurisdiction, the remainder of the By-law shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this By-law shall not affect the validity of the remainder of the Harwich Zoning By-law.

Section VIII

Home Occupation

- A. Home occupations shall be subject to the following regulations:
 - 1. No person other than members of the family residing on the premises, nor more than one (1) apprentice, shall be regularly engaged in such occupation.

2. The use of the dwelling unit for the home occupation shall be clearly secondary and subordinate to its use for residential purposes by its occupants, and not more than twenty five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
3. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltage off the premises.
5. Any sign erected to advertise a home occupation as defined in this by-law shall conform to the requirements set forth in Section VII (Sign Regulations) of this bylaw.
6. Not more than two (2) commercial vehicles may be used in connection with said home occupation, one (1) of which may not exceed three fourths (3/4) ton rating and the second of which may not exceed a one (1) ton rating. Any one (1) ton vehicle used in connection with said home occupation must be parked and stored indoors in a residential type garage and, in no event, may more than one (1) commercial vehicle be parked or stored in the open at said premises.
7. There shall be no disposal of toxic or hazardous materials as defined in this By-law in connection with the home occupation.

**SECTION IX
OFF STREET PARKING AND LOADING REQUIREMENTS**

9.1 Objective It is the intent of this section that adequate off-street parking and loading shall be provided to serve all parking demand created by new construction whether through new structures or additions to existing ones, or through change of use which creates higher parking demand.

9.2 Applicability Existing buildings, structures and land uses are not subject to these off street parking and loading requirements and may be rebuilt, changed or repaired, but not enlarged, altered or subject to a change in use so as to increase demand, without becoming subject to these requirements.

9.3 Off Street Parking Schedule

9.3.1 These standards are the minimum requirement. The Planning Board, under Site Plan Review, may vary the required number of spaces if the nature and scale of a proposed use warrants such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated. In the case of multiple uses on a single lot, the required number of parking spaces will be equal to the combined total of parking spaces for each use.

USE	PARKING SPACES
RESIDENTIAL USES	
Single Family Dwelling, Two Family Dwelling	2 spaces
Single Family Dwelling with Accessory Apartment, Multi-Family or Apartment Incidental to a Commercial (or Industrial) Use	1.5 spaces per unit
Home Occupation	1 per employee/apprentice or 2 per 400 s.f. of space dedicated to home occupation
Dormitory	1 per room
Lodging House, Hotel, Cottage Colony, Motel, Inn, Guest House, Bed & Breakfast	1.25 per guest room or suite
PUBLIC AND QUASI PUBLIC USES	
School, Municipal Building, Library, Charitable Institution or similar use	1 per employee, plus 1 per 3 seats in area of public assembly
Church, Assembly Hall, Club or Similar Place of Public or Semi-Public Amusement or Assembly	1 per 3 seats, plus 1 per classroom and office

Movie Theater	1 per 2 seats
Nursing Home and/or Personal Care Facilities	1 per 3 beds, plus 1 per employee max. shift
RECREATIONAL USES	
Standard Golf, Par-3, and Other Outdoor Recreational Uses including, but not limited to, amusement parks and other similar attractions	1 per employee max. shift, plus 1 per 3 patrons at max. capacity of facility as determined by the Building Commissioner
Golf Teaching Facility	1 per employee, plus 1 per student, max. capacity
Miniature Golf Course	1 per employee max. shift, plus 1 per 2 patrons at max. capacity of facility as determined by the Building Commissioner
Playing Fields (parking is per field)	1 per 2 players, plus 1 per 2 bleacher seats, plus 20 spaces
Public Swimming Pools	1 per employee max. shift, plus 1 per max. rated capacity for pool and any associated decks
Stable; Commercial or Riding School	1 per 2 stalls, plus 1 per employee max. shift, plus area for storing trailers
Indoor Recreational Uses, including, but not limited to, Tennis Clubs, Health Clubs	1 per employee max. shift, plus 2 per tennis court, plus 1 per 2 players for other court sport, plus 1 per three spectator seats
COMMERCIAL USES	
Auction Galleries, Gift Shops, Arts & Crafts, Antique Shops, General Merchandise, Apparel & Accessories, Other Retail Sales and Customer Service	1 per 150 s.f. of floor area dedicated to customer use or display, but not less than 70% of the total area
Food Stores and Supermarkets	1 per 200 s.f. customer area, plus 1 per employee max. shift
Furniture and Home Furnishings, Large Appliances, Lumber, Showroom or Other Retail Display of Large Items	1 per 700 s.f.

Restaurant, Lunchroom, Bar, Tavern, Private Club or Other Similar Use	1 per 4 seats including outdoor seating, plus 1 per employee max. shift
Restaurant, Fast Food/Take Out	1 per employee max. shift, plus 6 spaces, plus one space per 4 seats, indoor or outdoor
Establishments offering entertainment including public & private clubs and restaurant areas dedicated solely to entertainment	1 per 2 patrons max. capacity of facility as determined by the Building Commissioner, plus 1 per employee on max. shift
Medical Office	1 per employee max. shift, plus 1 per 2 seats in waiting room, plus, 1 per treatment room
Professional or Administrative Office, Bank or other Financial Institutions and General Business Office	1 per employee max. shift, plus 1 per 250 square feet of floor area
Funeral Home	1 per 2 seats maximum capacity of facility as determined by the Building Commissioner
Animal Hospital and Animal Kennel	1 per employee max. shift, plus 1 per 2 seats in waiting room, plus, 1 per treatment room
MOTOR VEHICLE OR BOAT – TRANSPORTATION USES	
Sales or Rental of Motor Vehicles	1 per 3,000 s.f. of indoor or outdoor vehicle or boat display area, plus 1 per employee max. shift
Filling Station Automotive Service and Repair Facility Automobile Service Station	1 per employee max. shift, plus 2 per service bay, including spray paint booth, plus 2 per 150 s.f. service waiting area, plus 1 per car stored overnight
Car Wash	1 per employee maximum shift
Other Transportation Uses	1 per employee max. shift, plus as determined by Site Plan Approval

Marina or Boat Yard Use	1 per employee max. shift, plus 1 per slip, or 1 space per dry storage capacity, whichever is greater, and 1 per each 2 moorings assigned to the Marina or Boat Yard
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INDUSTRIAL, UTILITY AND OTHER USES

Light Industry and Manufacturing	1 per employee max. shift, plus 1 per 2,500 s.f. of floor area
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Warehousing and Wholesale Trade	1 per employee max. shift, plus 1 per 1,000 s.f. floor area
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Other Industrial	1.3 per employee max. shift, plus 1 per 200 s.f. Office Space
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9.3.2 Parking company-owned vehicles - in addition to the requirements outlined above, 1 space will be required for each company-owned vehicle kept on the premises, including trailers and heavy machinery. The space provided must be of an adequate size to accommodate the equipment utilizing the space.

9.3.3 Loading Requirements - Every building herein after erected, altered, enlarged, or occupied for business, industrial or institutional purposes which has over five-thousand (5,000) square feet of gross building area shall provide a minimum of one (1) area for the loading and unloading of service vehicles. Loading and unloading areas shall be provided in addition to off-street parking spaces and shall not be considered as supplying required parking spaces. One additional area shall be provided for every additional twenty thousand (20,000) square feet of gross floor area in the building. Unless otherwise authorized by the Planning Board under Site Plan Review, loading and unloading areas shall be located in the rear of the building.

9.3.4 Location Requirements

9.3.4.1 Parking and loading areas and garages shall be provided on the same lot as the use they are required to serve, except as provided in Section 9.3.7.1.

9.3.4.2 No parking area/space shall be used for disposal containers (dumpsters). An additional area, outside, but adjacent to the parking area shall be required for each disposal container.

9.3.5 Design Requirements

9.3.5.1 A parking area or loading area shall be designed to provide for adequate backing and turning movements for the type of vehicle being maneuvered and to eliminate the need to back a vehicle out onto any public or private street or way, except that single-family residences and single-family residences with accessory apartments which front on other than a State maintained and/or designated roadway, may provide for backing out of vehicles.

9.3.5.2 Area and access driveways thereto shall be graded and drained so as to dispose of on-site all surface water accumulation on the site.

9.3.5.3 A substantial bumper of masonry, steel or heavy timber or a concrete curb or berm or curb, which is backfilled, shall be placed at the edge of paved parking

areas, except driveways, in order to protect abutting structures, properties and sidewalks.

9.3.5.4 Any fixture used to illuminate a parking area shall be so arranged as to direct light away from the street and away from adjoining properties used for residential purposes.

9.3.5.5 There shall be no commercial repair of motor vehicles within the required parking or loading area.

9.3.5.6 There shall not be any storage of materials or equipment or display of merchandise within the required parking or loading area. In addition, there shall be no placement of outdoor seating within the required parking or loading area.

9.3.5.7 For any multi-family, commercial or industrial parcel of land, there shall be no more than two driveways per roadway frontage.

9.3.5.8 Any entrance or exit driveway shall not exceed twenty four (24) feet in width at its intersection with the front lot line, except that in any commercial or industrial zone, any entrance or exit driveway shall not exceed thirty (30) feet in width when measured in the aforesaid manner. Notwithstanding the foregoing, in any case where state regulations or requirements mandate a different driveway width or location, the provision of said regulations or requirements shall govern and supercede this provision. The radius of the access drive at the road shall be twenty-five (25) feet. The radius of any access road shall not extend beyond the property line of the property which it serves. The minimum distance between the sidelines of such drives and the sidelines of any intersection street and any other street access drive, measured between where such street and driveway sidelines intersect the adjacent street line shall be as follows:

TYPES OF DRIVE	FROM INTERSECTING STREETS	FROM OTHER DRIVES	FROM SIDE LOT LINE
Drives serving a dwelling	50	20	--
Drives serving a hotel or motel	50	50	--
Drives serving other permitted principal structures/uses in a:			
Residential District	50	50	10
Commercial District	50	50	10
Industrial District	50	50	10

9.3.5.9 No parking spaces shall be established in the right-of-way of any road or way except that the Town of Harwich may establish on-street parking spaces in accordance with the applicable provisions of State Law.

9.3.5.10 Parking and loading areas shall be graded, surfaced with a non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust or erosion. The parking lot shall be designed such that no surface water is allowed to flow onto streets or adjoining property. Access drives serving unpaved parking areas shall be constructed with a paved apron meeting the minimum construction requirements described below. Said apron shall extend

from the paved road edge to the street line. Paved or unpaved parking areas containing more than five (5) spaces shall conform to construction requirements as follows:

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the subbase plus two inches (2") of processed stone. Pavement - A minimum dept of asphalt composed of one and one-half inch (1½") binder course plus one inch (1") top course after rolling or compacting. For all parking areas of five (5) or more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the Rational Method, or equivalent, based on a twenty-five (25) year storm frequency.

Calculations shall be made by using topographic maps for the entire drainage area, including those areas outside the site plan area. Copies of all drainage calculations shall be submitted with the Site Plans. Percolation tests shall be required at all proposed drainage locations (leaching areas). Subsurface leaching systems shall be utilized meeting the current Planning Board Subdivision Rules and Regulations standards.

In addition, all paved parking areas containing more than 5 spaces shall utilize a system of absorbent pillows or similar device to absorb vehicle fluids in runoff. This system will be maintained twice a year, with written proof of maintenance provided to the Planning Board.

9.3.5.11 Parking areas for passenger vehicles shall typically be laid out to meet the following design criteria:

	ANGLE SPACE LENGTH (in feet)	SPACE LENGTH (Perpendicular to aisle)	AISLE WIDTH (in feet)	TOTAL WIDTH (in feet)
45°	9	17.5	15	50
60°	9	19	18	56
90°	9	20	24	64

The above chart is for parking areas with double-loaded aisles. For single loaded aisles, subtract the space length from the total width. Aisle width for 45° and 60° are for one way directional flow patterns.

The Board, at its discretion, may allow the use of a maximum 2-foot overhang strip as part of the space length. This strip shall be solely designated for the purpose of vehicular parking and shall not be part of any walkway, planting area or front or side yard indicated in 9.3.4.2.

9.3.5.12 Parking and loading zone setbacks for all uses except single family, two family and single family with accessory apartment shall be as follows:

Parking Setbacks¹

Zone	Street	Sideline	Rear
RR, RM, RL, RH-1, RH-2, and RH-3	20	10	10
CV, CH-1 and CH-2	20	10	10
IL	15	5	5
MRL and MRL-1	50	50	50

¹No parking area containing more than four (4) spaces or a loading area shall be located within a required front yard, except that those buildings utilizing the provisions of section X.G.11 (Village Commercial Overlay District) shall not locate any parking within the front yard.

For commercial structures, wheel stops for parking spaces perpendicular to or at an angle to a structure shall be located so as to provide a clear area of 3 feet between the end of a vehicle parked in the space and the nearest structure.

9.3.6 Landscape Requirements

Unless otherwise authorized by the Planning Board on special permit under the site plan provision of this By-law all parking areas containing over five (5) spaces, including automobile service and drive-in establishments, shall be either contained within structures, or subject to the following:

9.3.6.1 The parking area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any residential district or any lot used for residential purposes. The screening shall consist of a solid fence or wall not less than three (3) feet nor more than six (6) feet in height or a planting screen which shall be composed of shrubs which are planted in such a manner so as to effectively screen the parking area from view of the adjoining residential lot or lots. Such shrubs shall be evergreen varieties which are no less than three (3) feet in height upon planting. Either type of screening shall be at least two (2) feet from a non-street line and fifteen (15) feet from any street lot line, and all maintained in good condition. All planted materials shall be maintained in such a manner so as not to create an obstruction to motorists' vision of traffic and pedestrians.

9.3.6.2 Parking areas containing more than five (5) spaces shall include or be bordered within five (5) feet of the spaces by at least one (1) tree of three inch (3") caliper, measured six inches (6") off the ground for each five (5) spaces. Trees within parking area shall be in curb or berm protected plots of at least ninety (90) square feet per tree. No such protective plot shall be paved with any impervious material.

9.3.6.3 At least 10 (10%) percent of the interior area of any parking area containing twenty (20) or more parking spaces shall consist of landscaped islands which shall be composed of shrubs and trees and other landscaping materials. The interior area of a parking area shall be derived by computing the area within the general perimeter of contiguous area containing parking spaces, maneuvering areas behind the spaces and landscaping areas within such perimeter, except that required parking setback areas and required buffers shall not be included in the interior area computation.

9.3.7 Special Cases

9.3.7.1 Parking space may be provided on lots separate from a non-residential use they are to serve, and be credited to such use in meeting the requirements of this By-Law, provided they are legally available, are not designated as off-site parking for another use, and are within three hundred (300) feet of the principal structure, measured within street rights of way. Proof of legal availability shall be required and failure to retain the availability of such parking spaces for the need they are

required to serve shall be sufficient cause to deny or revoke a Use Permit until such spaces are restored or replaced. When such parking spaces are part of town-owned and town-operated parking lots, the Planning Board shall determine availability based on Town need and the applicant shall not be required to furnish proof of such availability.

9.3.7.2 The number of parking spaces required for a multiple dwelling may, by Special Permit, be reduced to not less than one (1) per family for the duration of any special occupancy upon Planning Board determination that sufficient area is available and will be retained to provide such otherwise required spaces.

9.3.7.3 No structure subject to site plan approval may be elevated to allow parking in the structure or open parking beneath the structure unless for each parking space so provided the site coverage is reduced by a minimum of three hundred twenty-five (325) square feet.

9.3.7.4 In certain cases the Planning Board may allow the applicant to delineate a number of parking spaces as a reserve area that is available to be constructed in the future as specified by the Planning Board. It is the responsibility of the applicant to provide documentation showing that the proposed use of the property does not require the number of spaces listed under Section 3.1.3. Plans shall incorporate and detail all design aspects of the reserve parking area.

As it is the intent of this special delineation to preserve as much of the site's natural state as possible, the proposed reserve area shall be dedicated for parking only. In any case in which the Board permits an applicant to create a reserve parking area, in lieu of development of the required parking area, then the Board shall require, as a condition of approval, that the resulting site plan special permit shall be reviewed on a periodic basis in order to monitor the adequacy of the constructed parking and the need to construct all or a portion of the reserve area. After such review, if appropriate, the Board may require that all or a portion of the reserve area be actually constructed.

Section X

ADMINISTRATIVE OFFICIAL

A. BUILDING INSPECTOR

The Building Inspector is hereby appointed and authorized to administer and enforce the provisions of the By-law.

B. OTHER APPROVALS REQUIRED

Where authorization of a use of land or of a structure is required by a Board, a copy of such written authorization shall be sent by the Clerk of the Board to the Building Inspector within twenty two (22) days of a granting of the Approval by the Board and shall be received by the Building Inspector prior to issuance of a permit. In addition, the Building Inspector, in such case, shall not issue a permit until the applicant submits an affidavit from the Barnstable County Registrar of Deeds that the authorization of the Board is recorded, if such recording is required by law. Where approval under the Subdivision Control law by the Planning Board is required and/or Conservation Commission and the State Department of Public Works, no permit shall be issued by the Building Inspector until these requirements also are met in writing and any other necessary permits or licenses are obtained. Within ten (10) days of the completion of all these actions, the Building Inspector shall act upon the application.

The rights authorized by a variance must be exercised within one (1) year of the date of grant of such variance or said rights shall lapse. Rights authorized by a special permit must be exercised within two (2) years of the date of grant thereof. Said time periods shall not include the period of time during which any appeal of a decision is being processed to final judgment in any court. Notwithstanding the foregoing provisions, any subsequent amendment of this Zoning By-law shall apply to construction or use authorized by a special permit, unless the construction or use is commenced within a period of not more than six (6) months after the issuance of the permit; exclusive of any time periods involved in appealing the grant of a permit through the courts, and in cases involving construction after a bona fide start, unless said construction is continued through to completion as continuously and expeditiously as is reasonable under the applicable circumstances.

C. VIOLATIONS

The Building Inspector shall serve, by certified mail, a notice of VIOLATION on any person responsible for any violation of this By-law, and such notice shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner, who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

D. VIOLATION PENALTY

1. Any person who, after receipt of the notice above provided continues in violation, or refuses to comply with any of the provisions of this By-law may be prosecuted in a criminal action brought by the Building Inspector on behalf of the Town and, upon conviction, be fined a sum of fifty (\$50.00) for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.
2. In addition to the enforcement procedures set forth in subparagraph 1 above, the Building Inspector may enforce the provisions of this By-law by the non-criminal complaint procedures as established by G.L. Chapter 40, Section 21D. The penalty for each offense shall be fifty (\$50.00) dollars as provided in subparagraph 1, and each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.
3. Nothing herein contained shall be construed so as to limit the Building Inspector from enforcing this By-law through an appropriate civil action seeking injunctive as well as other relief, commenced in a court of competent jurisdiction.

E. BOARD OF APPEALS

There is hereby created a Board of Appeals of five (5) members and five (5) associate members. Members in office at the effective date of this By-law shall continue in office. Hereafter, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act. The Board shall have those powers and duties granted under the Zoning Act, by this By-law and all other pertinent acts of the Commonwealth. The Board shall adopt rules to govern its proceedings pursuant to the Zoning Act. The Board of Appeals is hereby authorized to establish, from time to time, by regulation, the filing fee to be charged for filing a petition or appeal with the Board.

F. APPLICATION FOR APPEALS

All petitions, applications and appeals to the Board of Appeals shall be made in quadruplicate on forms provided by the Board of Appeals and shall be filed together with copies of all information previously submitted to the Building Inspector with or in the original application for a building permit, if any, and (4) copies of a site plan when a site plan is required under Section X, Paragraph K of this By-law. In addition, one (1) copy of the application, petition or appeal together with any accompanying material and four (4) copies of the site plan, if any, shall be submitted to the Planning Board at the time of submission to the Board of Appeals. The Planning Board shall render an advisory opinion on the application to the Board of Appeals and if no such advisory opinion is submitted by the Planning Board prior to the Board of Appeals hearing on the application, the Board of Appeals may act without such advisory opinion.

G. SPECIAL PERMITS

The Planning Board shall have authority to hear and decide applications for special permits for dwellings with accessory apartments, shared housing for the elderly, multi-family dwellings, cluster developments, hotel or motel uses, structures (except those dedicated to single-family, religious or educational uses) having a gross floor area of more than 7500 square feet or requiring 20 or more new parking spaces, site plans pursuant to paragraph K hereof, all uses requiring a special permit in Drinking Water Resources Protection districts, personal wireless service facilities, and adult entertainment. The Board of Appeals shall have authority to hear and decide all other applications for special permits. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the Board of Appeals or the Planning Board, a copy of which shall forthwith be given to the Clerk by the applicant and all notices and other requirements provided by the Zoning Act shall govern said hearing.

1. The Board of Appeals or Planning Board shall not approve any application for a special permit except a special permit for a site plan, unless it finds that in its judgment all of the following conditions are met:
 - a. The use as developed will not adversely affect the neighborhood.
 - b. The specific site is an appropriate location for such a use, structure or condition.
 - c. There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. This includes the provisions of appropriate sewage treatment facilities which provide for denitrification, when the permit granting authority deems such facilities necessary for protection of drinking water supply wells, ponds or salt water embayments.

The permit granting authority may require the applicant to submit professionally prepared documentation of the environmental, traffic or other impacts of a particular project or project element in order to determine compliance with these general conditions.

- 1.A In approving a special permit except a special permit for a site plan, the Board of Appeals or Planning Board may attach such conditions and safeguards as are deemed necessary to protect the public and the neighborhood, such as but not limited to the following:
 - a. Modification of the exterior features or appearances of the structure or structures.
 - b. Limitation of size, number of occupants, method or time of operation, or extent of facilities.

- c. Regulation of number, design, and location of access drives or other traffic features.
 - d. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable By-laws.
 - e. Limitation of the total projected volume of sewage or nitrate discharge from the project based on standard sewage flow projection or nitrate loading calculations to be provided by the applicant when required by the permit granting authority. Such calculations must be reviewed and approved by the Harwich Town Engineer, prior to their acceptance as facts by the permit granting authority.
2. Notwithstanding the provisions of paragraph 1 above, the conditions set forth therein shall not apply to applications for special permits in the Drinking Water Resource Protection Districts unless a special permit is required for the intended use in the underlying zoning district. In granting a special permit for a use requiring such permit in the Drinking Water Resource Protection District, the Planning Board shall make the following findings:
- a. adequate provision has been made to safely and adequately store, handle and dispose of all toxic or hazardous materials, as well as to protect said materials from vandalism, corrosion, leakage and spills.
 - b. Any proposed wastewater treatment or disposal system must be submitted for approval by responsible state and local health agencies as a condition precedent to construction.
 - c. All anticipated run-off from impervious surfaces will, whenever possible, be diverted to areas covered with vegetation.
 - d. In cases where part of a site is located outside the Drinking Water Resource Protection District, maximum possible use of the area outside the district will be made for disposal of toxic or hazardous materials and sewage.
 - e. All systems designed and intended to minimize or eliminate the threat of pollution to the groundwater resource are adequate in terms of design and proposed construction to provide reasonable protection against such pollution; and, in the event said systems should fail, corrective measures and procedures are available to warrant the conclusion that no unreasonable threat of pollution to groundwater resources will be created. In making this required finding, the special permit granting authority shall require submission by the Applicant of a written determination by the Board of Health of the Town of Harwich that all such systems called for or required are designed and intended to meet all applicable design and construction standards for such facilities and will limit to five (5) parts per million the total concentration of nitrate nitrogen discharged to the groundwater on the site.

To assist in making the required findings, the Board shall require by regulation, an hydrogeologic impact statement which addresses the specific issues herein set forth, and the Board shall, by regulation, establish a format for such hydrogeologic impact statement. Upon receipt of an application for a special permit under this section, the Building Inspector or the applicant at the direction of the Building Inspector, will provide to the Planning Board, Conservation Commission, Board of Health, Town Engineer, Water Department, and such other affected Town agencies as the Building Inspector shall determine, a complete copy of the application and accompanying documents for review and such comment and advice to the Board as the affected departments should deem appropriate.

3. The Planning Board, in acting upon an application for special permit to construct multi-family dwellings, hotels or motels, shall have the authority, pursuant to G.L. C40A, s9, to include in the grant of permission, authorization to increase the permissible density of population or intensity of a particular use in a proposed development, provided that the petitioner or applicant, shall, as a condition for the grant of authority to increase permissible density, provide certain open space or some or all of the amenities hereafter listed, but the Board shall not have the authority to increase the density of population or intensity of uses beyond the maximums hereafter specified.

<u>AMENITY</u>	<u>MAXIMUM DENSITY INCREASE</u>
1. Swimming Pool	8%
2. Tennis Courts	4%
3. Golf Course	16%
4. Community Building or Recreation Building	2%

For the purpose of insuring that an applicant or petitioner constructs the proposed amenities in accordance with the plans and specifications submitted to the Planning Board, the Planning Board shall require, as a condition to the granting of the permit, that the applicant or petitioner execute a covenant on such reasonable terms and conditions as the Planning Board may specify and wherein the petitioner or applicant shall agree to construct the amenities as proposed in accordance with a timetable approved by the Planning Board, and the Planning Board may require that the amenity or amenities, once constructed, shall be under the control or jurisdiction of a non-profit organization, the principal purpose of which is the maintenance and management of said amenities or that control of said amenities be conveyed to a corporation or trust owned or to be owned, by the owners of lots or residential units within the development. The covenant required hereunder shall be recorded at the Barnstable County Registry of Deeds before any work authorized by the special permit is begun and no lot, dwelling or multi-family dwelling unit shall be conveyed (except as provided in G.L. C41, s81U, Clause 2) until said covenant has been released in whole, or as it relates to the portion of the premises to be conveyed by duly executed instrument or release by the Planning Board.

4.0 Special Permits for Open Space Residential Development

Special permits for Open Space Residential Development may be granted upon a determination by the Planning Board that the plan is preferable to a conventional residential subdivision and that it conforms to the requirements of this section and other applicable provisions of this By-Law.

4.1 Rules and Regulations

The Planning Board shall adopt and may from time-to-time amend, rules and regulations consistent with the provisions of this By-Law and shall file same with the Town Clerk. Such rules and regulations shall address at the minimum, procedures and submission requirements for Open Space Residential Development applications.

4.2 Density/Number of Dwelling Units

The total number of dwelling units permitted in an Open Space Residential Development shall not exceed that which would be permitted under a conventional subdivision that complies with the Harwich Zoning By-Law and Planning Board Rules and Regulations Governing the Subdivision of Land and other applicable laws of the Town, County of Barnstable, or Commonwealth of Massachusetts, unless said total is increased in accordance with the provisions of Section 4.8 hereunder which sets forth opportunities for density increases.

The exact number of dwelling units shall be determined by the Planning Board following its review of a preliminary subdivision plan depicting compliance with the aforesaid laws. Such plan may be submitted prior to the formal submission of an application or together with all other materials submitted with a formal application for a special permit.

4.3 Criteria for Special Permit Decision

4.3.1 Findings. The Planning Board may approve a special permit for an Open Space Residential Development upon finding that it complies with the requirements of this By-Law and the rules and regulations adopted pursuant to section 4.1 above and that it is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources on the site. In making its finding on design, the Planning Board shall consider the following criteria:

- a. Open space as required by this By-Law has been provided and generally conforms to the design requirements in section 4.7 below.
- b. Approximate building sites have been identified and none are located closer than 100 feet to wetlands or water bodies.
- c. Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for most, if not all, of the home sites.

d. All lots meet the applicable dimensional requirements of section 4.4 below.

The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval, or denial of the application for special permit, and shall require a 2/3 vote for approval.

4.3.2 Conditions. The Planning Board may impose conditions in its decision as necessary to ensure compliance with the purposes of this By-Law. Approval of an Open Space Residential Development shall be conditioned upon definitive subdivision approval and shall be conditioned to provide that no further division of land which increases the number of lots or results in an alteration to the area to be set aside as open space may occur without a modification of the special permit. Any alteration of lot lines or layout of ways shall require modification of the special permit issued by the Planning Board and shall be in compliance with the governing provisions of this By-Law and the subdivision rules and regulations.

4.4 Standards and Dimensional Requirements

4.4.1 Minimum Lot Size

The minimum lot size shall be 12,000 square feet.

4.4.2 Minimum Frontage

The minimum frontage shall be 50 feet for lots fronting on any proposed roadway within the development. Lots which will utilize existing frontage shall have a minimum frontage of 100 feet. Lots may have a minimum of 25 feet of frontage on any roadway within the development where the building site is to be generally behind another building site relative to the same road frontage or at least 75 feet from the front lot line.

4.4.3 Lot shape

All building lots must be designed to contain within them a circle with a diameter of 50 feet with said circle being tangent to the front lot line, provided that in cases where the frontage will be less than 50 feet, the 50 foot circle must fit within the boundaries of the proposed building site on the same lot.

4.4.4 Setbacks

The Planning Board may reduce by up to one-half the setbacks listed in Table 2, AREA REGULATIONS, of this By-Law, if the Board finds that such reduction will result in better overall design, improved protection of natural and scenic resources, and will otherwise comply with this By-Law. Notwithstanding this provision or the requirements of the Zoning By-Law, every dwelling fronting on a

proposed roadway shall be set back a minimum of 15 feet from the roadway right-of-way, and a minimum of 50 feet from the outer perimeter of the entire Open Space Residential Development site. This 50 foot setback shall be maintained in a naturally vegetated state to screen and buffer the development and may be included within the open space. This 50 foot setback may be eliminated where the proposed development abuts existing protected open space.

4.5 Permissible Uses

4.5.1 Purposes.

Open space shall be used solely for noncommercial recreation, conservation, or commercial or noncommercial agriculture. Proposed use of the open space area(s) shall be specified in the application. The Planning Board shall have the authority to specify what uses will be allowed in the open space, what uses will occur in what areas of the open space, and how much of the open space shall remain undisturbed.

4.5.2 Recreation Areas

Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the subdivision.

4.5.3 Leaching Facilities

Subject to the approval of the Board of Health and as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or water bodies, and enhances the site design, consistent with these regulations. In permitting such use of the open space area, the Planning Board shall find, based on the report of the Board of Health, that the use of open space for sewage disposal system components shall not result in more building lots than achievable under a conventional subdivision. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be adequately maintained by the lot owners within the development.

4.5.4 Accessory Structures

Up to 10% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking and paved pathways. With this exception, no other impervious areas may be included within the open space.

4.6 Ownership of Open Space

4.6.1 Options

At the developer's option and subject to approval by the Planning Board, all areas to be protected as permanent open space shall be:

- a. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use. Land conveyed to the Town will be open for public use;
- b. Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in 4.6.2 below. Such organization shall be acceptable to the Board as a bona fide conservation organization; or
- c. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under conservation restriction. The documents which form said association are subject to approval by the Planning Board. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

4.6.2 Permanent Restriction

In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction approved by the Board of Selectmen and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure 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 roadways except as permitted by this bylaw and approved by the Planning Board. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the Planning Board prior to endorsement of the plan and covenant for the project and recorded at the Registry of Deeds/Land Court prior to endorsement of the definitive subdivision plan. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices.

4.6.3 Encumbrances

All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances. Certification of said condition by a qualified title examiner shall be provided to the Planning Board at the time of conveyance.

4.6.4 Maintenance of Open Space

Removal of underbrush in designated open space shall be permitted only when a plan for such activity is approved by the Planning Board as part of approval of a special permit to create an Open Space Residential Development.

4.6.5 Monumentation

The Planning Board may require placement of surveyed bounds sufficient to identify the location of the open space.

4.7 Design Requirements

The location of open space provided through this bylaw shall be substantially consistent with the policies contained in the Local Comprehensive Plan and the Open Space and Recreation Plan of the Town (where available). The following design requirements shall apply to open space and lots provided through this bylaw:

- a. Open space shall be planned as large, wide, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100' wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas.
- b. Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized.
- c. Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by trails. Said trails shall be shown on the open space residential definitive plan.
- d. Where the proposed development abuts or includes a body of water or a wetland, these areas and the 100' buffer to such areas shall be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.
- e. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access

to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.

f. Open space shall be provided with adequate access, by a strip of land at least 20 feet wide and suitable for a footpath, from one or more streets in the development.

g. Development along existing scenic roads and creation of new driveway openings on existing roadways shall be minimized.

h. Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections should be provided where appropriate.

4.8 Optional Incentive Provisions

4.8.1 Reduction of Roadway Standards

The Planning Board may reduce applicable subdivision road construction standards (roadways width, centerline radii, curbing, cul-de-sac radius, drainage requirements, etc.) in exchange for the provision of greater than 50% open space within the Open Space Residential Development, where, in the opinion of the Planning Board, such reductions will result in enhanced overall site design and provide adequate and safe access for the development.

4.9.0 Enforcement

4.9.1 The Building Inspector shall enforce the provisions of this section.

5. The Planning Board, in granting a Special Permit for Cluster Development, shall have the authority, pursuant to General Laws, Chapter 40A, Sections 2 and 9, to require open space be conveyed to the Town or a non-profit organization, the principal purpose of which is the conservation of open space, or a corporation or trust owned or to be owned by the owners of lots or residential units development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots or residential units. In any case, where the open space is not conveyed to the Town, a restriction enforceable by the Town shall be recorded, providing that such land be kept in an open or natural state, not to be built upon or developed for accessory uses such as parking or roadways.
6. In a Cluster Development, the total number of dwelling units shall not exceed the number of units which could be developed under a conventional grid-type subdivision.
 - a. The maximum number of dwellings per development shall equal the applicable land area, divided by the minimum lot area requirements for a conventional grid-type subdivision in that district or districts.

- b. Applicable land area shall be determined by a registered land surveyor and equal the total area encompassed by the development plan, minus all marsh or wetland, and minus land for road construction or land otherwise prohibited from development by local By-law or other regulations.
 - c. When the Cluster Development includes more than one (1) ownership and/or lies in more than one (1) district, the number of units allowed shall be calculated as above for each zoning district and summed to give an overall total, which may be located on the plan without respect to allowable subtotals by district or ownership.
7. Special permits for dwellings with an accessory apartment and shared housing for elderly may be granted upon determination by the Planning Board that the following additional criteria have been met:
- a. the dwelling shall be so designed as to have the appearance of a single-family dwelling with one (1) entrance. An entrance leading to a foyer with entrances leading to the dwelling units will be acceptable. All other entrances must be on the side or rear of the dwelling.
 - b. The proposed use will not create traffic hazards or volume greater than the capacity of the streets affected.
 - c. The proposed use is not in violation of any private deed restrictions applicable to the subject locus.
 - d. An applicant for an accessory apartment in the Water Resource (WR) Zoning District shall submit proof of recording of a covenant, enforceable by the Town, which states that the lot containing the dwelling with an accessory apartment will not be reduced to less than 60,000 square feet by any means, unless the kitchen facilities of the apartment are removed and the property has been returned to a single-family dwelling.
8. Granting of a special permit for a dwelling with an accessory apartment shall be conditioned upon the owner maintaining occupancy of one of the units or provided both units are owned by a not-for-profit housing entity. Proof of ownership by the not-for-profit housing entity shall be provided at the time of application. For owner occupied units, prior to the issuance of the special permit, a certificate in the form of a notarized affidavit to verify that the owner is or will be in residence in one of the units, shall submit every two (2) years such notarized affidavit or proof of ownership for not-for-profit agencies, to the Building Inspector by January 31. Failure to comply with these provisions or termination of occupancy by the owner, including not-for-profit ownership, will result in the special permit becoming null and void and within twelve (12) months thereafter one (1) kitchen unit shall be removed and the property returned to a single-family dwelling.

9. Granting of a special permit for a personal wireless service facility shall be pursuant to the requirements of SECTION XI-PERSONAL WIRELESS SERVICE FACILITIES, in addition to all other special permit requirements hereunder.
10. Granting of a special permit for an adult entertainment use shall be pursuant to the requirements of SECTION XII-ADULT ENTERTAINMENT, in addition to all other special permit requirements hereunder.

11. Village Commercial Overlay District

11.1 Purpose

The Village Commercial Overlay District enables the development and redevelopment of Harwich Port's village center to be in keeping with its historic development patterns, including the size and spacing of structures and additional open space. The redevelopment of existing structures will allow them to come into compliance with current plumbing, electric and building codes, as well as the latest fire and handicapped access regulations.

11.2 Scope

Within the Village Commercial District only property that has frontage on Route 28 (Main Street) Harwich Port, is permitted to utilize this section. Property located on the south side of Lower County Road between Ayer Lane and the intersection of Route 28 and Lower County Road is also permitted to utilize this section. A contiguous section of property is permitted for commercial uses and apartments, incidental to a commercial structure. All property owners, including the Town of Harwich, are required to locate the majority of these structures on the Route 28 facing portion of this property and to locate parking, septic and open space to the rear of this property. All single uses remain under the present Town of Harwich Zoning By-laws. All other property that does not have frontage on Route 28 in this overlay district is not affected by this section.

The dimensional requirements, including building set backs, maximum site coverage and heights of these structures are outlined in Section 11.5 of this document.

This By-Law is intended to be used in conjunction with other regulations of the town, including site plan review and other by-laws designed to encourage appropriate and consistent patterns of village development.

Applicants, with the approval of the Board of Health, and Water Quality Management Task Force are encouraged to utilize new and improved technologies for septic treatment and rainwater drainage purposes.

11.3 Location

The Village Commercial overlay District is shown on the following map: Village Commercial Overlay District, dated June 2001, prepared by the Town of Harwich Planning Department. Only contiguous sections of property, with frontage on Route 28 (Main Street) Harwich Port or Lower County Road in Harwich Port as described in Section 11.2 are included in this Overlay District. The Overlay

District is bounded on the north side of Route 28 by Freeman Street to the east and by the east side of Bank Street to the west to a depth of 200 feet; also by the west side of Bank Street to the east to the east side of South Street to the west to a depth of 200 feet; also by the west side of South Street to the east and Miles Street to the west to a depth of 200 feet. The Overlay District is bounded on the south of Route 28 by Bay View Road to the east, and by the intersection of Route 28 and Lower County Road to the west to a depth of 200 feet. In addition, the overlay district includes the south side of Route 28 bounded by Route 28, Lower County Road and the irregular line formed by the westernmost property line of Assessor's Map 13, Parcel W7-10.

11.4 Procedure

- a. The Planning Board shall serve as the Special Permit Granting Authority for developments within the Village Commercial Overlay District.
- b. Prior to the submission of an application for Special Permit under this by-law, the applicant may meet with the Planning Board at a public meeting for a pre-application conference to discuss the proposed development in general terms and establish the plan filing requirements. The Planning Board shall schedule a meeting for a pre-application conference following a written request from the applicant, inviting preliminary comments from the Board of Health, Conservation Commission, and any other interested officials or agencies. The purpose of this pre-application conference is to inform the Planning Board as to the nature of the proposed project. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the scale and overall concept of the proposed project and its relationship to abutting properties.
- c. Special Permit applications shall comply with and be subject to the requirements of Section X.K – Site Plan Approval.

11.5 Dimensional Requirements

- a. Lots shall have frontage along Route 28 (Main Street) to utilize the dimensional requirements of paragraph 11.5. Adjacent parcels may be included provided they are under the same ownership and are also located within the overlay district. Where possible lots should be combined by plan or deed prior to the issuance of the Special Permit.
- b. Setback requirements:
 1. Front setback requirements shall be determined at the time of site plan review based on existing development patterns and the elements of the proposed project.
 2. Side lot line setback shall be 10 feet.
 3. Rear lot line setback shall be 20 feet
- c. Parking shall be permitted at the side or rear of the property.
- d. Maximum site coverage shall not exceed 80%.
- e. The maximum permitted height for new constructions shall not exceed 30 feet or 2½ stories.

- f. Assessor's Map 13, Parcel W7-10 is included in this Overlay District with the provision that the western most property line, that abuts residential property, must comply with the minimum of 20 foot set back and open space, if the property is redeveloped.
 - g. The Board may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this By-Law and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.
12. Apartment(s) Incidental to Commercial
 Special permits for Apartment(s) Incidental to Commercial may be granted upon a determination by the Planning Board that the following additional criteria have been met:
- a. There shall be no less than 33% of the floor area of the building or building (s) dedicated to a Commercial use(s). A Commercial use(s) shall be located at the front of the building, facing the street and shall be located on the ground level.
 - b. For each apartment incidental to commercial, there shall be 10,000 square feet of lot area per unit. Applications for apartments incidental to commercial shall also comply with Board of Health regulations.
 - c. The parking shall comply with the requirements of Section IX, Off-Street Parking Regulations.
 - d. There shall be an outdoor landscaped public area provided as part of the landscaping requirement.
 - e. Special Permit applications shall comply with the requirements of Section X.K - Site Plan Approval.
 - f. Screening of parking shall comply with the provisions of Section IX.C.1.a.

13.* Two Family Dwelling

Special Permits for Two Family Dwellings may be granted upon a determination by the Planning Board that the following additional criteria have been met:

- a. The lot area shall contain a minimum of 40,000 square feet of contiguous upland in all applicable zoning districts, however in the Water Resource (WR) Zoning District the minimum lot area shall be 60,000 square feet of contiguous upland.
- b. The floor area for each dwelling unit shall be a minimum of 800 square feet.
- c. A common roof or a series of roofs shall connect the dwelling units.
- d. There shall be two (2) off street parking spaces per each unit.

(*Editorial Note: Due to a typographical error in the May 2002 ATM warrant this appeared as 1, while it should have appeared as 13. The necessary correction will be made at a subsequent Annual or Special Town Meeting.)

14. Harwich Center Overlay District

14.1 Purpose

The Harwich Center Overlay District enables the development and redevelopment of Harwich Center to be in keeping with its historic development patterns, including the size and spacing of structures and provision of open space. The redevelopment of existing structures will encourage them to come into compliance with current plumbing, electric and building codes, as well as the latest fire and handicapped access regulations. Agencies involved with historic preservation will be encouraged to make recommendations on proposed development or redevelopment.

14.2 Scope

Within the Harwich Center Overlay District, only property that is currently within the Commercial Village (CV) Zoning District in Harwich Center is permitted to utilize this section, with the following two exceptions. Property located on the southeast corner of the intersection of Sisson Road and Parallel Street, just east of Forest Street currently shown on Assessors Map 40 as Parcel Z5 and the parcel located at the southwest corner of the intersection of Bank Street and Parallel Street, currently shown on Assessors Map 41 as Parcel N4, are also permitted to utilize this section. All property owners, including the Town of Harwich, are required to locate the majority of structures on the street frontage portion of the property and to locate parking, septic and open space to the rear of the property.

The dimensional requirements, including building set backs, maximum site coverage and heights of these structures are outlined in Section 14.5 of this document.

This By-Law is intended to be used in conjunction with other regulations of the town, including site plan review and other by-laws designed to encourage appropriate and consistent patterns of village development.

Applicants, with the approval of the Board of Health, and other agencies as required are encouraged to utilize new and improved technologies for septic treatment and stormwater drainage purposes.

14.3 Location

The Harwich Center Overlay District is shown on the following map: Harwich Center Overlay District, October 2003, prepared by the Town of Harwich Planning Department. The Harwich Center Overlay District is bounded on the south by Parallel Street from Bank Street to Sisson Road, but including the parcel on the south side of Parallel Street at Bank Street (also shown on Harwich Assessors Map 41, as Parcel N4) and the parcel on the south side of Parallel Street at Sisson Road (also shown on Harwich Assessors Map 40, as Parcel Z5); the District is bounded on the west by Sisson Road, Route 39 (Main Street) and Route 124 (Pleasant Lake Avenue); the District is bounded on the north by Old Colony Way to the west boundary line of Parcel C4-B, on Assessors Map 41; the District

is bound on the east by the west boundary line of Parcel C4-B, on Assessors Map 41, and the east boundary line of the Town of Harwich owned land (Parcel C302 and C5, on Assessors Map 41) and Bank Street to the south east corner of Parcel N4 at Bank Street.

14.4 Procedure

- a. The Planning Board shall serve as the Special Permit Granting Authority for developments within the Harwich Center Overlay District.
- b. Prior to the submission of an application for Special Permit under this by-law, the applicant may meet with the Planning Board at a public meeting for a pre-application conference to discuss the proposed development in general terms and establish the plan filing requirements. The Planning Board shall schedule a meeting for a pre-application conference following a written request from the applicant, inviting preliminary comments from the Board of Health, Conservation Commission, and any other interested officials or agencies. The purpose of this pre-application conference is to inform the Planning Board as to the nature of the proposed project. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the scale and overall concept of the proposed project and its relationship to abutting properties.
- c. Special Permit applications shall comply with and be subject to the requirements of Section X.K – Site Plan Approval.

14.5 Dimensional Requirements

- a. Setback requirements:
 1. Front setback requirements shall be determined at the time of site plan review based on existing development patterns and the elements of the proposed project.
 2. Side lot line setback shall be 10 feet.
 3. Rear lot line setback shall be 10 feet
- b. Parking shall be permitted at the side or rear of the property.
- c. Maximum site coverage shall not exceed 80%.
- d. The maximum permitted height for new constructions shall not exceed 30 feet or 2½ stories.
- e. The Board may waive or modify these dimensional requirements if it finds that such waiver or modification will not substantially derogate from the purpose and intent of this By-Law and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.

14.6 Uses

Uses permitted by right or special permit for the under laying zoning district remain. However, the following additional use are allowable by Special Permit in the Harwich Center Overlay District, provided all other zoning requirements herein are met: Inn and Bed and Breakfast.

15. Certification of Dwelling Units

- A. An accessory apartment or any dwellings in existence on the effective date of this by-law that were not in compliance with existing zoning when constructed may be granted a special permit from the Board of Appeals to allow the use to continue provided that any units (either the main or accessory unit or a number of units equal to the number not permitted) is deed restricted to remain Affordable as defined by the Department of Housing and Community Development for a period of 20 years, and that the Board of Appeals finds that the issuance of the special permit will not be detrimental to the neighborhood. Prior to appearance before the Board of Appeals the dwelling in question must be inspected and found to comply with all building codes and Board of Health regulations.
- B. For the purpose of this section, any accessory apartment or dwelling being brought up to code within 60 days of the discovery of the violations will remain eligible for a special permit. Once the violations are corrected, if zoning violations are also present, an application for a special permit to the Board of Appeals is required, pursuant to X.G.9.A. above.

H. VARIANCES

The Board of appeals shall have the power to hear and decide the applications for variances from the provisions of the Protective By-laws, including the power to grant a variance authorizing a use or activity not otherwise permitted in the district in which the land or structure is located, except that no variance shall be granted to allow food sales with drive-up or drive-through facilities. Variances may be granted by the Board only after a Public Hearing and only after the Board has made the finding required by the Zoning Act.

I. OTHER REQUIREMENTS

The granting of any appeal by a permit granting authority shall not exempt the applicant from compliance with any applicable provisions of the zoning By-laws not specifically varied by the Board of Appeals.

J. NON CONFORMING STRUCTURES AND USES

1. **Non-Conforming Structures**

- A. A pre-existing non-conforming single or two family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:
 - i. The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located, and
 - ii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure

In addition, a pre-existing, non-conforming single or two family structure may be altered by right through the addition of a dormer or dormers if the Building Official determines that it meets the following criteria:

- ~~iii. The proposed dormer or dormers do not increase the pre-existing non-conformance of the existing structure, and (Note: language delete per the Attorney General's review – August 23, 2004)~~
- iv. The proposed dormer or dormers do not allow for any increase in the square footage of the single or two family dwelling, and
- v. The non-conformance concerns the size of the lot in question, and/or the frontage of said lot and/or an encroachment of the existing structure.

In making such determination, the Building Official, after identifying the particular respect or respects in which the structure or lot does not presently conform to the Zoning By-law, shall consider whether the proposed addition/extension meets the criteria stated above. If the Building Official determines that the addition/extension meets the criteria stated above, the Building Official may allow the addition/extension or rebuild by right.

B. If the Building Official determines that a proposed addition/extension to a non-conforming single or two family residential structure increases the non-conforming nature of the structure, the applicant may seek a new determination from the Board of Appeals. If the Board of Appeals determines that the alteration or extension will increase the non-conforming nature of the structure, no such alteration or extension may occur unless the Board of Appeals issues a special permit for alteration or extension after finding that the alterations or extension will not be substantially more detrimental to the neighborhood than the existing non-conformity. An addition/extension that increases the non-conforming nature of the structure would include:

- i. A structure built in the same footprint to an increased building height.
- ii. A structure built in the same footprint that does increase the habitable floor area.
- iii. A structure that continues along the same line as an existing encroachment without increasing that encroachment

C. A single or two-family residential structure is determined to be demolished and replaced if the area of the existing structure to be removed meets the definition of Demolition in this by-law.

D. A lawfully pre-existing non-conforming single or two-family residential structure may, by right, be demolished and replaced with a new structure on the same site, provided that:

- i. The proposed new construction will conform to current setbacks and coverage for the zoning district in which the lot is located, and

- ii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot

- E. A lawfully pre-existing non-conforming single or two-family residential structure, may, by Special Permit, be demolished and replaced with a new structure on the same site, provided that it is determined by the Board of Appeals that:
 - i. The replacement of the structure will not be substantially more detrimental to the neighborhood than the existing structure, and
 - ii. The replacement of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town, and
 - iii. The replacement structure will not increase any of the following existing non-conformances: building coverage, site coverage, setback encroachment, and
 - iv. The replacement structure will reduce at least one of the following existing non-conformances: building coverage, site coverage, setback encroachment, and
 - v. The replacement structure may not increase the habitable square footage of the structure by more than 25% over the habitable square footage of the existing structure over a ten (10) year period beginning on the date of the issuance of the special permit by the Board of Appeals.

- F. A proposal to demolish and replace a single or two-family residential structure which will increase the non-conforming nature of the structure will require a variance from the Board of Appeals pursuant to Chapter 40A Section 10 of the Massachusetts General laws.

- G. A pre-existing non-conforming structure other than a single or two family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:
 - i. The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located, and
 - ii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure

All other non-conforming structures shall require a variance from the Board of Appeals pursuant to Chapter 40A Section 10 of the Massachusetts General laws for any alteration/extension, or reconstruction.

2. Non-Conforming Uses

- A. Except for single and two family dwellings provided for in paragraph e of this section, a lawfully pre-existing structure, whether conforming or not, used for a lawfully non-conforming use, may, by Special Permit, be changed, altered, or razed

and replaced with a new structure on the same site, provided that it is determined by the Board of Appeals that:

- i. The replacement, alteration or change of the structure will not be substantially more detrimental to the neighborhood than the existing structure, and
- ii. The replacement, alteration or change of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town, and
- iii. The replacement, or altered or changed structure will be used for the same use or for a conforming use, and

B. In no case shall a non-conforming use be changed to another non-conforming use.

C. Notwithstanding the provisions hereof, non-conforming uses, actual use of which have been discontinued for a period of two (2) consecutive years shall be conclusively presumed to be abandoned and thereafter shall not be re-established, changed (except to a conforming use), or extended without a variance from the Board of Appeals.

K. Site Plan Approval

1. Purpose

The purpose of this section is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town of Harwich by providing detailed review of the design and layout of certain developments, which have a substantial impact upon the character of the Town and upon traffic, utilities and services therein.

2. Powers

The Planning Board is hereby designated the special permit granting authority for site plan approval regarding activities which are set forth in Section K.3.

3. Applicability

In addition to any special permit or variance required under the Table of Use Regulations, the following development activities shall require a site plan special permit from the Planning Board:

- A. Any floor area expansion of any structure or expansion of exterior space, other than parking, serving any of the following: a commercial, industrial, multi-family, or educational use, or personal wireless service facility; or the creation of a drive-up or drive-through window.
- B. Expansion or reconfiguration of an existing parking lot and/or driveway(s) serving said parking lot.
- C. Establishment of any new commercial, industrial, multi-family, educational, fast food/take out restaurant or personal wireless service facility.
- D. Establishment of any new retail use(s) in the Industrial (IL) Zone.

4. Required Submission

The submission of an application and plans for site plan approval shall conform to the Planning Board Rules and Regulations Governing Subdivision of Land and Site Plan Review, as amended.

The Planning Board shall consider all applications at a public hearing according to the procedure set forth in General Laws Chapter 40A.

5. Conditions of Approval

If the site plan meets the requirements of this By-law and the Planning Board Rules and Regulations Governing Subdivision of Land and Site Plan Review, as amended, the Planning Board shall approve it. Notwithstanding the foregoing, such approval may include reasonable conditions to insure that:

- A. Reasonable measures are implemented to provide for screening of parking areas or other parts of the premises, for adjoining premises or from the street, by walls fences, plantings or other devices.
- B. The convenience and safety of vehicular and pedestrian traffic are enhanced.
- C. Surface water from parking areas and driveways will be efficiently and safely disposed of by means of a proper drainage system as specified in the Board's approval.

However, the Board cannot deny approval of a site plan for a use which is allowed by right (not by special permit) in the district, but may impose reasonable conditions on the proposed use. The Board may not impose conditions on the grant of a special permit, implementation of which would be contrary to any requirement of this By-law or require a variance from it or any other applicable provision of law.

6. Waivers

When in the opinion of the Planning Board, the requirements of Section 3, applicability, do not substantially change the relationship of the structure to the site and to abutting properties and structures, the Planning Board may determine, without a public hearing, that submission of a site plan for special permit approval is not required. Upon application consistent with the Planning Board Rules and Regulations Governing Site Plan Review, such a determination may be made by an affirmative vote of a majority of the Planning Board present, and in no event less than four members, in a manner consistent with the Planning Board Rules and Regulations Governing Site Plan Review.

- L. (Reserved)

M. Conversion of any non-conforming motel, hotel, multi-family dwelling, two (2) family dwelling or two (2) or more buildings designated for human habitation of one lot, to a condominium form of ownership, co-operative form of ownership, time-sharing or similar usage, if such conversion changes, extends, or alters the existing usage, shall require a permit from the Board of Appeals to change or extend such non-conforming use in accordance with Section X, Paragraph J of the Harwich Zoning By-law.

Section XI

Personal Wireless Service Facilities

1.0 Purpose and Intent

It is the express purpose of this by-law to minimize the visual and environmental impacts of personal wireless service facilities. The by-law enables and requires the review and approval of all new and expanded personal wireless service facilities by the Planning Board in keeping with the Town's existing by-laws and historic development patterns, including the size and spacing of structures and open spaces. This by-law is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review, and other local by-laws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the Town of Harwich.

The regulation of personal wireless service facilities is consistent with the Town's planning efforts through its local comprehensive plan to further the conservation and preservation of developed, natural, and undeveloped areas, wild life, flora, and habitats for endangered species; the preservation of coastal resources; protection of the natural resources of the Town; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

1.1 Definitions

The following terms shall have the respective meanings within the context of regulation of personal wireless service facilities under this by-law.

1.1.1 Above ground level (AGL) – a measurement of height from the natural grade of a site to the highest point of a structure.

1.1.2 Antenna – the surface from which wireless radio signals are sent and received by a personal wireless service facility.

1.1.3 Camouflaged – a personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered “camouflaged”.

1.1.4 Carrier – a company that provides wireless services.

- 1.1.5 Co-location – the use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- 1.1.6 Cross-polarized (or dual-polarized) antenna – a low mount that has three panels flush mounted or attached very close to the shaft.
- 1.1.7 Elevation – the measurement of height above sea level.
- 1.1.8 Environmental Assessment (EA) – an EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when 1.1.10 Fall zone – the area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 1.1.11 Functionally equivalent services – cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio, and paging.
- 1.1.12 Guyed tower – a monopole or lattice tower that is anchored to the ground or other surface by diagonal cables.
- 1.1.13 Lattice Tower – a type of mount that is self-supporting with multiple legs and cross bracing of structural steel.
- 1.1.14 Licensed Carrier – a company authorized by the FCC to construct and operate a commercial mobile radio services system.
- 1.1.15 Monopole – the type of mount that is self-supporting with a single shaft of wood, steel or concrete and one or more platforms (or racks) for panel antennas.
- 1.1.16 Mount – the structure or surface upon which antennas are mounted, including the following four types of mounts:
1. Roof-mounted – mounted on the roof of a building.
 2. Side-mounted – mounted on the side of a building.
 3. Ground-mounted – mounted on the ground.
 4. Structure-mounted – mounted on a structure other than a building.
- 1.1.17 Omnidirectional (whip) antenna – a thin rod that beams and receives a signal in all directions.
- 1.1.18 Panel antenna – a flat surface antenna usually developed in multiples.
- 1.1.19 Personal wireless service facility – facility for the provision of personal wireless services, including antennae, telecommunication equipment, communications towers, monopoles and/or other support structures, including existing and proposed structures having personal wireless service devices attached thereto as accessory uses, installed and operated for the purpose of providing personal wireless services.
- 1.1.20 Personal wireless services – the three types of services regulated by this by-law – commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services.
- 1.1.21 Radiofrequency (RF) engineer – an engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.
- 1.1.22 Radiofrequency radiation (RFR) – the emissions from personal wireless service facilities.
- 1.1.23 Security barrier – a lockable, secure wall, fence or berm that effectively discourages unauthorized entry or trespass.
- 1.1.24 Separation – the distance between one carrier’s array of antennas and another carrier’s array.

2.0 District Regulations.

2.1 Use Regulations. A personal wireless service facility, after Planning Board review and approval, shall require a building permit in all cases and may be permitted as provided in SECTION V, USE REGULATIONS and as follows:

2.1.1 A personal wireless service facility may locate on any existing guyed tower or lattice tower, monopole, electric utility transmission tower, fire tower or any other tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in section 2.3.3 below. Such installations shall not require a special permit but shall require site plan approval pursuant to Section X, paragraphs K and L of this by-law.

2.1.2 All new or expanded personal wireless service facility involving construction of one or more ground or building (roof or side) mounts, or expansion of an existing facility shall require a Site Plan review and approval as outlined in Section X.K., and the issuance of a special permit pursuant to SECTION V, Use Regulations, except that no special permit shall be required for such facilities when located on land owned by the Town of Harwich. Such facilities may be established by special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of paragraph 2.3 hereunder and SECTION VI, Area, Height and Bulk Regulations of this by-law and all of the special permit requirements set forth in paragraph 3 of this by-law.

2.2 Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:

2.2.1 If feasible, personal wireless service facilities shall be located on or within any existing or new structures, including but not limited to buildings, existing telecommunications facilities, utility poles and towers, any other towers, and related facilities, provided that such installation preserves the character and integrity of those structures. Special consideration will be given to new construction of internally concealed wireless facilities that are installed in a manner that preserves the character of the neighborhood and the integrity of the structure (example: within a flagpole). In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

2.2.2 If the applicant can demonstrate that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees. The applicant is also encouraged to consider using contained structures, including but not limited to

steeple and flagpoles, for the antennas and an underground vault to store necessary equipment and equipment cabinets.

2.2.3 The applicant shall submit documentation of the legal right to install the proposed facility mount at the time of the application for a building permit and/or special permit.

2.3 Dimensional Requirements. Personal wireless service facilities shall comply with the following requirements:

2.3.1 Height, General. Regardless of the type of mount, personal wireless service facilities shall be no higher than 45 feet above ground level (except as described in Section 2.3.4 Height, Personal Wireless Service Overlay District). Personal wireless service facilities may be established on a building that is legally nonconforming with respect to height, provided that the facilities do not exceed 45 feet above ground level.

2.3.2 Height, existing structures. New antennas for personal wireless services may be installed on or within any of the pre-existing structures listed below. Such pre-existing structures shall be exempt from the height restrictions of Section XI to the extent that the following conditions are met, provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility, and that their installation is incidental to the structure, and not the structures primary purpose. Such structures include guyed towers, lattice towers, fire towers, any other towers, and monopoles, chimneys and steeples.

2.3.3 Height, existing utility structures. New antennas located on any of the following existing structures shall be exempt from the height restrictions of this by-law, provided that there is no more than a 20 foot (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility and further provided that no such structure shall be permitted to exceed 150 feet in total height above ground level: electric transmission and distribution towers, telephone poles and similar utility structures. This exemption shall not apply to historic districts, within 150 feet of the right-of-way of any scenic roadway or in designated scenic viewsheds.

2.3.4 Height, Personal Wireless Service Overlay Districts. Personal wireless service facilities in Personal Wireless Service Overlay Districts may be built to a height of up to 150 feet above ground level, provided such structure and site are designed to accommodate a total of 4 licensed carriers. Said wireless facilities, which can only accommodate a total of three licensed carriers, shall not exceed 135 feet above ground level. Said wireless facilities, which can only accommodate a total of 2 licensed carriers, shall not exceed 120 feet above ground level. Said wireless facilities, which can only accommodate a single licensed carrier, shall not exceed 105 feet above ground level.

2.3.5 Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

2.3.5.1 In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road or habitable dwelling, business or institutional use, or public recreational area shall be determined and documented by an independent, certified engineering firm to determine the structural integrity and “fall zone” of the proposed structure for each contract agreement and/or renewal. These findings, including all signed and certified documentation will be submitted to the Town of Harwich Planning Board at the specified Site Plan Review Public Hearing for review and approval. This “fall zone” engineering certification and inspection process shall be at no cost to the Town of Harwich.

2.3.5.2 In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing, nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities, except as provided in paragraph 2.3.6 below.

2.3.6 In reviewing a special permit application for a personal wireless service facility, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

3.0 Special Permits for Personal Wireless Service Facilities.

All personal wireless service facilities shall comply with the performance standards set forth in this section.

3.1 Design Standards

3.1.1 Visibility/Camouflage: Personal wireless service facilities shall be camouflaged as follows:

3.1.1.1 Camouflage by Existing Buildings or Structures:

- a. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building’s silhouette.
- b. Personal wireless service facilities which are side-mounted, shall blend with the existing building’s architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

3.1.1.2 Camouflage by Vegetation:

If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer.

Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The special permit granting authority shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

3.1.1.3 Color:

- a. Personal wireless service facilities, which are side-mounted on buildings, shall be painted or constructed of materials to match the color of the building material directly behind them.
- b. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light grey or light blue hue, which blends with sky and clouds.

3.1.2 Equipment Shelters

Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

- a. Equipment shelters shall be located in underground vaults; or
- b. Equipment shelters shall be designed consistent with traditional Cape Cod architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or
- c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The special permit granting authority shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

3.1.3 Lighting, Signage, and Security

- a. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.
- b. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with SECTION VII, SIGN REGULATIONS, of this by-law.
- c. All ground-mounted personal wireless service facilities shall be surrounded by a security barrier.

3.1.4 Historic Buildings and Districts

- a. Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.

- c. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be so located so that they are not visible from public roads and viewing areas within the district.

3.2 Environmental Standards

3.2.1 Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

3.2.2 No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on-site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

3.2.3 Stormwater run-off shall be contained on-site.

3.2.4 Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at the property line.

3.2.5 Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

3.3 Safety Standards

3.3.1 Radiofrequency Radiation (RFR) Standards

All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines).

4.0 Procedures

The special permit granting authority shall adopt and may, from time-to-time amend rules and regulations governing the application and approval process for personal wireless service facilities. Special permits and site plan applications for personal wireless service facilities shall be governed by said rules and regulations and the special permit and site plan requirements of SECTION X.

5.0 Co-location

5.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a special permit for a personal

wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

1. A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
2. Contact with all the other licensed carriers for commercial mobile radio services operating in the County of Barnstable; and
3. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

5.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Planning Board. The Planning Board may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

5.3 If the applicant does intend to co-locate or to permit co-location, the Planning Board shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at maximum capacity.

5.4 If the special permit granting authority approves co-location for a personal wireless service facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit.

Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

6.0 Modifications

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a special permit when the following events apply:

- a. The applicant and/or co-applicant wants to alter the terms of the special permit by changing the personal wireless service facility in one or more of the following ways:
 1. Change in the number of facilities permitted on the site;
 2. Change in technology used for the personal wireless service facility.
- b. The applicant or co-applicant wants to add any equipment or additional height not specified in the original design filing.

7.0 Monitoring and Maintenance

7.1 After a personal wireless service facility is operational, the applicant shall submit to the Planning Board and Board of Health, within 90 days of beginning operations, and at annual intervals from the date of issuance of the special permit, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Standards section (3.3.1) of this by-law.

7.2 After a personal wireless service facility is operational, the applicant shall submit to the Planning Board and Board of Health, within 90 days of beginning operations, and at annual intervals from the date of issuance of the special permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be certified by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards of section 3.2.4 of this by-law.

7.3 The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

8.0 Abandonment or Discontinuation of Use

8.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice, a copy of which shall be sent to the Planning Board via regular U.S. Mail, shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, any personal wireless service facility allowed on special permit by this by-law shall be considered abandoned upon such discontinuation of operations.

8.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

9.0 Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this by-law may be reconstructed, altered, extended or replaced on the same

site by special permit from the Planning Board, provided that the Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the tower than the existing structure. In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

10.0 Term of Special Permit

A special permit issued for any personal wireless service facility over 45 feet in height shall be valid for fifteen (15) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new special permit shall be required.

11.0 Severability

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

Section XII

Elderly Affordable Housing District

1. Purpose

The purpose of this Section XII is to provide for elderly affordable housing. The Elderly Affordable Housing District is established as a special district which overlays an existing residential zoning district. The Elderly Affordable Housing District permits the development of elderly affordable housing units subject to the specific regulations and requirements contained in this Section XII, which regulations and requirements shall govern even where they are inconsistent with or less restrictive than the other requirements of the Zoning By-law. The regulations of this Section XII relating to use, building and lot dimensions, development intensity, parking, ingress and egress, and Site Plan Review shall only apply to an Elderly Affordable Housing Development and not to any other use that is allowed or permitted in the underlying zoning district.

2. Relationship to Underlying District

2.1 The Elderly Affordable Housing District shall overlay the underlying residential district so that any parcel of land in the Elderly Affordable Housing

District shall also lie in the residential zone in which it is otherwise classified by this Zoning By-law.

2.2 All reductions, requirements, and definitions contained in the Zoning By-law shall apply within the Elderly Affordable Housing District to the extent they are not inconsistent with the specific provisions of this Section XII. To the extent any such provisions are inconsistent, the provisions of this Section XII shall prevail.

3. Definition

3.1 Elderly Affordable Housing Development shall mean an affordable multi-family housing development whose occupants shall and must be 60 years of age or older. The term affordable shall mean dwelling units leased by a non-profit corporation or governmental entity, the rents for which do not exceed the guidelines for such rental housing established by the United States Department of Housing and Urban Development (HUD) or any successor agency or by any comparable agency of the Commonwealth of Massachusetts.

4. Permitted Uses

4.1 Elderly Affordable Housing Development

5. Dimensional and Bulk Requirements

An Elderly Affordable Housing Development shall comply with the following requirements:

Minimum Lot Area	-	8	acres
Minimum Lot Frontage	-	50	feet
Minimum Front Yard	-	50	feet
Minimum Side Yard	-	50	feet
Minimum Rear Yard	-	50	feet
Minimum Density	-	8	units per acre of contiguous upland
Maximum Building Height (feet)	-	40	feet
Maximum Permitted Height (stories)			-2 ½
Maximum Building Coverage of lot (Covered area as percentage of total lot area)			-15
Maximum Site Coverage as percentage total site area			-50
Minimum Residential Net Floor Area (sq. ft.)			None

6. Parking Standards

One space per dwelling unit.

Section XIII

Adult Entertainment

1. Authority

This By-law is enacted pursuant to M.G.L. Chapter 40A and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

2. Purpose

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

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 or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this By-law to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

3. Definitions

Adult Entertainment Uses Shall Include the Following Uses:

- (1) Adult Bookstore, as defined by G.L. c.40A, section 9A;
- (2) Adult Motion Picture Theater, as defined by G.L. c.40A, section 9A;
- (3) Adult Paraphernalia Store, as defined by G.L. c.40A, section 9A;
- (4) Adult Video Store, as defined by G.L. c.40A, section 9A;
- (5) Any establishment which displays live nudity for its patrons with the term "nudity" as defined by G.L. c.272, section 31.

4. Adult entertainment uses by special permit; criteria, conditions

Adult entertainment uses shall be prohibited in all zoning districts except as otherwise permitted in this By-law and may be permitted only upon the grant of a special permit by the Planning Board. Such special permit shall not be granted unless each of the following standards has been met.

- (1) The application for a special permit for an adult entertainment use shall provide the name, address, and telephone number of the legal owner and all principal investors of the establishment, the legal owner and all principal investors of the property, and the manager of the proposed establishment.
- (2) No adult entertainment use special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, section 63 or M.G.L. Chapter 272, section 28. The applicant shall be responsible for all related costs for record check processing.
- (3) Adult entertainment uses shall not be located within:
 - (a) 1000 feet from the nearest church, school, park, playground, play field, youth center, children's day care center, licensed home day care facility, library (public or private), recreation facility or area open to the public; or
 - (b) 1000 feet from the nearest establishment licensed under M.G.L. Chapter 138, section 12.

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

In addition, no structure which contains an adult entertainment use shall be closer than 100 feet to any primarily residential zoning district boundary.

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

(7) The proposed adult entertainment use shall comply with the off-street parking requirements set forth in this By-law.

(8) No adult entertainment use shall have any flashing lights or neon signs visible from outside the establishment.

(9) No adult entertainment use shall have a freestanding accessory sign or off-premise sign.

(10) No adult entertainment use shall be established prior to submission and approval of a site plan by the Planning Board, pursuant to SECTION X, paragraph K. The site plan shall, at the minimum, depict all existing and proposed buildings, parking spaces, driveways, service areas, and other open uses. The site plan shall show the distances between the proposed adult entertainment use and the boundary of the nearest primarily residential zoning district and the nearest property line of each of the uses set forth in subsection 4 (3) above.

(11) No adult entertainment establishment shall employ any person or persons who would be excluded as a permit holder under this By-law.

5. Conditions

The special permit granting authority may impose reasonable conditions, safeguards and limitations on the time or use of any special permit granted, and may require that any such special permit granted shall be personal to the applicant, shall not run with the land, and shall expire upon expiration of the applicant's lease or upon sale or transfer of the subject property.

6. Expiration

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

7. Variances

In no event shall any variances of the requirements pertaining to adult entertainment as defined and set forth in this By-law, be granted.

8. Severability

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

Section XIV

Residential Subdivision Growth Rate Limit By-law

1.0 Purpose and Intent

The purpose of Section XIV Residential Subdivision Growth Rate Limit By-law, is to ensure that the rate of development does not exceed the Town's ability to provide at least the current level of municipal services (e.g. schools, fire and police protection, an adequate supply and distribution of clean drinking water, roadways, solid waste disposal, etc.) and maintain at least the current ratio of protected open space area per year-round resident. The Town's 1993 Comprehensive Plan and 1999 Revised Comprehensive Plan Draft and supporting documents indicate the consequences of unchecked growth and recommends provision of adequate capital facilities and municipal services to meet the demands of current and future residents. These objectives are best accomplished by restraining the rate of residential growth to an annual level at which the Town can achieve its open space preservation goals and provide adequate municipal facilities and services within the constraints imposed by "Proposition 2 ½," so called. Environmental constraints require that open land be developed at a minimum density of one dwelling per acre. Careful evaluation of this rate of land consumption has indicated that the costs associated with population growth would prevent the Town from providing adequate facilities and services and/or work against the town's effort to protect sufficient open space and water supplies, due to increased competition for limited funding. In addition, this section is intended to further the legitimate Commonwealth and local interests in the provisions of fair share of housing that is affordable to persons of low and moderate income.

The intent of Section XIV Residential Subdivision Growth Rate Limit By-law to limit residential subdivision development within the Town of Harwich, to no more than fifty (50) building permits per year, as further defined herein. No person or persons, as defined in Section 5.0, may be granted more than ten (10%) percent of this total, as described herein.

2.0 Definitions

- 2.1 Residential Subdivision-As described herein, shall be defined as property subdivided and governed by the Subdivision Control Law.
- 2.2 Residential Subdivision Building Permit-Building permit granted to property/lots created by means subdivision plans approved subsequent to the adoption of this By-law, as defined in Section 2.1 above.

3.0 Applicability

This By-law shall limit the issuance of residential subdivision building permits for subdivision lots created after approval of this by-law and issued pursuant to an approved subdivision as defined in the Rules and Regulations Governing the Subdivision of Land and Site Plans of the Town of Harwich, Massachusetts adopted January 21, 1997, except division of land not creating new road frontage.

4.0 Issuance of Residential Subdivision Building Permits

The Building Department shall issue no more than fifty (50) residential subdivision building permits per year for lots governed by this By-law. As it is the intent of this By-law that an equitable number of permits be available to all applicants, permits shall be issued under this section as follows:

- 4.1 Residential subdivision building permits shall be issued on a first come first basis as further governed herein.
- 4.2 No more than Ten (10%) percent of the available residential subdivision building permits shall be issued in one (1) calendar month.
- 4.3 Applicants shall demonstrate, by means of a deed or other similar instrument, ownership of the property at the time of application and prior twelve (12) month period.
- 4.4 To ensure equitable distribution, all applicants for residential subdivision building permits under this section (whether an individual, a corporation or a realty trust) must, under penalty of perjury, divulge those holding a beneficial interest in excess of one (1%) percent. No permit shall be issued to any corporation or realty trust if any individual holder of beneficial interest in excess of one (1%) has been party to the issuance of five (5) residential subdivision building permits during the current calendar year, whether such interest was as an individual or as a holder of beneficial interest in excess of one (1%) percent in any corporation or realty trust.

5.0 Exemption

Low and moderate income housing constructed by a public agency, nonprofit organization, or limited dividend sponsor of affordable housing, as defined by Chapter 40B, provided such housing units have deed restrictions to ensure that they remain affordable for no less than the time period specified by the relevant subsidy program or statute, is hereby exempted from the provision of this By-law.

6.0 Severability

If any provision of this By-law is held invalid by a court of competent jurisdiction, the remainder of the By-law shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this By-law shall not affect the validity of the remainder of the Harwich Zoning By-law.

Section XV

Special Conditions

A. SPECIAL CONDITIONS

In addition to the general conditions set forth in Section X-G of this By-law, for all special permits the following special conditions shall apply to the excavation and removal of sand, gravel, quarry or other earth materials other than that which is incidental to and in connection with construction of a building on the same lot, and for processing and treating raw materials.

- a. No sand, gravel, quarry or other earth materials shall be removed below the four-foot elevation above maximum ground water elevation. These elevations shall be established from a test pit, and the levels related to a fixed benchmark on the property.
- b. Removal and processing operations shall not be conducted closer than one hundred (100) feet to a street closer than twenty five (25) feet from neighboring lot lines. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise reduction purposes.
- c. All equipment for sorting, washing, crushing, grading, drying, processing and treating, or other operation machinery shall not be used closer than one hundred (100) feet from any street or from any adjoining lot line.
- d. No more than one (1) entrance and one (1) exit shall be permitted to any excavation area.
- e. Any access to excavated areas or areas in the process of excavation will be adequately posted with KEEP OUT-DANGER signs.
- f. Adequate provisions shall be made for drainage during and after completion of operations. The land shall be left so that natural storm drainage leaves the property at the original points and so that the area of drainage to any one (1) point shall not be increased.
- g. Any temporary shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view. These structures shall be removed from the premises within thirty (30) days after they are no longer needed.
- h. No excavation shall be allowed closer than fifty (50) feet from a natural stream.
- i. In all zones, other than the Industrial Limited zone, operation hours shall be only between the hours of 7:00 AM and 8:00 PM weekdays, excluding Sundays and

- legal holidays and loaded trucks may leave prescribed premises only within such hours.
- j. During operations, when an excavation is located closer than two hundred (200) feet from a residential area public way and where the excavation will leave a depth of more than fifteen (15) feet with a slope in excess of 1.1, a fence of at least six (6) feet high shall be erected to limit access to this area.
 - k. Lateral support shall be maintained for all adjacent lots in order to prevent land-sliding and cave-ins.
 - l. A special permit, if issued, shall be issued for an initial three (3) year period. A renewal permit shall be necessary after a three (3) year period from the Board.
 - m. If, during the period of excavation of any area used for the removal of sand, gravel, quarry, or other earth materials, any portion thereof, amounting to more than thirty thousand (30,000) square feet, becomes unsuited for further use or is abandoned for removal operations, whichever comes first, shall be graded, replanted with grass, trees or shrubs or any permanent cover crop.
 - n. All sand and gravel pits presently operated as such are exempt from the requirement of obtaining a permit but must conform to all of the other conditions of this Section.
 - o. No topsoil (loam) or subsoil (hardening) shall be removed from any area of ground within the legal limits of the Town consisting of more than fifty thousand (50,000) square feet, other than that which is incidental to and in connection with the construction of a building on the same lot, unless that person removing such topsoil or subsoil shall replant the entire area with rye, vetch, wheat, legumes or any permanent cover crop or reforest the area.

Section XVI

Amendment and Validity

A. VALIDITY

The invalidity, unconstitutionality, or illegality of any provision of this By-law or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality, or legality of any other provisions or boundary.

B. AMENDMENT IN WHOLE

The Protective By-law originally adopted in 1951, and amended from time to time, is hereby amended in whole and replaced in whole by this By-law.

C. AMENDMENT, ADOPTION OR CHANGE

Amendment, adoption or change of this By-law may be initiated by the submission to the Board of Selectmen of a proposed zoning ordinance or By-law by the Board of Selectmen, a Board of Appeals, by an individual owning land to be affected by change or adoption, by request of registered voters pursuant to Section 10, of chapter 39, by a Planning Board or by a Regional Planning Agency, the Board of Selectmen shall, within fourteen (14) days of receipt of such zoning ordinance or By-law, submit it to the Planning Board.

Section XVII

Six Ponds Special District

1.0 PURPOSE

The purpose of the Six Ponds Special District is to establish zoning regulations that accomplish the following:

1. Enhance protection of water quality within existing and potential future zones of contribution to water supply wells;
2. Enhance protection of water quality within the Herring River watershed and the Pleasant Bay coastal embayments;
3. Evaluate and protect future well areas to serve future Town needs;
4. To protect the water quality of Aunt Edie's, Cornelius (Eldredge), Walker's, Oliver's, Black and Hawksnest Ponds;

5. Protect the District's key natural resources including rare plant and wildlife habitat, wetlands and coastal plain pondshores, unfragmented forest areas, fisheries, and wildlife corridors;
6. Maintain the scenic character of area roads and views of pondshores and woodlands;
7. Preserve cultural landscapes, archaeological sites, historic structures and traditional land uses within the District, including agriculture;
8. Restore areas of the District that have been significantly degraded by excavation, mining, or other activities;
9. Encourage the continued use of land within the District for open space and recreational purposes;
10. Foster land uses that are compatible with the resource protection goals of the District.

2.0 SIX PONDS SPECIAL DISTRICT BOUNDARIES.

The Six Ponds Special District encompasses approximately 1350 acres of land area and approximately 114 acres of pond surface area. The boundaries of the District are shown on a plan entitled "Six Ponds Special District" prepared by the Town of Harwich Planning Department, dated December 2000 and is hereby made a part of this by-law. The plan is on file in the Planning Department. The Six Ponds Special District shall be shown on the zoning map of the Town of Harwich.

2.1 Zoning Districts.

For the purpose of this by-law, the Six Ponds Special District is divided into the following zoning overlay districts:

Zone A: To permit moderate density along the major roadways of the Six Ponds District's perimeter, while minimizing impacts to its resources.

Zone A encompasses all land within the Six Ponds Special District 400 feet or less from one of the following roads: Route 124, Queen Anne Road, Route 39 and Route 137.

Zone B: To maintain the rural and scenic character of the District's interior and protect its resources.

Zone B encompasses all land more than 400 feet from one of the following roads: Route 124, Queen Anne Road, Route 39 and Route 137.

3.0 DEFINITIONS.

In addition to the definitions contained in the Town of Harwich Zoning By-law, Section II (Definitions) the following definitions shall apply to the provisions of this bylaw.

Agricultural use. Premises, including necessary structures and equipment, which are used for the keeping or raising of livestock or the raising of agricultural products including a stand for the sale of produce, 50% or more of which is raised on the premises upon which the farm stand is located. All such uses are to be defined as defined in MGL Chapter 40A, Section 3 and are subject to compliance

with MGL Chapter 128 and Chapter 131 Section 40 (as described in “Farming in Wetland Resource Areas, 1996).

Bed and Breakfast. An owner-occupied dwelling for the rooming and boarding of guests. Food or beverage shall only be served to those who rent a room(s) in such a dwelling. A Bed & Breakfast shall not be considered a Home Occupation.

Building Coverage. The coverage of an individual site by any building. For the purposes of this definition, a building is defined as any combination of materials, whether portable or fixed, having a roof or similar covering, to form a structure for the shelter of persons, animals or property.

Cleared Area. Any part of the area of a lot disturbed from its natural state.

Clearing. Removal or causing to be removed, through either direct or indirect actions, trees, shrubs 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, excavation, grading or trenching in the root area of a tree which has the potential to cause irreversible damage.

Earth Removal. The excavation and removal of sand, gravel, quarry or other earth materials other than that which is incidental to and in connection with construction of a building on the same lot.

Educational Use. A school owned and operated by a public, sectarian, denominational, or by a non-profit educational corporation. All such uses are to be defined as defined in MGL Chapter 40A, Section 3.

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

Flexible Cluster Development (FCD). A subdivision plan allowing for variations in development styles in order to minimize the impacts of development while preserving open space in perpetuity.

Grid Subdivision (GS). A subdivision consistent with MGL Chapter 41 Sections 81K-81GG and Town of Harwich Rules and Regulations.

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

Lot Coverage. See Site Coverage in Section II (Definitions) of this Zoning By-law.

Municipal Use. Use of land, buildings and structures by the Town of Harwich that would be compatible with the purpose of the district.

Religious Use. Use of land, buildings and structures by a religious sect or denomination. All such uses are to be defined as defined in MGL Chapter 40A, Section 3.

Special Permit Granting Authority. For the purposes of this section, the Planning Board is the Special Permit Granting Authority. The special permit granting authority of the Planning Board is outlined in Section XG of the Town of Harwich Zoning By-law.

4.0 PERMITTED USE.

Within Underlying Residential Districts:

Agricultural Uses
Home Occupation
Religious Use
Single Family Home

Within Underlying Commercial District:

Religious Use
Educational use
Municipal Use
Medical facility
Agricultural Use
Retail Stores
Professional Office

4.1 Conditional uses.

The following uses are conditionally allowed through a special permit to be granted by the Planning Board provided that the use does not conflict with the purpose of the district or more specifically endanger or unacceptably impact district resources as described in Section 1.0 (Purposes).

For the purpose of Section XVII (Six Ponds Special District), Section X (Administrative Official) G (Special Permits) inclusive shall apply to any special permit under Section XVII. As Special Permit Granting Authority, the Planning Board is authorized to waive submission requirements of Section X G if it deems a requirement to be duplicative or unnecessary.

Within the underlying residential district:

1. Single Family Dwelling with Accessory Apartment -- For existing lots lawfully laid out by plan or deed prior to the effective date of this section the minimum required lot size within the Six Ponds District shall be 60,000 square feet for any single family dwelling with accessory apartment. For all lots created after the effective date of this section, the minimum required lot size within the Six Ponds District shall be 100,000 square feet for any single family dwelling with accessory apartment.
2. Bed & Breakfast.
3. Flexible Cluster Development.
4. Swimming pools as an accessory to an allowed principal use
5. Grid Subdivision as described in MGL Chapter 41, Sections 81K-81GG.
6. Earth Removal/Sand and Gravel Mining – An Operation Permit is required pursuant to Section 10.0 of the Six Ponds Special District by-law. Operators of cranberry bogs, within the Six Ponds Special District using sand specifically in the operation of the bog are exempt from the requirements of Section 10.0. Excavation associated with the construction of a permitted structure is exempt from the requirements of Section 10.0.

Within the underlying commercial district:

1. Apartment(s) Incidental to Commercial

4.2 Prohibited Uses. Any uses not specifically allowed as of right or by special permit within this district are prohibited.

4.3 Pre-Existing Uses. Any lawfully existing use of a structure or land that does not conform to the provisions of this by-law may continue. Any change of such use shall be governed by the provisions of this by-law.

5.0 DIMENSIONAL REGULATIONS.

Lot size, lot width, set backs, coverage and height regulations shall be as set forth below:

Zone A: up to 400 feet from the following roads – Route 137, Route 39, Queen Anne Road, Route 124. Lots partially within Zone A must have at least 50% of their lot area within Zone A to utilize the Zone A dimensional requirements.

Minimum Lot Size	60,000 square feet
Minimum Lot Frontage	150 feet
Minimum front yard setbacks	50 feet
Minimum side and rear yard setback	25 feet
Maximum lot coverage %	30%
Maximum building coverage %	10%
Maximum building height	30 feet

Zone B: All other land within the district

Minimum Lot Size	100,000 square feet
Minimum Lot Frontage	200 feet
Minimum front yard setbacks	80 feet
Minimum side and rear yard setback	40 feet
Maximum lot coverage %	15%
Maximum building coverage %	10%
Maximum building height	30 feet

Lots in more than one district. Where the district boundary line between Zone A and Zone B divides a lot in existence at the time such line is adopted, each portion of the lot shall comply with the area requirements for the applicable zoning district.

5.1 Accessory uses to single-family dwelling.

A garage and/or a shed greater than 100 SF are accessory uses allowed as of right in the Six Ponds Special District and are subject to setback and coverage regulations as outlined in Section 5.0.

5.2 Pre-existing lots.

Existing lots lawfully laid out by plan or deed prior to the effective date of this section shall be considered lawfully pre-existing, non-conforming, provided the lot meets the provision of Section IV (Interpretation and Application), paragraph B (Application) of the Town of Harwich Zoning By-law.

5.3 Developed lots.

Structures on pre-existing, non-conforming lots may be added to or extended, and accessory structures exceeding 100 square feet constructed, on the provision that the addition, extension, or accessory structure exceeding 100 square feet meets the following criteria:

1. The addition, extension, or accessory structure exceeding 100 square feet is set back no less than 25 feet from any street and 20 feet from the side and rear lot lines, and
2. Maximum lot coverage does not exceed 25%.

6.0 CLEARING AND GRADING

No person may clear any portion of a lot for construction without first obtaining a foundation permit or a building permit from the Building Department. No person shall undertake land clearing/grading activities exceeding an area of 30,000 square feet without first obtaining a special permit from the Planning Board. While the clearing/grading of an area less than 30,000 square feet does not require a special permit, compliance with the measures contained in 6.2.1 through 6.2.8 is encouraged for all development within the district.

6.1 Application Requirements.

Unless determined otherwise by the Planning Board the following submittals are required at the time of application:

1. A plan must be accurately drawn to scale (not less than 1" = 40') on a sheet or sheets having dimensions of not less than 11" x 17". Multiple sheet site plan sets must be labeled using the format of "Sheet 1 of ____, Sheet 2 of ____, etc.". The plan must contain adequate drawings, symbols, and notations to indicate the following information:

1.1 Seal and signature of the contributing Registered Land Surveyor for any plan showing property line locations and seal and signature of the contributing Registered Civil Engineer for any plan proposing new or altered storm water drainage facilities. Information may be superimposed on a valid survey plan or a valid existing site plan, provided the following notation is included on the site plan: [This site plan was prepared by (name of preparer) using a (plan of land/site plan) entitled " _____, dated _____ and last revised on _____, Scale: _____, prepared by _____."]

1.2 Scaled site locus map (at a scale of 1"=500'), Assessor map(s) and parcel number(s), north arrow, graphic scale, title block, plan references, names of applicant(s) and record owner(s) and date of site plan preparation.

1.3 Total area of property containing the site of proposed development. Plans for redevelopment of a site shall show all land on the subject parcel and any other parcels relating to the subject use. Failure to show all property pertaining to the subject use(s) may result in incomplete notification to all parties in interest that may invalidate any approval obtained.

1.4 All existing and proposed contour lines at intervals of no more than two (2) feet.

1.5 All proposed structures and facilities, including all property line setbacks.

1.6 Existing and proposed surface water drainage facilities.

1.7 Location and extent of subsurface drainage and sewage disposal facilities.

1.8 Location of existing water lines, if any. The location of proposed water lines are to be determined pursuant to the requirements of the Board of Water Commissioners and shall be shown on the plan.

1.9 A zoning compliance table showing the required and proposed dimensions/quantities or lot size, frontage, setbacks (structures and parking), building coverage, site coverage, building height, and clearing and grading area.

1.10 Delineation of all bodies of water, including vernal pools, streams, ponds, and any wetlands as defined by M.G.L. Chapter 131, Section 40 located within 100 feet of any disturbance or alteration on the site. Delineation of the 100-year floodplain should also be provided.

1.11 Plan 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.

6.2 Granting of a special permit by the Planning Board for clearing/grading shall be based on the applicant's ability to prepare and execute a plan that meets the review standard listed below. The applicant shall demonstrate that the following measures are employed in the development of the site:

6.2.1 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.

6.2.2 Clearing of vegetation and alteration of topography shall be limited to 30% of the site. Disturbed areas shall be revegetated with native plants.

6.2.3 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.

6.2.4 In the design of a development or siting of a structure, priority shall be given to retention of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites, and specimen trees.

6.2.5 Additional 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 areas already planned for permanent structures. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

6.2.6 Finished grades should be limited to no greater than a 4:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible.

6.2.7 The site shall be protected during construction through erosion and sedimentation controls, such as:

1. Temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes and other mechanical measures as are necessary should be provided to intercept and divert surface water runoff.
2. Erosion and sedimentation controls shall be constructed in accordance with the DEP Stormwater Guidance Manual.
3. 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 storm or construction activity shall be repaired immediately.
4. 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 ponds, streams, rivers or other surface water bodies. All basins shall be preceded by oil, grease and sediment traps. The mouths of all basins shall be fitted with filter fabric during the entire construction process to minimize siltation. Basin shall not be located within the 300-foot wetland buffer. Dry wells shall be used only where other methods are not feasible.

6.2.8 The site shall be revegetated immediately after grading.

1. Proper revegetation techniques shall be employed using native plant species, proper seedbed preparation, appropriate fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within 7 (seven) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.
2. A minimum of 4 inches of topsoil shall be placed on all disturbed surfaces that are proposed to be planted.
3. Finished grades shall be no higher than the trunk flare(s) of trees to be retained.

7.0 POND BUFFER REGULATIONS

7.1 Shoreline Location.

The pond shoreline location for the six ponds shall be measured from the extreme high water line of the ponds within the district.

7.2 Prohibitions.

The following are prohibited within 300 feet of the pond shoreline:

1. Septic Systems (Soil Absorption Systems) and leaching fields;
2. Direct discharge of stormwater from roads, rooftops, developed land areas and any other uses and/or activities;
3. Any disturbance or removal of natural vegetation, with the exception of a single path not more than 5 feet wide to provide access from a single point at the edge of the buffer zone to the pond shore. Appropriate erosion controls, such as terracing of the path, should be incorporated into any design. The layout of this path must be reviewed and approved by the Conservation Commission;
4. Use of pesticides will be in conformity with 333CMR 1.00 to 11.00 as authorized by the Commonwealth of Massachusetts Pesticide Board.
5. All other structures.

7.3 Nonconformity.

In cases where existing lots lawfully laid out by plan or deed prior to the effective date of this section are too small to accommodate soil absorption systems, structures and/or storm water runoff discharge outside the 300 foot buffer these structures shall be located at the maximum possible distance from the shoreline elevation of the pond. Additional provisions for protection of ponds such as advanced wastewater treatment and evaluation of nutrient loading capacity of adjacent pond are advised in this instance.

7.4 Existing Single Family Homes.

An existing single family home shall become pre-existing nonconforming if it, at the time of the adoption of this by-law, does not meet the requirements of Section 5.0. Any additions or alterations shall be consistent with the provisions of Section 7.2 for the express purpose of becoming as conforming as possible.

7.5 Existing Commercial Structures.

An existing commercial structure shall become pre-existing nonconforming if it, at the time of the adoption of this by-law, does not meet the requirements of Section 5.0. Any additions or alterations shall be consistent with the provisions of Section 7.2 for the express purpose of becoming as conforming as possible.

8.0 SCENIC ROAD CORRIDOR REGULATIONS.

The following regulations shall apply to both sides of the following roadways and roadway segments:

- | | |
|------------------------------------|------------------------------|
| Seth Whitefield Road (County Road) | Hall’s Path (Town Road) |
| Nathan Walker Road (Private Road) | Hawksnest Road (County Road) |
| Spruce Road (Town Road) | Round Cove Road (Town Road) |

8.1 New Structures.

The following criteria shall be met to preserve the character and enhance safe travel on the scenic roadways:

- a. New structures shall be setback at least 100 feet from the edge of pavement on any of the roadways or roadway segments described in Section 8.0.
- b. With the exception of a curb cut for a driveway, a minimum 100 foot buffer of natural vegetation, including overstory and understory vegetation, shall be maintained along the frontage of all lots fronting on the roadways and roadway segments described in Section 8.0.
- c. Where lot depth or the 300 foot pond buffer as required in Section 7.0 would prevent development of a lot, the Planning Board may grant a special permit allowing development if the following criteria are met:
 - 1. Dense plantings of evergreen vegetation combined with the construction of berms to screen new construction from the scenic road. Plant varieties shall be indigenous to the area and may include rhododendron, cedar, white pine, American holly, inkberry, spruce, fir and sheep laurel.
 - 2. New lawn area shall not be planted within the 100’ scenic road corridor.
 - 3. New subdivisions shall be designed to incorporate the 100’ scenic road corridor along subdivision roadways as part of the required open space.

8.2 Design Guidelines.

The following guidelines are recommended for new development and driveway construction on any of the roadways and roadway segments as described in Section 8.0:

- 1. The use of shared driveways is encouraged whenever two or more lots are being created by any division of land regulated by the Subdivision Control Law. A special permit from the Planning Board may reduce the frontage required by Section 5.0 to a minimum of 100’ for any lot that is subject to a permanent deed restriction requiring a shared driveway. The deed restriction language shall be submitted with the application for the division of the land and must be of a form and content acceptable to the Planning Board and Town Counsel. The deed restriction shall be recorded with the plan that divides the parcel. This provision shall only apply to the

frontage dimensional requirement; no other dimensional requirement shall be lessened through this provision.

2. Where shared driveways are not feasible, applicants are encouraged to design driveways and new subdivision roadways to obscure views of new development from the scenic roadway.
3. The use of board fencing stained to blend with the natural landscape or natural finish wooden fencing especially split rail fencing is encouraged when installing fencing along front lot lines.
4. Landowners and land developers are encouraged to use siding and roofing colors that blend with the natural landscape. Such colors include browns, grays, dark greens, and naturally stained building materials.
5. New structures shall be sited to minimize obstruction of existing views of the ponds from the scenic roadway.

9.0 FLEXIBLE CLUSTER DEVELOPMENT (FCD) AND GRID SUBDIVISION (GS).

This section is established to permit variation in development styles and minimize the impacts of development while preserving open space in perpetuity for the protection of natural resources, protecting the historical and archaeological resources of the district, and providing for the efficient layout of roads and utilities.

9.1 Application.

A Flexible Cluster development or Grid subdivision as defined in MGL Chapter 41, Sections 81K-81GG is permitted in the Six Ponds Special District by special permit from the Planning Board.

9.2 Permitted uses.

The following uses are permitted in a Flexible Cluster Development or Grid Subdivision:

1. Single Family Dwelling: Detached, single family dwellings are allowed and permitted accessory uses including a cluster unit and a duly permitted wastewater treatment facility.
2. Open Space: Common open space, restricted in perpetuity.

9.3 Density requirements.

The total number of residential units allowable within a flexible cluster residential development shall not exceed the number of units that would be allowed as demonstrated under a conventional grid subdivision according to the dimensional requirements of Section 5.0 and in conformance with the Town of Harwich Zoning By-law and the Town of Harwich Rules and Regulations Governing the Subdivision of Land and Site Plans, most recent edition, without bonuses, variances or waivers. The sharing of driveways is encouraged to reduce curb cuts.

9.4 Density Calculation.

The allowed number of dwelling units (density) in an FCD shall be calculated as follows:

1. For the purposes of calculating the number of dwelling units for an FCD, the applicant shall list which Map and Parcel numbers of land in their ownership they wish to develop.
2. Land that is the subject of a permanent conservation restriction or that has been dedicated as open space by any special permit or Development of Regional Impact decision shall not be used in the density calculation.

9.5 Dimensional requirements.

FCD lot coverage, yard, frontage and lot area regulations shall be as follows:

Minimum Lot Area	20,000 SF
Minimum Frontage	100 feet
Minimum Front Yard Setback	20 feet
Minimum Side and Rear Yard Setback	10 feet
Maximum Lot Coverage:	15%

9.6 Wastewater.

The FCD shall comply with the provisions of 310 CMR 15.00 of the State Environmental Code (Title V) and the onsite wastewater disposal regulations of the Board of Health.

9.7 Common Open Space.

Within an FCD all land area not utilized for lots, roads, and drainage shall be set aside as open space. Applicants are encouraged to include any areas of high natural resource value or historic resource value within this open space. Common open space shall be maintained in an open and natural condition, without clearing, in its natural condition for the protection of habitat. The open space shall be used, designed and maintained in accordance with the following standards:

1. Purposes: Open space shall be used solely for recreation, conservation or agricultural purposes by residents of the FCD and/or the public. The proposed use of the open space shall be specified in the application and depicted on the plan. The Planning Board shall reserve the authority to approve or disapprove use(s) proposed for designated open space.
2. Open space shall be planned as large, contiguous areas wherever possible. Long thin strips or narrow areas of open space (less than 100 feet wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space area.
3. Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archaeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel.
4. Where a proposed development abuts land held for conservation purposes, including the designated open space of a pre-approved Open Space Residential Development or Flexible Cluster Development, the

development shall be configured to minimize adverse impacts to abutting conservation land or designated open space of a pre-approved Open Space Residential Development or Flexible Cluster Development. Trail connections should be provided where appropriate.

9.8 Common Open Space Ownership and Management.

At the developer's option and subject to approval by the Planning Board, all areas to be protected as permanent open space shall be:

1. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for open space use. Land conveyed to the Town will be open for public use;
2. Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction. Such organization shall be acceptable to the Board as a bona fide conservation organization; or
3. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under conservation restriction. The documents which form said association are subject to approval by the Planning Board. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

9.9 Review Procedure.

9.91 Submission Requirements.

Any person who seeks approval of the Planning Board for a Flexible Cluster Development or Grid Subdivision shall file with the Board the following:

1. One (1) linen or reproducible copy and thirteen (13) positive prints of the Flexible Cluster or Grid Plan.
2. A properly executed Form 11.
3. One (1) linen or reproducible film copy and four (4) positive prints of all plans, profiles, and cross-sections, showing proposed design and location of streets, sidewalks, drainage, sanitary sewers (if any), and water supply (if any).

4. The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission of the Flexible Cluster or Grid Plan and accompanied by a copy of the completed application form (Form 11).
5. The applicant shall submit to the Harwich Board of Health one (1) copy of the Flexible Cluster or Grid Plan and any additional material needed by the Board of Health to determine which, if any, of the lots shown on the Flexible Cluster or Grid Plan can be used for building sites without injury to the public health.
6. The applicant shall submit two (2) positive prints of the Flexible Cluster or Grid plan prepared at a scale of 1 inch = 100 feet. The plan shall include the lot numbers and lot areas in acres. Distances and bearings need not be shown.
7. One (1) copy of drainage calculations including drainage curves and contour plan delineating contributing areas shall be submitted.
8. The applicant may be required to provide a natural resource inventory of the property in question at the request of the Planning Board.

In the case of an application to amend an existing Cluster Special Permit the procedures in Section X G 4.0 through Section X G 4.9.1, inclusive shall apply, except as to such materials as the Planning Board may waive as duplicative of materials previously submitted. Modification of any existing Flexible Cluster Development, Open Space Residential Development or Grid Subdivision within the Six Ponds District must comply with the requirements set forth in this section.

9.92 Flexible Cluster Development or Grid Subdivision criteria for approval.

Approval of a Flexible Cluster Development or Grid Subdivision can be granted upon a determination by the Planning Board that the plan complies with the requirements of Section 9.0 and that the Flexible Cluster Development or Grid Subdivision Plan meets or exceeds the following criteria:

1. Preserves open space for conservation, recreation and the protection of the resources within the Six Ponds Special District;
2. Utilizes, preserves and enhances the natural features of the land;
3. Provides the most efficient arrangement of streets, utilities and other public services;
4. Minimizes to the greatest extent possible the impacts of development upon the natural features and resources of the Six Ponds Special District.
5. Enhances the character of the Six Ponds Special District by preserving scenic vistas, limiting traffic impacts, and using building materials that blend with existing structures and the surrounding area.
6. Preserves, improves or enhances the surface water quality of the district.
7. Preserves existing unfragmented forest.

10.0 EARTH REMOVAL/SAND AND GRAVEL MINING

10.1 Purpose.

One of the purposes of these regulations is to control accelerated stormwater run-off, soil erosion and resulting sedimentation as a result of earth moving and sand and gravel mining activities. The primary purpose and most important goal of this zoning by-law is to protect groundwater, and enhance public safety in the Six Ponds Special District.

10.2 Scope.

Within the Six Ponds Special District, no person, firm or corporation shall undertake any mining of sand or gravel or excavation or filling of topsoil or subsoil material exceeding 500 cubic yards or exceeding a combined area of 10,000 square feet over a period of six (6) months without first obtaining an Operations Permit from the Planning Board pursuant to these regulations.

In cases where previously pre-existing lots were used for earth removal/sand and gravel mining and continued use is planned, accommodations must be made for soil absorption systems and/or storm water runoff discharge outside of the 300-foot wetland buffer. All of these Earth Removal/Sand and Gravel Mining or related operations shall be located at the maximum possible distance from the shoreline elevation of a pond. Additional provisions for protection of adjacent ponds are also advised in these instances.

Facilities for the dumping of construction debris or other solid waste, including wood waste reclamation facilities, are prohibited within the Six Ponds Special District.

10.3 Operations Permit.

Earth Removal shall be allowed only under an Operations Permit issued by the Planning Board. Any applicant must first file a written application for this purpose on Form 11 that includes the required information and materials. Permits to be issued for a period of not more than two years. An Operations Permit only covers earth removal and sand and gravel mining.

All applicants for Earth Removal operations permits are also subject to Site Plan Review by the Planning Board.

10.3.1 Required Elements for Application.

Ten sets of plans drawn to at least 1"=40' scale, prepared and stamped by a Registered Land Surveyor and Registered Engineer, containing the following information:

Pre-Excavation Plan

1. Existing property lines for the subject property, with names and addresses of all direct abutters.
2. Existing topography in the proposed area for earth removal and for 100 feet beyond the proposed area within the boundaries of the subject property.
3. Any existing wetlands
4. Estimates of the evaluation of historic high groundwater as determined from monitoring wells and historical water table fluctuation compiled by USGS

5. Grades below which excavation will not take place
6. Existing cover vegetation and trees
7. Proposed signage
8. Surface run-off plan
9. Commencement and estimated completion dates
10. Municipal Lien Certificate
11. Proof of Ownership of the property in question. If the applicant is not the owner of the property, the owner will provide a notarized statement that they are aware of and support the applicant's request.

Post-Excavation Plan

1. Proposed finish grades upon completion of removal and restoration activities.
2. Proposed cover vegetation and trees

10.3.2 Waivers.

The Planning Board may waive any of the above requirements. An applicant seeking a waiver from any of these requirements should include a written request for waivers with the application materials for the Operations Permit.

10.3.3 Review Considerations.

Before granting a permit, the Planning Board shall give due consideration to the location of the proposed earth removal, the general character of the surrounding neighborhood, the protection of water supply, and the general safety of the public on the public ways in the vicinity and in any publicly accessible areas adjacent to the earth removal operation, as well as those set forth in Section 1.0 (Purpose).

Where the subject property covers an area larger than 5 acres, the Operations Permit may be granted for a specific area, not to exceed 5 contiguous acres. Approval of additional areas shall be contingent upon the satisfactory completion and reclamation of each previous section. The Planning Board may allow the applicant to delay reclamation of a specified area to facilitate circulation on the site and for continuity of the earth moving operation. Work of any sort connected with earth moving shall not be performed on more than one phase area at a time, without prior approval of the Planning Board.

10.3.4 Public Hearing.

The Planning Board shall conduct a public hearing following the procedures set forth in Chapter 40A Section 9 (Special Permits).

10.4 Criteria for Approval.

Approval by the Planning Board will be contingent upon receipt of a removal and restoration plan by the applicant. Approval shall be based on the following criteria:

10.4.1 Removal Criteria.

1. Areas proposed for excavation shall be posted and/or secured to prevent trespassing. Security measures may include: signage, fencing, vegetated screening or other suitable measures.

2. Finish grade shall not lie below a level that would reasonably be considered a desirable grade for later development of the area, or below the grades specified on the plan accompanying the permit application. The Board may specify a base grade below which excavation shall not take place under any circumstances. No excavation shall take place within 10 feet of historic high ground water.
3. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying materials onto adjoining properties.
4. A minimum 200 foot buffer strip shall be maintained at all boundaries of earth removal/sand and gravel mining operations. Excavation may take place within the buffer strip, however, a slope of not greater than four feet horizontal to one-foot vertical shall be maintained.
5. All stumps shall be removed to a licensed Wood Waste Reclamation Facility.
6. A road map shall be provided indicating the routes to be used to transport the materials removed. The map will include any driveways to and from the subject property. Not more than one entrance or exit from a public or private way shall be provided to any area of operation. Access points shall be located in such a way so as to avoid routing of vehicles over developed residential streets if possible.
7. No excavation shall be allowed closer than three hundred (300) feet from a natural stream or pond.
8. No topsoil (loam) or subsoil (hardening) shall be removed from any area of ground within the legal limits of the Town consisting of more than fifty thousand (50,000) square feet, other than that which is incidental to and in connection with the construction of a building on the same lot, unless that person removing such topsoil or subsoil shall replant the entire area with rye, vetch, wheat, legumes or any permanent cover crop or reforest the area and stabilize the soil.
9. Operation hours shall be only between the hours of 8am and 7pm weekdays excluding Sundays and legal holidays and loaded trucks may leave the subject parcel only within these hours.
10. Earth removal/sand and gravel operations must comply with existing state and federal regulations governing the visibility, sound and airborne particulates from processing equipment and dust created through the operations of the pit.

10.4.2 Restoration.

Following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, the entire area shall be restored as follows:

- a. All land shall be graded so that no slope exceeds one-foot vertical rise in a four-foot horizontal distance and shall be graded to safely provide for drainage without erosion.
- b. The entire area shall be covered with not less than four inches of topsoil, which shall be planted with cover vegetation adequate to prevent soil erosion.

10.5 Additional Conditions.

The Planning Board must be notified of any transfer of ownership or legal interest or change in contractual interest in the subject premises within 10 days of such transfer or change. Failure to do so will be grounds for revocation of said permit.

10.6 Renewal or Review of Permit.

No Operations Permit shall be issued under the provisions of this Section for a period of more than two years. A permit may be renewed upon application without a public hearing at the discretion of the Planning Board. Prior to any renewal, an inspection of the premises shall be made by the Planning Board or its agent to determine if the provisions of this by-law and the Operations Permit have been and are being complied with.

The Planning Board may conduct a duly noticed public hearing at any time to determine whether any Operations Permit has been or is being violated and shall notify the Building Commissioner to request an inspection of the property and appropriate enforcement if necessary.

10.7 Expenses.

The Town shall require the permit holder to pay a permit fee based on the following: for up to 1 acre to be excavated -- \$200.00. For each additional acre -- \$100, to a maximum fee of \$600 for 5 acres.

10.8 Applicability.

Removal of earth material from a parcel for which removal was previously authorized under a special permit pursuant to Town of Harwich Zoning By-laws Section XV (Special Conditions) shall be permitted until the expiration date of said permit. From that expiration date, full compliance with the requirements of this by-law must be met.

In the case when no special permit was ever issued for the removal of earth materials under the prior zoning by-law, because said activity preceded the adoption of said zoning by-law, an owner and/or operator must file an application for an Operations Permit within 90 days of the effective date of this by-law as set forth in Section 3.0 (Operations Permit).

11.0 Severability.

If a court of competent jurisdiction holds any provision of this by-law invalid, the remainder of the by-law shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this by-law shall not affect the validity of the remainder of the by-law.

SECTION XVIII FLOODPLAIN REGULATIONS

1.0 PURPOSE

The purposes of the Flood Plain Regulations are to ensure public safety through reducing the threats to life and personal injury, to eliminate new hazards to emergency response officials, to prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding, to avoid the loss of utility services which if damaged by flood would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding, to eliminate costs associated with the response and cleanup of flooding conditions and to reduce damage to public and private property resulting from flooding waters.

2.0 FLOODPLAIN AREAS

The areas in which these regulations apply (Floodplain) are designated on the Town of Harwich Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) dated July 3, 1986 and July 12, 1992 as zones A, AE, AH, AO, A1-A30, A99, V, V1-30, which indicates the 100-year regulatory floodplain. 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 Flood Insurance study booklet dated July 3, 1986. The FIRM and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Department and Building Inspector.

3.0 USE REGULATIONS

3.1 Existing Regulations

All development in the Floodplain, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- A. Section of the State Building Code which address floodplain and coastal high hazard areas (currently 780 CMR 3107.0, "Flood Resistant Construction").
- B. Wetland Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
- C. Inland Wetlands Restriction, DEP (currently 302 CMR 6.00)
- D. Coastal Wetlands Restriction, DEP (currently 302 CMR 4.00)
- E. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5)
- F. Minimum Requirements for the Subsurface Disposal of Sewage Regulations
Town of Harwich
- G. Harwich Wetlands Protective Bylaw

Any variance from the provisions and requirements of the above-referenced state or local regulations may only be granted in accordance with the required variance procedures of these state or local regulations.

3.2 Other Use Regulations

- A. Within Zones AH and AO on the FIRM, adequate drainage paths are required around structures on slopes, to guide floodwaters around and away from proposed structures.
- B. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Harwich 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.
- C. Man-made alteration of sand dunes are prohibited within Zones V1-30, VE, and V which would increase potential flood damage.
- D. Located within the Floodplain are areas designated as coastal high hazard areas (Zones V1-30, VE, and V). Since these areas are extremely hazardous due to high-velocity waters from tidal surges and hurricane wave wash, the following provision shall apply: All new construction shall be located landward of the reach of mean high tide. Existing contour intervals of site and elevations of existing structures must be included on any plan proposal.
- E. Review all subdivision proposals to assure that: 1) such proposals minimize flood damage; 2) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; 3) adequate drainage is provided to reduce exposure to flood hazards; 4) each lot will be served by water and sanitary disposal systems certified by the Board of Health to be so designed as to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters in the event of flooding to base elevations.
- F. In unnumbered A zones, in the absence of Federal Insurance Administration data, the base flood elevations shall be determined by obtaining, reviewing and reasonably utilizing any existing base flood elevation data.

4.0 PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of material or equipment:

- A. Agricultural uses such as farming, grazing, horticulture, etc.
- B. Forestry and nursery uses
- C. Outdoor recreational uses, including fishing, boating, play areas, etc.
- D. Conservation of water, plants, wildlife
- E. Wildlife management areas, foot, bicycle, and/or horse paths
- F. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises
- G. Buildings lawfully existing prior to the adoption of these provisions

5.0 DEFINITIONS: the definitions contained herein pertain only to this section of the by-laws

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE A99, V1-30, VE, or V.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA means the area subject to high velocity waters, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means floodplain district.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of State and local regulations.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of October 6, 1976. For the purpose of determining insurance rates, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective of an initial FIRM or after December 31, 1974, whichever is later.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) is administered by the Federal Emergency Management Agency (FEMA)

ONE-HUNDRED-YEAR FLOOD - see **BASE FLOOD**

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on a FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

SECTION XIX
(reserved)

SECTION XX
REGULATIONS FOR
WIND ENERGY SYSTEMS

A. Residential Wind Energy Systems

1.0 Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of residential wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

2.0 Findings: Harwich finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind

systems also make the residential electricity supply market more competitive by promoting customer choice.

The Commonwealth of Massachusetts has enacted a number of laws and programs to encourage the use of small-scale renewable residential energy systems including rebates, net metering, property and sales tax exemptions, and solar easements. However, many existing zoning ordinances contain restrictions, which while not intended to discourage the installation of small wind turbines, that can substantially increase the time and costs required to obtain necessary construction permits.

Therefore, it is necessary to standardize and streamline the issuance of permits for small residential wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner.

3.0 Definitions

3.1 Residential Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW and which is intended to reduce on-site consumption of residential utility power for a single residential lot.

3.2 Rotor: The blades and hub of the wind turbine that rotate during turbine operations.

3.3 Tower Height: The height above existing grade of the fixed portion of the tower, excluding the wind turbine itself.

4.0 Special Permit Requirements: The Planning Board is hereby established as the special permit granting authority, in connection with the construction of Residential Wind Energy Systems (RWES) in the Town of Harwich. A special permit may be issued for the erection of a RWES, as an accessory use in any designated residential district or in connection with any residential use in a designated commercial district, provided that the following conditions are met:

4.1 Lot Size: RWES may not be placed on lots of less than 40,000 square feet.

4.2 Tower Placement: No part of the wind system, support structure, or the structure on which the rotor is located are to be located within a wetland area.

4.3 Tower Height: Tower height shall be limited to 150 feet from existing grade.

4.4 Set-back: No part of the wind system support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located. The structure on which the rotor is located must be set back at least 10 feet from any habitable structure on the lot on which it is located. The structure on which the rotor is located must be set back from habitable structures on abutting lots in place at the time of RWES installation a distance equal to the height of

the structure from ground level to the tip of the rotor blade. The structure on which the rotor is located must be set back from lot lines a distance equal to three-quarters of the height of the structure from ground level to the tip of the rotor blade. A setback from a lot line shall not be required when the abutting owner(s) grants an easement to the owner of the RWES. In a case where the applicant is also the owner of the abutting property, the setback shall be measured from the furthest lot line of the abutting property. Setback distances may be reduced with the permission of the abutting property owner(s) and the Planning Board.

4.5 Noise In no instance may the noise level at the lot line exceed 10 dB(A) over the ambient sound level. In a case where the applicant is also the owner of the abutting property, the distance shall be measured from the furthest lot line of the abutting property. In addition, any RWES is required to comply with the Town of Harwich General By-law Section 4-807 (Anti-Noise Regulations -- Penalty).

4.6 Prevention of Tower Access: Climbing access to the tower shall be limited by one of the following methods: by placing climbing apparatus no lower than ten feet from the ground, or by placing shielding over climbing apparatus or access, or by installation of a fence.

4.7 Compliance with State Building Code: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the State Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

4.8 Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

4.9 Compliance with Massachusetts Electric Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the Massachusetts Electrical Code. This information is frequently supplied by the manufacturer.

4.10 Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

4.11 Special Permit Approval Criteria: Any special permit granted shall meet the conditions of Section X.G.1 of the Zoning By-law.

5.0 Abandonment: A residential wind energy system (RWES) will be considered to be abandoned if it is not operated for a period of two years, or if it is designated a safety hazard by the building commissioner. Once an RWES is designated as abandoned, the owner shall be required to immediately physically remove the installation. “Physically remove” shall include, but not be limited to:

- a. Removal of RWES, any equipment shelters and security barriers from the subject property.
- b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c. Restoring the location of the RWES to its natural condition, except that any landscaping and grading shall remain in the after-condition.

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

B. Wind Energy Systems in the Industrial (IL) District

1.0 Definitions

1.1 Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 25 kW and which is intended to reduce on-site consumption of utility power for a single non-residential lot. A meteorological/test tower used to measure factors including wind speed and wind directions for the purpose of determining the appropriateness of a specific location for a wind energy system is also considered part of a wind energy system.

1.2 Rotor: The blades and hub of the wind turbine that rotate during turbine operations.

1.3 Tower Height: The height above existing grade of the fixed portion of the tower, excluding the wind turbine itself.

2.0 Special Permit Requirements: The Planning Board is hereby established as the special permit granting authority, in connection with the construction of Wind Energy Systems (WES) in the Industrial (IL) District in the Town of Harwich. A special permit may be issued for the erection of a WES, as an accessory use in any designated industrial district provided that the conditions outlined in 4.1 to 4.11 of this section are met.

C. Wind Energy Systems in Commercial Districts

1.0 Definitions

1.1 Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of

not more than 25 kW and which is intended to reduce on-site consumption of utility power for a single non-residential lot. A meteorological/test tower used to measure factors including wind speed and wind directions for the purpose of determining the appropriateness of a specific location for a wind energy system is also considered part of a wind energy system.

1.2 Rotor: The blades and hub of the wind turbine that rotate during turbine operations.

1.3 Tower Height: The height above existing grade of the fixed portion of the tower, excluding the wind turbine itself.

2.0 Special Permit Requirements: The Planning Board is hereby established as the special permit granting authority, in connection with the construction of Wind Energy Systems (WES) in Commercial Districts in the Town of Harwich. A special permit may be issued for the erection of a WES, as an accessory use in any designated commercial district provided that the conditions outlined in 4.1 to 4.11 of this section are met.

ZONING CHANGES PUBLISHED BY PLANNING BOARD IN CAPE COD STANDARD TIMES, SEPTEMBER 22 AND 29, 1972.

PUBLIC HEARING ON CHANGES HELD BY PLANNING BOARD ON OCTOBER 11, 1972.

BY-LAW VOTED AT SPECIAL TOWN MEETING, NOVEMBER 28, 1972.

APPROVED WITH AMENDMENTS BY THE ATTORNEY GENERAL, FEBRUARY 2, 1973.

PUBLISHED IN CAPE COD TIMES BY TOWN CLERK, FEBRUARY 26, 27 AND 28, 1973.

AMENDMENTS TO GENERAL BY-LAWS AND ZONING BY-LAWS, ADOPTED UNDER ARTICLES 10, 19, 56, 58, 5, 9 AND 15, VOTED AT TOWN MEETING HELD APRIL 6, 7, 12, 13 AND 14, AND SPECIAL TOWN MEETING HELD ON APRIL 8 AND 12, 1976.

APPROVED BY THE ATTORNEY GENERAL, JUNE 10, 1976.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLE 43, ANNUAL TOWN MEETING, APRIL 6, 1977.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 8 AND 9 OF SPECIAL TOWN MEETING WARRANT, APRIL 11, 1977.

APPROVED BY THE ATTORNEY GENERAL, JUNE 15, 1977

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLE 2, SPECIAL TOWN MEETING, JANUARY 10, 1978.

APPROVED BY THE ATTORNEY GENERAL, APRIL 3, 1978.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLE 87, ANNUAL TOWN MEETING, APRIL 10, 1978.

APPROVED BY THE ATTORNEY GENERAL, JULY 10, 1978.

AMENDMENTS TO ZONING BY-LAWS, ADOPTED UNDER ARTICLES 12,13 AND 14, SPECIAL TOWN MEETING APRIL 10, 1978.

APPROVED BY THE ATTORNEY GENERAL, JULY 10, 1978.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 5 AND 6 OF SPECIAL TOWN MEETING WARRANT, JANUARY 10, 1979.

APPROVED BY ATTORNEY GENERAL, MARCH 20, 1979.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLE 21,
ANNUAL TOWN MEETING APRIL 3 AND 5, 1979.

APPROVED BY THE ATTORNEY GENERAL, MAY 8, 1979.

AMENDMENTS TO GENERAL BY-LAWS, ADOPTED UNDER ARTICLE 4 OF
SPECIAL TOWN MEETING WARRANT, APRIL 4, 1979.

APPROVED BY THE ATTORNEY GENERAL, MAY 8, 1979.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLE 38 OF THE
ANNUAL TOWN MEETING HELD ON, APRIL 8, 1980.

APPROVED BY THE ATTORNEY GENERAL, JUNE 25, 1980.

AMENDMENTS TO GENERAL BY-LAWS, ADOPTED UNDER ARTICLES 18, 21
AND 58 OF THE ANNUAL TOWN MEETING HELD APRIL 7, 8, 9 AND 13, 1981.

APPROVED BY THE ATTORNEY GENERAL, JULY 27, 1981.

AMENDMENTS TO GENERAL BY-LAWS, ADOPTED UNDER ARTICLES 5 AND
8 OF THE SPECIAL TOWN MEETING HELD APRIL 8, 1981.

APPROVED BY THE ATTORNEY GENERAL, JULY 27, 1981.

AMENDMENTS TO GENERAL BY-LAWS, ADOPTED UNDER ARTICLES 16, 31
AND 79 OF THE 1982 ANNUAL TOWN MEETING.

AMENDMENTS TO GENERAL BY-LAWS, ADOPTED UNDER ARTICLE 16 OF
THE SPECIAL TOWN MEETING HELD APRIL 12, 1982.

APPROVED BY THE ATTORNEY GENERAL, JULY 26, 1982.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLE 44 OF
THE ANNUAL TOWN MEETING APRIL 4, 1983.

APPROVED BY THE ATTORNEY GENERAL, JUNE 1, 1983.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 43,45
AND 46 OF THE ANNUAL TOWN MEETING, APRIL 4, 1983.
APPROVED BY THE ATTORNEY GENERAL, JUNE 1, 1983.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 39 AND 40 OF THE ANNUAL TOWN MEETING, APRIL 2, 1984.

APPROVED BY THE ATTORNEY GENERAL, APRIL 19, 1985.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 51 AND 76 OF THE ANNUAL TOWN MEETING, APRIL 2, 1984.

APPROVED BY THE ATTORNEY GENERAL, JULY 31, 1984.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 16, 17, 18, 19, 20 AND 21 OF THE ANNUAL TOWN MEETING, APRIL 2 1984.

APPROVED BY THE ATTORNEY GENERAL JULY 31, 1984.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLE 12 OF THE SPECIAL TOWN MEETING HELD OCTOBER 2, 1984.

APPROVED BY THE ATTORNEY GENERAL JANUARY 8, 1985.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLE 91, 92, 93, 95, 96, 97, 99 AND 100 OF THE ANNUAL TOWN MEETING WARRANT, HELD APRIL 2, 1985.

APPROVED BY THE ATTORNEY GENERAL, JUNE 6, 1985.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 52 AND 122 OF THE ANNUAL TOWN MEETING, APRIL 8, 1986.

APPROVED BY THE ATTORNEY GENERAL, JULY 31, 1986.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 67, 68, 69, 70, 71, 72, 73, 74, 75, AND 77 OF THE ANNUAL TOWN MEETING WARRANT, APRIL 7, 1986.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 57 AND 129 OF THE ANNUAL TOWN MEETING APRIL 6, 1987.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 16, 17, 18, 19, 20, 21, 23, AND 24 OF THE ANNUAL TOWN MEETING, APRIL 6, 1987.

APPROVED BY THE ATTORNEY GENERAL, AUGUST 5, 1987.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 3, 15, 17, 21, 29, 31 AND 35 OF THE ANNUAL TOWN MEETING, OCTOBER 3, 1988.

ARTICLES 3 AND 17 APPROVED BY THE DIRECTOR OF MARINE LAW ENFORCEMENT, NOVEMBER 7, 1989.

APPROVED BY THE ATTORNEY GENERAL, NOVEMBER 22, 1988.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 2, 8, 10, 12, 14, 16, 30, 40 AND 42 OF THE ANNUAL TOWN MEETING, OCTOBER 3, 1988.

APPROVED BY THE ATTORNEY GENERAL, NOVEMBER 22, 1988.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 1, 5, 6, 7, 14, AND 20 OF THE FALL ANNUAL TOWN MEETING, OCTOBER 2, 1989.

ARTICLE 6 APPROVED BY THE ATTORNEY GENERAL, JANUARY 10, 1990.

ARTICLE 7 APPROVED BY THE DIRECTOR OF MARINE LAW ENFORCEMENT, NOVEMBER 7, 1989.

APPROVED BY THE ATTORNEY GENERAL, JANUARY 8, 1990.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 3, 12, 15, 16, 19 AND 21 OF THE FALL ANNUAL TOWN MEETING, OCTOBER 2, 1989

APPROVED BY THE ATTORNEY GENERAL, JANUARY 8, 1990.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 10 AND 23 OF THE FALL ANNUAL TOWN MEETING, OCTOBER 1, 1990 (ADJOURNED SESSION TO MAY 8, 1991).

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 13, 14, 15, 16, 17, 18 AND 19 OF THE FALL ANNUAL TOWN MEETING, OCTOBER 1, 1990 (ADJOURNED SESSION TO MAY 8, 1991).

APPROVED BY THE ATTORNEY GENERAL, JULY 3, 1991.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 4, 6, AND 7 OF THE ANNUAL TOWN MEETING, OCTOBER 1, 1991.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 14, 15, 16, 17, 18 AND 20 OF THE ANNUAL TOWN MEETING, OCTOBER 1, 1991.

APPROVED BY THE ATTORNEY GENERAL, JANUARY 7, 1992.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 31 AND 70 OF THE ANNUAL TOWN MEETING, MAY 4, 1993.

APPROVED BY THE ATTORNEY GENERAL, JULY 14, 1993.

AMENDMENT TO ZONING BY-LAWS ADOPTED UNDER ARTICLE 34 OF THE ANNUAL TOWN MEETING, MAY 4, 1993.

APPROVED BY THE ATTORNEY GENERAL, JULY 14, 1993.

AMENDMENT TO GENERAL BY-LAWS ADOPTED UNDER ARTICLE 64 OF THE ANNUAL TOWN MEETING, MAY 4, 1993.

APPROVED BY THE ATTORNEY GENERAL, OCTOBER 20, 1993.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 2, 5 AND 15 OF THE SPECIAL TOWN MEETING, NOVEMBER 16, 1993.

APPROVED BY THE ATTORNEY GENERAL, JANUARY 1994.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 45, 74 AND 81 OF THE ANNUAL TOWN MEETING, MAY 3, 1994.

AMENDMENTS TO ZONING BY-LAWS ADOPTED UNDER ARTICLES 67 AND 68 OF THE ANNUAL TOWN MEETING, MAY 3, 1994.

APPROVED BY THE ATTORNEY GENERAL, AUGUST 22, 1994.

AMENDMENTS TO GENERAL BY-LAWS ADOPTED UNDER ARTICLES 3 AND 9 OF THE SPECIAL TOWN MEETING, NOVEMBER 27, 1994.

APPROVED BY THE ATTORNEY GENERAL, JANUARY 1995.

AMENDMENTS TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLES 50 AND 51 OF THE MAY 7, 1996 ANNUAL TOWN MEETING.

AMENDMENT TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 55 THE MAY, 1996 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL, JUNE 13, 1996.

AMENDMENTS TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLES 2 AND 3 OF THE SEPTEMBER 5, 1996 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL, NOVEMBER 6, 1996.

AMENDMENT TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 69 OF THE MAY 8, 1997 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL, MAY 29, 1997.

AMENDMENTS TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLES 29, 55, 66, AND 68 OF THE MAY 4, 1998 ANNUAL TOWN MEETING.

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLE 65 OF THE MAY 4, 1998 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL JULY 20, 1998.

AMENDMENT TO THE ZONING BY-LAWS AND MAP ADOPTED UNDER ARTICLE 67 OF THE MAY 4, 1998 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL JULY 24, 1998.

AMENDMENT TO THE ZONING BY-LAWS AND MAP ADOPTED UNDER ARTICLE 17 OF THE MAY 4, 1999 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL JULY 8, 1999.

AMENDMENTS TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLES 30, 52, AND 53 OF THE MAY 3, 1999 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 30, 1999.

AMENDMENTS TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLES 37 AND 51 OF THE MAY 3, 1999 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 30, 1999.

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLE 9 OF THE JANUARY 11, 2000 SPECIAL TOWN MEETING.

AMENDMENT TO THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 19 OF THE JANUARY 11, 2000 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL APRIL 25, 2000.

AMENDMENTS TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLES 39, 53, 54 AND 64 OF THE MAY 1, 2000 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 18, 2000.

AMENDMENT TO SECTION X.J. OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 3 AND AMENDMENT TO SECTION II – DEFINITIONS OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 4 OF THE OCTOBER 3, 2000 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL JANUARY 9, 2001

AMENDMENT TO SECTION XI OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 5 OF THE JANUARY 23, 2001 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL MARCH 15, 2001

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLES 57 AND 69 AND TO SECTION VII OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 67 OF THE MAY 7, 2001 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 17, 2001.

AMENDMENT TO SECTION XVII OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 2 AND TO SECTION X.G.11 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 3 OF THE AUGUST 6, 2001 SPECIAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL NOVEMBER 19, 2001.

AMENDMENT TO SECTION V.E TABLE 1 – USE REGULATIONS – PARAGRAPH I – RESIDENTIAL USES #2 AND SECTION X.G. (NEW SECTION 13) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 28 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION V.E TABLE 1 – USE REGULATIONS – PARAGRAPH I – RESIDENTIAL USES #11 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 29 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION V.E TABLE 1 – USE REGULATIONS – PARAGRAPH I – RESIDENTIAL USES #24 AND #25 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 30 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION V.E TABLE 1 – USE REGULATIONS – PARAGRAPH I – RESIDENTIAL USES #10, COMMERCIAL USES #9, #14a, #21, #22, #38, #40 AND #41 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 31 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION VI – AREA, HEIGHT AND BULK REGULATIONS – TABLE 2 (USES – SINGLE-FAMILY IN OPEN SPACES RESIDENTIAL DEVELOPMENTS – R-R, R-L, R-M AND MRL-1 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 32 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION X – ADMINISTRATIVE OFFICIAL – SUBSECTION G. SPECIAL PERMIT, PARAGRAPH 4.4.4 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 33 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION X – ADMINISTRATIVE OFFICIAL – SUBSECTION G. SPECIAL PERMIT, PARAGRAPH 8 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 34 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION XIV – RESIDENTIAL SUBDIVISION GROWTH RATE LIMIT BY-LAW PARAGRAPHS 4 AND 7 (RENUMBERING) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 35 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION X – ADMINISTRATIVE OFFICIAL – SECTION K AND L (SITE PLAN) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 36 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENTS RELATIVE TO REFERENCE TO ACTION IN ARTICLE 36 (ABOVE) TO TABLE OF CONTENTS, CHAPTER II, ZONING BY-LAW SECTION X – ADMINISTRATIVE OFFICIAL K AND L; SECTION IV.B.3 PARAGRAPH 4; SECTION X.F – APPLICATION FOR APPEALS; SECTION X.F – SPECIAL PERMIT; SECTION X.G.11 – VILLAGE COMMERCIAL OVERLAY DISTRICT – ITEM C; SECTION X.G.12 – APARTMENT(S) INCIDENTAL TO COMMERCIAL – ITEM E; SECTION XI – PERSONAL WIRELESS SERVICE FACILITIES – PARAGRAPH 2.1.2; SECTION XIII – ADULT ENTERTAINMENT – PARAGRAPH 4(10); SECTION XIV – RESIDENTIAL SUBDIVISION GROWTH RATE LIMIT BY-LAW – PARAGRAPH 3 AND SECTION XVII – SIX PONDS SPECIAL DISTRICT – PARAGRAPH 9.3 OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 37 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION II (DEFINITIONS) (DRIVE-UP OR DRIVE-THROUGH WINDOW) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 38 OF THE MAY 6, 2002 ANNUAL TOWN MEETING.

APPROVED BY THE ATTORNEY GENERAL AUGUST 26, 2002

AMENDMENT TO SECTION VII (SIGN REGULATIONS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 43 OF THE MAY 5, 2003 ANNUAL TOWN MEETING. (COMPLETE REWRITE)

APPROVED BY THE ATTORNEY GENERAL AUGUST 14, 2003 WITH THE FOLLOWING DELETION TO §1.04 POLITICAL CAMPAIGN SIGNS – DELETE “WHICH DO NOT EXCEED EIGHT (8) SQUARE FEET PER SIGN FACE”

AMENDMENT TO SECTION VIII (HOME OCCUPATION) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 44 OF THE MAY 5, 2003 ANNUAL TOWN MEETING. (ADDS ALLOWABLE SIGNAGE)

APPROVED BY THE ATTORNEY GENERAL AUGUST 14, 2003

AMENDMENT TO SECTION XVII (SIX PONDS SPECIAL DISTRICT) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 45 OF THE MAY 5, 2003 ANNUAL TOWN MEETING. (CORRECTION OF TYPOS)

APPROVED BY THE ATTORNEY GENERAL AUGUST 14, 2003

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLES 4 AND 7 OF THE MAY 6, 2003 SPECIAL TOWN MEETING (ARTICLE 4 – AMENDED CHAPTER I, ARTICLE 1, PARTS 1-101 THROUGH 1-103: ARTICLE 7 – AMENDED THE GENERAL BY-LAWS, ARTICLE IV, PART 7 BY ADDING A NEW SECTION 4-703)

APPROVED BY THE ATTORNEY GENERAL AUGUST 14, 2003

AMENDMENT TO THE GENERAL BY-LAWS ARTICLE IX ADOPTED UNDER ARTICLE 4 OF THE MAY 4, 2004 SPECIAL TOWN MEETING (REPLACES COUNSEL ON AGING WITH CULTURAL COUNCIL)

APPROVED BY THE ATTORNEY GENERAL JUNE 21, 2004

AMENDMENT TO SECTION XVII (SIX PONDS SPECIAL DISTRICT), 4.1 (CONDITIONAL USES) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 7 OF THE MAY 4, 2004 SPECIAL TOWN MEETING (ALLOWS APARTMENT(S) INCIDENTAL TO COMMERCIAL)

APPROVED BY THE ATTORNEY GENERAL JUNE 21, 2004

AMENDMENT TO SECTION IV (INTERPRETATION AND APPLICATION)
PARAGRAPH B (APPLICATION) OF THE ZONING BY-LAWS ADOPTED UNDER
ARTICLE 8 OF THE MAY 4, 2004 SPECIAL TOWN MEETING
(RECONSTRUCTION AFTER FIRE LANGUAGE)

APPROVED BY THE ATTORNEY GENERAL JUNE 21, 2004

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLE 44 OF
THE MAY 3, 2004 ANNUAL TOWN MEETING (ADDS NEW SECTION 3-104 –
IMPROVEMENTS TO PRIVATE WAYS)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO SECTION II (DEFINITIONS) OF THE ZONING BY-LAWS
ADOPTED UNDER ARTICLE 46 OF THE MAY 3, 2004 ANNUAL TOWN
MEETING (AMENDMENTS TO EXISTING DEFINITION AND ADD MANY NEW
DEFINITIONS)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO SECTION V (USE REGULATIONS AND SCHEDULES)
ADOPTED UNDER ARTICLE 47 OF THE ZONING BY-LAWS OF THE MAY 3,
2004 ANNUAL TOWN MEETING (CREATES NEW USE TABLE AND NEW
SUBSECTIONS C. F AND G)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO SECTION IX (OFF STREET PARKING AND LOADING
REQUIREMENTS) ADOPTED OF THE ZONING BY-LAWS UNDER ARTICLE 48
OF THE MAY 3, 2004 ANNUAL TOWN MEETING (COMPLETE REWRITE)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO SECTION X.J (NON CONFORMING STRUCTURES AND USES)
ADOPTED UNDER ARTICLE 49 OF THE ZONING BY-LAWS OF THE MAY 3,
2004 ANNUAL TOWN MEETING (COMPLETE REWRITE)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004 WITH THE
DELETION TO §1.A.iii LANGUAGE REGARDING DORMERS

AMENDMENT TO SECTION VI.D (AREA, HEIGHT AND BULK REGULATIONS)
OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 50 OF THE MAY 3,

2004 ANNUAL TOWN MEETING (ADDS NEW SUBSECTION 16 REGARDING FRONTAGE AND ACCESS)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO SECTION X.G (ADMINISTRATIVE OFFICIAL) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 51 AND ARTICLE 52 OF THE MAY 3, 2004 ANNUAL TOWN MEETING (ARTICLE 51 ADDS NEW SUBSECTION 14 – HARWICH CENTER OVERLAY DISTRICT AND ARTICLE 52 ADDS NEW SUBSECTION 15 – CERTIFICATION OF DWELLING UNITS)

APPROVED BY THE ATTORNEY GENERAL AUGUST 23, 2004

AMENDMENT TO THE GENERAL BY-LAWS ADOPTED UNDER ARTICLE 2 OF THE DECEMBER 13, 2004 SPECIAL TOWN MEETING (ADDS NEW ARTICLE XI - COMMUNITY PRESERVATION BY-LAW)

APPROVED BY THE ATTORNEY GENERAL JANUARY 18, 2005

AMENDMENT TO SECTION V (USE REGULATIONS) TABLE 1 AND SECTION X.K OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 3 OF THE DECEMBER 13, 2004 SPECIAL TOWN MEETING (ALLOWING RETAIL IN IL ZONE BY SPECIAL PERMIT)

APPROVED BY THE ATTORNEY GENERAL JANUARY 18, 2005

AMENDMENT TO SECTIONS II (DEFINITIONS), V (USE REGULATIONS – TABLE 1), IX (OFF STREET PARKING AND LOADING REQUIREMENTS) AND X.K OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 4 OF THE DECEMBER 13, 2004 SPECIAL TOWN MEETING (RESTAURANT, FAST FOOD/TAKE OUT)

APPROVED BY THE ATTORNEY GENERAL JANUARY 18, 2005

AMENDMENT TO SECTION II (DEFINITIONS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 3 (ACCESSORY BUILDING – RESIDENTIAL DEFINITION) AND TO SECTION XVIII (FLOODPLAIN REGULATIONS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 4 (CREATION OF NEW SECTION) OF THE MAY 3, 2005 ANNUAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JUNE 15, 2005

AMENDMENT TO SECTION XX (REGULATIONS FOR WIND ENERGY SYSTEMS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 12 (CREATION OF NEW SECTION) OF THE MAY 2, 2006 ANNUAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL AUGUST 22, 2006

AMENDMENT TO ZONING MAP ADOPTED UNDER ARTICLE 79 (AMEND DESIGNATION OF TOWN ZONING DISTRICTS) OF THE MAY 7, 2007 ANNUAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION X.E. (BOARD OF APPEALS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 15 (BOARD OF APPEALS FEES) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION XX, 4.7 AND 4.9 (REGULATIONS FOR WIND ENERGY SYSTEMS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 16 (REGULATIONS FOR WIND ENERGY SYSTEMS) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION XX (REGULATIONS FOR WIND ENERGY SYSTEMS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 17 (WIND ENERGY SYSTEM IN INDUSTRIAL (IL) DISTRICT) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION XX (REGULATIONS FOR WIND ENERGY SYSTEMS) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 18 (WIND ENERGY SYSTEM IN COMMERCIAL DISTRICTS) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION X.J.1.E. (NONCONFORMING STRUCTURES) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 19 (NONCONFORMING STRUCTURES) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007

AMENDMENT TO SECTION X.J.2 (NONCONFORMING USES) OF THE ZONING BY-LAWS ADOPTED UNDER ARTICLE 12 (NONCONFORMING USES) OF THE MAY 8, 2007 SPECIAL TOWN MEETING

APPROVED BY THE ATTORNEY GENERAL JULY 25, 2007