# ZONING BYLAWS

## Town of

## Scituate

## Massachusetts

Revisions voted at the Annual Town Meeting: **April 14, 2014**
Approved by the Attorney General: May 1, 2014

Printed June 4, 2014

# TOWN OF SCITUATE
# ZONING BYLAW
## April 14, 2014

**Including changes approved by 4/14/2014 Annual Town Meeting**
**Approved by the Attorney General 5/1/2014**

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**Zoning bylaws are effective from the date of the Town Meeting when they were adopted, after subsequent approval by the Attorney General.**

# SECTION 100 - PURPOSE

## 110 OBJECTIVES

The purpose of this bylaw is to achieve the objectives of the Zoning Act, Massachusetts General Laws, Chapter 40A as amended, as presented in Section 2A of Chapter 808 of the Acts of 1975, which include the following:

(1) to conserve health;
(2) to secure safety from fire, flood, panic and other dangers;
(3) to provide adequate light and air;
(4) to prevent overcrowding of land;
(5) to avoid undue concentration of population;
(6) to conserve natural resources;
(7) to prevent blight and pollution of the environment; and
(8) to encourage the most appropriate use of land.

## 120 AUTHORITY

This bylaw is adopted for the above purpose under the authority provided by, and in accordance with the provisions of Massachusetts General Laws Chapter 40A.

# SECTION 200 - DEFINITIONS

**ACCESSORY DWELLING**
An accessory dwelling is a separate housekeeping unit, complete with its own sleeping, cooking, and sanitary facilities, that is substantially contained within the structure of a single-family dwelling, a structure accessory thereto, or a business structure, but functions as a separate unit.

**ACCESSORY USE**
Either a subordinate use of a structure or tract of land, or a subordinate structure:

(1) Which use is customary in connection with the principal structure or use of land, and
(2) Which use is clearly incidental to the use of the principal structure or use of land, and
(3) Which is located on the same lot with the principal structure or use of land, or on a lot adjacent to such lot, if part of the same premises, and
(4) Which does not constitute, in effect, a conversion of the principal use of the premises to one not permitted in the district.

**AFFORDABLE ACCESSORY DWELLING**
An accessory dwelling that is affordable to and occupied by a low- or moderate-income household, meets the definition of low- or moderate-income housing under applicable state regulations and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.

**AFFORDABLE HOUSING**
A dwelling unit that is affordable to and occupied by a low- or moderate-income household, meets the definition of low- or moderate-income housing under applicable state regulations and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.

**AGRICULTURAL USE**
Agricultural use shall not include cultivation of marijuana for any purpose, with the exception of personal cultivation by qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others as provided by 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana, adopted May 8, 2013, or except as otherwise allowed under Massachusetts General Laws Chapter 40A, Section 3.

**AS-OF-RIGHT SITING**
As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the building commissioner. **(Definition voted Special Town Meeting November 8,2010)**

**ASSISTED LIVING FACILITY**
Independent residential dwelling units containing a combination of central cooking and dining facilities capable of providing three meals per day for residents, central recreational programs and facilities, and providing to all residents specified medical services which must include, but are not limited to, nursing and dietary assistance.

**BED AND BREAKFAST ESTABLISHMENT**
A dwelling which includes the renting of rooms at a daily rate (whether or not billed or paid daily), wherein the rental rate includes a breakfast meal in the daily rate, and wherein the owner or operator maintains a place of principal residence. Hotels, motels, inns and lodging houses (or boarding houses) are not classified as bed and breakfast establishments.

**CLUB OR LODGE**
Country club, yacht club, lodge building, or other nonprofit social, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business).

**CMR**
Code of Massachusetts Regulations.

**COMMERCIAL SERVICE ESTABLISHMENTS**
Establishments that provide services primarily to residents as opposed to businesses, such as but not limited to barber or beauty shop, laundromat, bicycle repair and cleaning, dancing or music school, funeral home, medical or dental office, photographic studio, shoe repair shop, custom work by a dress maker, milliner or tailor, television or household appliance repair shop, typewriter or computer repair shop; dry cleaner.

**COMMERCIAL KENNEL**
A single premises on which are kept four or more dogs over the age of three months which is maintained as a business for the boarding of dogs, the grooming of dogs, or one which sells dogs born and raised on the premises from four or more litters per year.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**
The agency of the Commonwealth of Massachusetts charged with regulating water quality, allocation, and drinking water supply management. Also referred to herein as "DEP" and "the Department".

**DISCHARGE**
In connection with toxic or hazardous materials or hazardous waste, the accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or groundwaters.

**DWELLING**
Any building or part thereof erected or used for occupancy as a place of continuous residence for an individual or family or designed for such occupancy, on a site intended as the permanent location of such building. This definition does not include a trailer, however mounted.

**EXISTING STRUCTURE (OR USE)**
A structure (or use) which exists in fact on the date of application for review under this bylaw.

**FAST FOOD ESTABLISHMENT**
An establishment in which 40% or more of its annual sales (projected or actual) are derived from the sale of food and beverages in a ready-to-consume state directly to a customer from a servicing counter for consumption off the premises or for consumption on premises if said food or beverage is served in single serviceor disposable containers.

**GROSS FLOOR AREA**
The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

**HABITABLE ATTIC**
An attic in which the ceiling area at a height of 7 1/3 feet above the attic floor is not less than 1/3 the area of the floor next below. A habitable attic constitutes a story for the purposes of this bylaw.

**HAZARDOUS MATERIAL**
Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil. 3,4

**HAZARDOUS WASTE**
A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

**HEIGHT**
The distance measured vertically from the average finished grade of the ground adjoining a building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs except that in residential zoning districts, there shall also be a maximum height measured from the average finished grade to the ridge for a building with a gable, hip or gambrel roof.

**HOTEL OR MOTEL**
A building or group of buildings containing more than ten guest rooms without individual cooking facilities for transient occupancy and let for compensation. A restaurant, dining room, or related consumer and retail services may be provided within the building or buildings.

**IMPERVIOUS SURFACE**
Any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious surface is defined to include, without limitation: paved surfaces (parking lots, sidewalks, driveways), roof tops, swimming pools, patios, and paved, gravel and compacted dirt surfaced roads.

**INN**
A dwelling whose use includes the renting of rooms at a transient daily rate (whether or not billed or paid daily), and wherein a dining room serving meals in addition to breakfast, only to registered guests, is operated on the premises, and wherein the owner or operator may or may not maintain a place of principal residence.

**LARGE SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION**
A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC. **(Definition voted Special Town Meeting November 8, 2010)**

**LIGHT MANUFACTURING**
Manufacturing, processing or assembly provided that such use is not dangerous to the neighborhood through fire, explosion, emission of wastes or other cause, and provided further that such use is not likely to create excessive noise, vibration, dust, heat, smoke, fumes, odor or glare.

**LOCAL INITIATIVE PROGRAM**
A program administered by the Massachusetts Department of Housing and Community Development (DHCD) to develop and implement local housing initiatives that produce low- and moderate-income housing.

**LODGING HOUSE (OR BOARDING HOUSE)**
A dwelling whose use includes the renting of rooms at a prearranged or contractual weekly, monthly or annual rate, whether or not meals are included in the rate, and wherein the owner or operator maintains a place of principal residence. Hotels, motels, inns and bed and breakfast establishments are not classified as lodging or boarding houses.

**LOT**
A single or continuous parcel of land with definite boundaries, held in the same ownership throughout and not divided by a street.

**LOT FRONTAGE**
That portion of a lot fronting upon and having rights of access to a way providing legally sufficient frontage for a division of land under the requirements of Massachusetts General Laws Chapter 41, Section 81L, to be measured continuously along a single street line.

**LOT LINE, FRONT**
The dividing line between a street and an adjacent lot.

**LOT LINE, REAR**
The lot line opposite and most distant from the front lot line. In the case of a corner lot, the determination as to the rear yard depth shall be calculated as provided in Section 620.4. For other irregularly shaped lots, the rear lot line is composed of all lot lines that are parallel to, or closely parallel to, the front lot line.

**LOT LINE SIDE**
Any lot line that is not a front or a rear lot line.

**MARIJUANA**
Shall include all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes Marijuana-Infused Products except where the context clearly indicates otherwise.

**MARINA**
A facility which provides dockage, berthing, or mooring for more than five vessels and may also provide the services of a vessel service area.

**MAXIMUM AFFORDABLE RENT**
Monthly rent, exclusive of utilities, that does not exceed 30% of the monthly income of a household earning 70% of area median income based on household size, except that if the dwelling unit receives a state, federal or local subsidy, the maximum rent may be as allowed by the subsidy program so long as the tenant share of rent does not exceed 30% of the monthly income.

**MIXED USE DEVELOPMENT**
An existing or proposed structure or group of structures containing retail, office and/or residential uses, and including one or more mixed use buildings. A mixed use development may include buildings containing only multiple dwellings as long as there is an existing or proposed mixed use building on the same lot.

**MIXED USE BUILDING**
A building that contains retail or office uses and residential uses.

**MIXED USE BUILDING**
A building containing residential dwelling units and any of the other uses allowed by right in the Business District except a showroom for building supplies, or accessory uses of industry or light manufacturing.

**MULTI-FAMILY DWELLING**
A building containing more than two dwelling units, exclusive of accessory dwellings, and not classified as a one or two-family dwelling, and containing only residential uses and uses accessory to them.

**NON-SANITARY WASTEWATER**
Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).

**ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION**
A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur. **(Definition voted Special Town Meeting November 8,2010)**

**PARKING SPACE**
An area for the parking of one motor vehicle, with free and unimpeded access to a street over unobstructed passageways or driveways.

**PAVING**
A uniform, hard, smooth covering which will bear travel by vehicles or by pedestrians in all seasons, or which is used in conjunction with certain sports or recreational activities. It includes concrete, bituminous concrete, oil-penetrated gravel, brick and paving stone, but shall not include such materials as gravel, crushed clamshells or any other similar material.

**PERSONAL WIRELESS SERVICE FACILITY**
Any facility for the provision of personal wireless services, such as an antenna, dish, tower, monopole or similar equipment.

**PERSONAL WIRELESS SERVICES**
All forms of wireless communication included in this definition in the federal Telecommunications Act of 1996, including commercial mobile radio services, unlicensed wireless services, common carrier wireless exchange services and other forms of wireless communication of a similar nature. Common carrier wireless exchange services include cellular telephone services, personal communications systems and paging services, wireless computer networking, wireless Internet access and wireless communication services of a similar nature.

**PLANNED DEVELOPMENT DISTRICT**
An area of land in which a mixture of residential, open space, commercial and/or other uses, and a variety of building types and designs, are determined to be sufficiently advantageous to render it appropriate to grant a special permit, to the extent authorized by zoning bylaw and by Massachusetts General Laws, Chapter 40A, Section 9.

**PRE-EXISTING NONCONFORMING STRUCTURE (OR USE)**
An existing structure (or use) which also existed on the effective date of the original amendment to the bylaw which made the existing structure (or use) nonconforming.

**PRIVATE GARAGE**
A building or building appendage that is accessory to a main building, providing for the storage of automobiles and in which no occupation or business for profit is carried on and which is enclosed on all four sides.

**QUALIFIED RENTER**
A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Scituate as determined annually by the U. S. Department of Housing and Urban Development (HUD) that rents and occupies an affordable accessory dwelling unit.

**RADIOFREQUENCY ENGINEER**
An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

**RADIOFREQUENCY RADIATION**
A form of energy emitted in the course of wireless communications.

**RATED NAMEPLATE CAPACITY**
The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC). **(Definition voted Special Town Meeting November 8,2010)**

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

**REST, NURSING OR CONVALESCENT HOME**
An institution licensed and regulated by the State and Federal government which provides for its residents three meals per day, assistance with daily living activities, social, psychological and educational programs, twenty-four hour supervision, and nursing and other medical care as appropriate. Other support and rehabilitation services may include, but are not limited to, an adult day care or respite facility to provide short-term custodial care to individuals with special needs.

**RESTAURANT**
A building or portion thereof containing a kitchen and tables and/or booths which is used for the preparation, sale and consumption of food on the premises, and which may include outdoor seating for patrons.

**RETIREMENT LIVING FACILITY**
A residential housing facility which contains independent, private living accommodations which are restricted to persons fifty-five years of age or older.

**SCIENTIFIC ACCESSORY USE**
Uses, accessory to activities permitted as a matter of right, which are accessory in connection with scientific research or scientific development or related production, whether or not on the same parcel as the activities to which said uses are accessory.

**SIGN**
Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, or trade names or trademarks by which anything is made known, either attached to the exterior of a building or freestanding, used to identify the building, use of land or services sold or conducted within the confines of the lot on which it is located, and which is visible from a public street or right-of-way. For the purposes of this bylaw, this definition shall not include the display of street numbers.

**SINGLE-FAMILY DWELLING**
A building containing one dwelling unit and allowed accessory uses.

**STORY**
That part of a building between any floor and the next higher floor or lower roof line. Where a building is not divided into stories, a story shall be considered fifteen feet in height. The first story for the purposes of determining building height shall be the lowermost story with more than 60% of the wall surfaces enclosing that story above the natural grade. A habitable attic constitutes a story for the purposes of this bylaw.

**STREET OR WAY**
Any street or way providing legally sufficient frontage for a division of land under the requirements of General Laws Chapter 41, Section 81L.

**SUBSIDIZED HOUSING INVENTORY**
The Department of Housing and Community Development Subsidized Housing Inventory provided in state regulations.

**SUBSTANTIAL IMPROVEMENT**
External alteration or enlargement of a building or structure which does not change its use to a nonconforming use and which will impact an area of the structure greater than twenty-five percent of the existing gross square feet or twenty-five percent of the existing footprint. This definition shall exclude repairs or improvements to a structure to comply with existing state or local health, safety or sanitary code specifications which are necessary to assure safe living conditions. The determination of substantial improvement shall be made by the Building Commissioner.

**TEMPORARY OUTDOOR SALES**
Any outdoor sales activity which by its nature will begin and end within a period of 180 days or less, including but not limited to festivals, seasonal and holiday sales and sidewalk sales.

**TRAILER**
A structure built on a chassis to be moved from site to site, whether used with or without a permanent foundation.

**TREATMENT WORKS**
Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

**TRIBUTARY**
Tributary means any body of running, or intermittently running, water which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient, and which ultimately flows into a Class A water source, as defined in 314 CMR 4.05(3)(a).

**TWO-FAMILY DWELLING**
A building containing two dwelling units and allowed accessory uses per unit.

**UTILITY WORKS**
Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

**WIND ENERGY CONVERSION SYSTEM (WECS)**

A mechanical or electro-mechanical system for the conversion of wind power into useful energy. It includes both horizontal and vertical rotating mechanisms, the supporting tower and energy transmitting conductor or shaft.

**WIRELESS COMMUNICATION**
A form of communication by a signal sent through the air which does not use wires for transmission. Wireless communications include radio, television and personal wireless services.

**WIRELESS COMMUNICATION ANTENNA**
An antenna installed for the primary purpose of transmitting and receiving wireless communication signals, including all surfaces from which wireless communications are sent or received.

**WIRELESS COMMUNICATION TOWER**
A structure such as a lattice tower, guyed tower or monopole, designed and constructed for the primary purpose of supporting wireless communication antennas.

**ZONE A**
a) The land between a surface water source and the upper boundary of the bank; b) The land area within a 400 foot lateral distance from the upper boundary of a Class A surface water source, as defined in 314 CMR 4.05(3)(a) or c) The land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated water body.

**ZONE II**
The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00.7

### 210 INTERPRETATION

Terms not defined in this Section or elsewhere in this bylaw but defined in the State Building Code shall have the meanings given in the State Building Code.

## SECTION 300 - ESTABLISHMENT OF DISTRICTS

### 310 TYPES OF DISTRICTS

For the purpose of this bylaw, the Town of Scituate is hereby divided into the following designated districts:

| | |
|---|---|
| “R-1” | Residence 40,000 sq. ft. |
| “R-2” | Residence 20,000 sq. ft. |
| “R-3” | Residence 10,000 sq. ft. |
| “RM” | Residence Multifamily |
| “GB” | General Business |
| “HB” | Harbor Business |
| “C” | Commercial |
| “D” | Saltmarsh and Tideland Conservation |
| “F” | Flood Plain and Watershed Protection (overlay) |
| “PDD” | Planned Development District (overlay) |
| “WRPD“ | Water Resources Protection District (overlay) |
| “RC” | Residential Cluster District (overlay) |
| “WCD” | Wireless Communication District (overlay) |

"VBOD" Village Business Overlay District (overlay)
"HVROD" Humarock Village Residential Overlay District (overlay)

## 320 LOCATION OF DISTRICTS

All districts now existing except the Flood Plain and Watershed Protection District, Water Resources Protection District including its Zone A and Zone II Subdistricts, Residential Cluster District, Wireless Communication District, Village Business Overlay District and Humarock Village Residential Overlay District which are further described below , now existing or hereafter adopted shall be located and bounded as shown on a map entitled Zoning District Map, Town of Scituate, Massachusetts, by Amory Engineers P.C. and dated October 25, 2011 approved by Town Meeting on October 25, 2011 and filed in the office of the Town Clerk, which map, together with all explanatory matter thereon and all subsequent amendments adopted by Town Meeting is hereby incorporated in and made a part of this bylaw; additional or revised districts will be shown on said map as any such additions or revisions are voted at any Annual or Special Town Meeting.

All Flood Plain and Watershed Protection Districts shall be located and bounded as shown on the map described in Section 470.3. herein, which is hereby incorporated in and made a part of this bylaw.

The Planned Development District shall be located and bounded as described in Article 25 of the April 1980 Annual Town Meeting and the map dated February 8, 1980, (as amended or revised) associated with Article 25 which is hereby incorporated in and made a part of this bylaw.

The Residential Cluster District shall be located and bounded as shown on the map identified as Town of Scituate Zoning Map, Proposed Residential Cluster District, dated January 26,1986, (as amended or revised) as approved at the April, 1986 Annual Town Meeting, which is hereby incorporated in and made a part of this bylaw.

The Water Resource Protection District and its Zone A and Zone II Subdistricts shall be located and bounded as shown on a map entitled "Proposed Water Resource Protection District" by Amory Engineers, PC dated March 2014, which is hereby incorporated in and made a part of this bylaw.

The Wireless Communication District shall be located and bounded as shown on the map entitled Proposed Wireless Communications Overlay District, dated 12/23/97, as approved at the March 2, 1998 Annual Town Meeting, which is hereby incorporated and made a part of this bylaw.

The Village Business Overlay District shall be located and bounded as shown on three maps entitled "Village Business Overlay District – Scituate Harbor", "Village Business Overlay District – North Scituate," and "Village Business Overlay District – Greenbush", all dated December 13, 2005, adopted by March 4, 2006 Annual Town Meeting.

The Humarock Village Residential Overlay District shall be located and bounded as shown on the map entitled "Humarock Village Residential Overlay District: 1/10/08 Boundary" by Larry Koff & Associates dated January 15, 2008. (Voted ATM, March 29, 2008)

## 330 LOTS IN TWO DISTRICTS

Where a boundary line between two districts divides any lot existing at the time such line is established, the regulations controlling the less restricted portion of such lot shall be applicable to the entire lot, provided such lot does not extend more than twenty-five feet within the more restricted district. This section shall not apply to lots partially located in the Water Resource Protection District or its subdistricts.

## 340 DEFINITION OF ZONING DISTRICTS

**RESIDENCE R-1**

The primary purpose of the Residence R-1 District is to provide locations for neighborhoods containing low-density, single-family homes.

**RESIDENCE R-2**

The primary purpose of the Residence R-2 District is to provide locations for neighborhoods containing medium density, single-family homes.

**RESIDENCE R-3**

The primary purpose of the Residence R-3 District is to provide locations for neighborhoods containing higher-density, single-family homes.

**RESIDENCE MULTIFAMILY RM**

The primary purpose of the Residence Multifamily District is to allow for residential uses including multifamily dwellings and multifamily complexes.

**GENERAL BUSINESS GB**

The primary purpose of the General Business District is to provide areas for retail, service and office uses, developed less intently than the Harbor Business area, in locations that serve geographic subregions of Scituate.

**HARBOR BUSINESS HB**

The primary purpose of the Harbor Business District is to provide for a more densely-developed business and cultural center for the town, which is served in part by public parking, is accessible by pedestrian travel, and which allows development of businesses that benefit from, as well as contribute to, the well being of Scituate Harbor and waterfront activity.

**COMMERCIAL C**

The primary purpose of the Commercial District is to provide appropriate locations for various commercial, retail and professional office uses.

**SALTMARSH AND TIDELAND CONSERVATION**

The primary purpose of this district is to designate and protect saltmarsh and tideland natural resources.

**FLOOD PLAIN AND WATERSHED PROTECTION DISTRICT**

This district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 470.

**PLANNED DEVELOPMENT DISTRICT**

This district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 490.

**WATER RESOURCES PROTECTION DISTRICT**

The Water Resource Protection District, including its Zone A and Zone II Subdistricts shall be located and bounded as shown on a map entitled “Proposed Water Resource Protection District by Amory Engineers, P.C.” dated March 2014, which is hereby incorporated in and made a part of this bylaw.

**RESIDENTIAL CLUSTER DISTRICT**

The district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 510.

**WIRELESS COMMUNICATION DISTRICT**

This district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 540.

**VILLAGE BUSINESS OVERLAY DISTRICT**

This district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 560.

**HUMAROCK VILLAGE RESIDENTIAL OVERLAY DISTRICT**

This district is an overlay of other zoning districts. Its applicability and definition are outlined in Section 570.

### 350 DISTRICT BOUNDARIES

Whenever a road, way, right-of-way, any pond, stream, river, swamp, bog, marsh or other body of water or comparable natural or quasi-natural geographic features are shown on the Zoning Map as the boundary between districts of different zoning, the geographic district boundary shall be on the center line of such feature. Any such feature lying totally within a designated zone shall be zoned as the other land around it. No part of the land or water area within the town shall be unzoned.

## SECTION 400 - USE REGULATIONS

### 410 APPLICATION OF REGULATIONS

Except as provided in Sections 800, 810, 820, and 830 herein, no structure, and no alteration, enlargement or extension of an existing structure shall be designed, arranged or constructed, and no land, structure or part thereof shall be used for any purpose or in any manner other than for one or more of the uses specifically permitted herein.

## 420 TABLE OF USE REGULATIONS

In the following Table of Use Regulations, uses which are permitted as of right are designated "Y", uses allowed by special permit from the Board of Appeals are designated "SP", and uses that are prohibited are designated "N".

| Use Category | | R-1 | R-2 | R-3 | RM | GB | HB | C |
|---|---|---|---|---|---|---|---|---|
| 1. Residential and Institutional Uses | | | | | | | | |
| A. | Single-family detached dwelling | Y | Y | Y | Y | Y | Y | N |
| B. | Two-family dwelling, subject to §430.1 | Y | Y | Y | Y | Y | Y | N |
| C. | Residential Accessory use | Y | Y | Y | Y | Y | Y | N |
| D. | Accessory dwelling, subject to Section 530 | SP | SP | SP | Y | SP | SP | N |
| E. | Affordable accessory dwelling, subject to Section 530 | See Section 530 | | | | | | |
| F. | Multi-family Dwelling | N | N | N | Y | Y | Y | SP |
| G. | Multifamily dwelling complex subject to Section 430.3 | N | N | N | Y | N | N | N |
| H. | Private garage for more than 3 automobiles | SP | SP | SP | Y | Y | Y | Y |
| I. | Garage for commercial vehicles subject to Section 440.2 | SP | SP | SP | Y | Y | Y | Y |
| J. | Religious use pursuant to G.L. c.40A §3 | Y | Y | Y | Y | Y | Y | Y |
| K. | Educational use pursuant to G.L. c. 40A §3 | Y | Y | Y | Y | Y | Y | Y |
| L. | Town administration or utility building or public safety facility | Y | Y | Y | Y | Y | Y | Y |
| M. | Town recreation or water supply use | Y | Y | Y | Y | Y | Y | Y |
| N. | Child care facility pursuant to G.L. c.40A §3 | Y | Y | Y | Y | Y | Y | Y |
| 2. Agricultural, Horticultural, Floricultural Uses | | | | | | | | |
| A. | Agriculture, horticulture, viticulture, aquaculture or floriculture pursuant to G.L. c. 40A §3 | Y | Y | Y | Y | Y | Y | Y |

| Use Category | | R-1 | R-2 | R-3 | RM | GB | HB | C |
|---|---|---|---|---|---|---|---|---|
| B. | Commercial dairy, poultry or livestock farm on a lot containing three acres or more (but not including a piggery, commercial kennel,or fur farm) provided that any building in which poultry or livestock are housed is not less than fifty feet from side and rear lot lines and the exterior line of any street. | Y | Y | Y | Y | Y | Y | Y |
| C. | Commercial greenhouse on lot of less than 5 acres; provided that such building and any heating plant accessory thereto is not less than fifty feet from side and rear lot lines and from the exterior of any street. | SP | SP | SP | Y | Y | Y | Y |
| D. | Salesroom or stand for the display and sale of agricultural or horticultural products the major portion of which are grown on the premises on lots less than 5 acres; provided that no such products are displayed within thirty feet of any street or lot line. | SP | SP | SP | Y | Y | Y | Y |
| E. | Commercial riding academy on a lot containing three acres or more, provided any building in which horses are housed and any riding ring is not less than fifty feet from side and rear lot lines and from the exterior line of any street. | SP | SP | SP | Y | Y | Y | Y |
| 3. Commercial Uses | | | | | | | | |
| A. | Private organized camp | SP | SP | SP | Y | Y | Y | Y |
| B. | Rest, convalescent, nursing home or assisted living facility | SP | SP | SP | Y | Y | Y | Y |
| C. | Cemetery | SP | SP | SP | Y | Y | Y | Y |
| D. | Hospital | SP | SP | SP | Y | Y | Y | Y |
| E. | Philanthropic or charitable institution | SP | SP | SP | Y | Y | Y | Y |
| F. | Public or nonprofit library, museum, art gallery, civic center | Y | Y | Y | Y | Y | Y | Y |
| G. | Commercial livery or mooring for marine pleasure craft with no fueling or repair services | SP | SP | SP | Y | Y | Y | Y |
| H. | Commercial golf course | SP | SP | SP | Y | Y | Y | Y |
| I. | Golf range/miniature golf | N | N | N | N | Y | Y | Y |

| Use Category | | R-1 | R-2 | R-3 | RM | GB | HB | C |
|---|---|---|---|---|---|---|---|---|
| J. | Boarding House or Lodging House for more than three persons | SP | SP | SP | Y | Y | Y | Y |
| K. | Bed and Breakfast Establishment of more than two guest bedrooms | SP | SP | SP | Y | Y | Y | N |
| L. | Inn | SP | SP | SP | Y | Y | Y | Y |
| M. | Hotel or motel | N | N | N | Y | SP | SP | Y |
| N. | Club or lodge | SP | SP | SP | Y | Y | Y | Y |
| O. | Scientific accessory uses | SP | SP | SP | Y | Y | Y | Y |
| P. | Retail business (not including any use specifically listed in this table) | N | N | N | Y | Y | Y | Y |
| Q. | Showroom for building supplies, including plumbing, heating and ventilating equipment | N | N | N | N | Y | Y | Y |
| S. | Shop of a carpenter, cabinetmaker, electrician, job printer, painter, paperhanger, plumber, sign painter or upholsterer. | N | N | N | N | Y | Y | Y |
| T. | Restaurant | N | N | N | N | Y | Y | Y |
| U. | Office building, bank or other monetary institution | N | N | N | N | Y | Y | Y |
| V. | Salesroom for automobiles, boats, trailers, trucks, machinery or farm implements and their accessories. | N | N | N | N | SP | SP | Y |
| W. | Indoor Tennis Facility | N | N | N | N | SP | SP | Y |
| X. | Animal or veterinary hospital | N | N | N | N | N | N | Y |
| Y. | Meeting hall for hire, indoor theatre | N | N | N | N | N | N | Y |
| Z. | Health club, swimming pool tennis court, skating rink, bowling alley | N | N | N | N | N | N | Y |
| AA. | Business Accessory Use subject to Section 440.3 | N | N | N | N | Y | Y | Y |
| BB. | Commercial kennel | N | N | N | N | N | N | SP |
| CC. | Fast food establishment | N | N | N | N | SP | SP | SP |
| DD. | Temporary outdoor sales approved by Board of Selectmen | Y | Y | Y | Y | Y | Y | Y |
| EE. | Registered marijuana dispensary | N | N | N | N | N | N | SP |

| Use Category | | R-1 | R-2 | R-3 | RM | GB | HB | C |
|---|---|---|---|---|---|---|---|---|
| 4. Industrial Uses | | | | | | | | |
| A. | Establishment for the sale of lumber or other building supplies, heating fuel, livestock feed, ice, fertilizer, or similar materials stored in bulk on the premises (but not including the storage of used or salvaged materials). | N | N | N | N | N | N | Y |
| B. | Establishment for repair of trailers, trucks, machinery or farm implements. | N | N | N | N | N | N | Y |
| C. | Auto body shop, provided that all work is conducted within a completely enclosed building. | N | N | N | N | N | N | Y |
| D. | Yard for custom building or repair of boats under one hundred feet in length, boat storage yard. | N | N | N | N | N | N | Y |
| E. | Storage yard or plant for contractor's equipment, storage garage or trucks, trucking yard or terminal. | N | N | N | N | N | N | Y |
| F. | Wholesale distribution plant, cold storage plant, material storage yard, or warehouse (but not including the storage of used or salvaged materials or explosives, or the wholesale products, or other inflammables.) | N | N | N | N | N | N | Y |
| G. | Soldering or welding shop, shop for light metal fabrication or blacksmith shop, provided that all work is conducted within a completely enclosed building. | N | N | N | N | N | N | Y |
| H. | Woodworking mill | N | N | N | N | N | N | Y |
| I. | Commercial bakery or dairy products plant | N | N | N | N | N | N | Y |
| J. | Light manufacturing | N | N | N | N | N | N | Y |
| K. | Use accessory to allowed industrial use | N | N | N | N | N | N | Y |
| L. | Large scale ground mounted solar photovoltaic installation and appurtenant structures | N | N | N | N | N | N | Y |

# 430 SPECIAL PROVISIONS FOR RESIDENTIAL USES

## 430.1 RESIDENTIAL USES

Not more than one single family dwelling shall be located on any lot. Two family dwellings must be located on a lot containing an area not less than two times that required for the erection of a single-family dwelling in the same district.

## 430.2 RESIDENTIAL ACCESSORY USE

A. Residential Accessory Use is defined and limited as follows:

1. Private garage for not more than three automobiles, not more than one of which shall be a commercial vehicle.

2. Private greenhouse, stable, tool shed, playhouse, tennis court, boat house, or other similar structure for domestic storage or use.

3. The keeping of animals, livestock or poultry for personal enjoyment or household use.

4. a. The operation of a lodging house or boarding house (but not a hotel, motel, inn or bed and breakfast establishment) for not more than three persons, regardless of the number of rooms.

   b. The operation of a bed and breakfast establishment (but not a hotel, motel or inn) of not more than two guest bedrooms.

5. The use of room or rooms in a dwelling or building accessory thereto by a person resident on the premises as an office, studio or workroom for a home occupation, provided that

   a. Such use is clearly incidental and secondary to the use of the premises for dwelling purposes.

   b. Not more than one person other than residents of the premises is regularly employed thereon in connection with such use.

   c. No stock in trade is regularly maintained.

   d. No offensive noise, vibration, smoke, dust, odor, heat or glare is produced.

   e. There is no exterior display and no exterior sign, except as hereinafter permitted.

   f. There is no exterior storage of material or equipment (including the exterior parking of commercial vehicles, except as, otherwise permitted herein) and no other exterior indication of such use or variation from the residential character of the premises.

6. The storage or parking of one ungaraged commercial vehicle of not more than one ton capacity.

## 430.3 MULTI-FAMILY DWELLING COMPLEX

A. Multi-family dwelling complex shall be subject to the following conditions and regulations:

1. Each project will be subject to the provisions of Section 770, Site Plan Review.

2. The minimum lot area for each multifamily dwelling complex shall be forty thousand square feet.

3. The minimum lot frontage shall be one hundred and fifty feet on a public street, or a private street, approved by the Planning Board under the subdivision control law. Minimum width of each lot throughout its depth shall be not less than one hundred and fifty feet measured at its narrowest.

4. The minimum lot area for each dwelling unit shall be five thousand square feet plus one thousand square feet for each bedroom in excess of two for each dwelling unit. In no case shall there be more than eighteen bedrooms or eight dwelling units per forty thousand square feet. Dwelling units with more than two bedrooms shall not exceed one in each eight dwelling units to be constructed on each lot. Surplus areas of water bodies, wetlands and marshes shall not be included in the calculation of lot area to determine the allowable number of dwelling units.

5. The shortest distance between any two multifamily dwellings shall be not less than thirty-five feet. Courts shall be completely open on one side and the depth of the court shall not exceed the width.

6. Each multifamily dwelling shall contain no more than twelve dwelling units. No exterior face of any building shall exceed fifty feet in any plane (measured horizontally) without an offset of at least eighteen inches.

7. All utility service lines shall be underground.

8. No more than twenty-five percent of the lot may be covered by the multifamily dwellings, including accessory buildings.

9. The front yard setback requirements shall be fifty feet. The side and rear yard setback requirement shall be permitted in the front yard setback areas; said setback areas (other than access drives) shall be appropriately landscaped.

10. There shall be set aside on each lot an area equal to fifteen hundred square feet per dwelling unit, not to be built upon, unpaved, landscaped, and/or left natural with an acceptable balance of trees, shrubs and grass, except that three hundred square feet of the above fifteen hundred square feet per dwelling unit shall be developed for recreational purposes.

11. In addition to the open space required in (10) above, there shall be provided landscaped side and rear yard buffer areas of at least ten feet in width each adjacent to each property line of the lot and being part of the

yard requirement in (9) above. For each additional forty thousand square feet, two feet shall be added up to a maximum of thirty feet. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of six feet

12. Two off street parking spaces shall be provided for each dwelling unit. No more than ten spaces shall be provided in any one continuous row. The minimum size of a parking space, including aisles and maneuvering areas, shall be within three hundred and fifty square feet and spaces shall be within two hundred feet of the intended user. Parking spaces shall be lighted but shielded from direct glare on a public street and adjoining premises.

13. No building shall exceed two stories in height. No building shall exceed thirty feet in height.

14. No interior floor space below ground level shall be used for living purposes.

15. No building shall exceed one dwelling unit in depth front to back.

16. No building shall have an overall length of more than two hundred feet.

## 440 SPECIAL PROVISIONS FOR COMMERCIAL USES

### 440.1 SCREENING OF COMMERCIAL USES

Any business or commercial use conducted outside a completely enclosed building (including storage, accessory parking of commercial vehicles, and service of manufacturing operations) shall, if visible at normal eye level from any point within the R-1, R-2, or R-3 Districts and less than one hundred and fifty feet distant shall be completely screened from such view except where separated from said districts by a railroad, or by a public or private way having a width of forty feet or more. Screening required under this paragraph shall be by an evergreen planting, fence, or other suitable visual barrier.

### 440.2 REGISTERED MARIJUANA DISPENSARIES

The zoning of Registered Marijuana Dispensaries in the Town of Scituate shall be governed in accordance with this section.

A. Purpose. The purpose of this section is to regulate the locations for Registered Marijuana Dispensaries which serve a legitimate need for human health, in order to minimize any potential adverse impacts on residents of the Town, including impacts on residential neighborhoods and incompatible land uses, children and vulnerable populations.

B. Applicability. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited except as permitted under this Section, except for personal cultivation by registered qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others as provided by 105 CMR 725.000:

Implementation of an Act for the Humanitarian Medical Use of Marijuana, adopted May 8, 2013.

Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Registered Marijuana Dispensary.

In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any other use, other than personal cultivation by registered qualifying patients or cultivation by personal caregivers on behalf of qualifying patients or others as provided by 105 CMR 725.000.

C. Procedures.

1. Applications. Applicants for special permits under this section shall include the following information with the application:
   a. All requirements for a Major Site Plan Review, as described in Section 770.5;
   b. A deed, purchase and sale agreement or lease as evidence of the Applicant's right to use the site;
   c. A copy of the license from the Mass. Dept. of Public Health (MDPH) for the Registered Marijuana Dispensary, including the detailed written operating procedures submitted to MDPH and any conditions of operation specific to the proposed operation;
   d. A labeled, dimensioned floor plan by a licensed architect showing the different functions within the building in which the Registered Marijuana Dispensary will be located, and the area to be occupied by the Registered Marijuana Dispensary, with square footage;
   e. The proposed hours of operation, number of employees and number of vehicles used for regular operations;
   f. A description of the proposed system of fire protection;
   g. A detailed description of proposed security measures to ensure the safety of customers, employees and property, and to protect the premises from theft including lighting, fencing, gates and alarms, etc. as required to meet the standards of 105 CMR 125.000.
   h. Identification of any of the following facilities within five hundred (500') linear feet of the proposed location, with stated distance to any of the following as applicable:
      i. Any school, library, park, ballfield or other recreation facility typically used by children;
      ii. Any other Registered Marijuana Dispensary or related activity including but not limited to an independent testing laboratory;
      iii. Any drug or alcohol rehabilitation facility;
      iv. Any correctional facility, half-way house or similar facility.

2. Distribution. Applications for special permits for Registered Marijuana Dispensaries shall be distributed to the Superintendent of Schools and Police Chief, in addition to the departments and boards listed in Section 940, referrals.

3. Process. The Planning Board shall be the special permit granting authority for Registered Marijuana Dispensaries. The process for application shall be governed by MGL Ch 40A, § 9 and this section.

4. Standard of Review.
   a. In reviewing a special permit application under this section, the Planning Board shall insure the proposal meets the Standard of Review contained in Section 770.6 Site Plan Review, Standards of Review.
   b. The Special Permit Granting Authority must also find all the following:
      i. That the Registered Marijuana Dispensary including its site plan is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
      ii. That the Registered Marijuana Dispensary demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
      iii. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
      iv. That the site plan for the Registered Marijuana Dispensary adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and it impact on neighboring uses.
   c. The special permit review shall also be subject to the procedure and conditions of approval set forth in Section 950.2 and 950.3 of the Zoning Bylaw, and the Planning Board may issue further conditions to the special permit, in addition to those stated herein.

5. Any Registered Marijuana Dispensary permitted under this Section shall be located only in a zoning district that is designated for its use within this Zoning Bylaw.

6. Location. No Registered Marijuana Dispensary shall be located within five hundred (500) linear feet of the nearest point of the property line where the following activities or uses occur:
   a. Any school, library, park, ballfield or other recreation facility typically used by children;
   b. Any other Registered Marijuana Dispensary or related activity including but not limited to an independent testing laboratory;
   c. Any drug or alcohol rehabilitation facility;
   d. Any correctional facility, half-way house or similar facility.

   The five hundred (500) linear foot distance under this section is measured in a straight line from the nearest point of the property line to the proposed Registered Marijuana Dispensary.

7. As a condition of its special permit, off-site signage or advertising for a Registered Marijuana Dispensary shall not be permitted.

8. As a condition of its special permit, the appearance and/or aroma of marijuana products or treatment, or of associated activities shall not be detectable from the exterior of a Registered Marijuana Dispensary.

9. As a condition of its special permit, a Registered Marijuana Dispensary shall provide the Scituate Police Department, Building Commissioner, and the Planning Board with the names, phone numbers, and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the Registered Marijuana Dispensary.

10. A special permit granted to an applicant under this Section is non-transferable and shall have a term limited to the earlier of the duration of the applicant's ownership or control of the premises as a Registered Marijuana Dispensary.

11. In the event the Massachusetts Department of Public Health license for cultivation of marijuana, manufacture of marijuana products, or operation of a Registered Marijuana Dispensary is not renewed, is cancelled, or is otherwise terminated for any reason, its special permit shall immediately become void.

12. As a condition of its special permit, the holder shall file an annual report to the Planning Board no later than January 31st of each year, providing a copy of all current applicable state licenses for the Registered Marijuana Dispensary and its owners and demonstrate continued compliance with all conditions of the special permit.

**440.3 GARAGE FOR COMMERCIAL VEHICLES**

A private, fully enclosed one-story garage for housing not more than two commercial vehicles used in conjunction with the principal occupation of the occupant of the residence, provided that:

1. The residence and the garage shall be on one parcel of land or contiguous parcels held by the same owner, and that the common ownership shall be a continuing requirement and in the event that said ownership conditions cease, the permitted use shall terminate forthwith.

2. The architecture of the building shall be compatible in appearance with dwellings in the vicinity.

3. A plan, with architectural elevations of the building and its location on the lot, shall be submitted to the Board of Appeals.

4. The garage shall be suitably screened from view of the abutters and/or the public. Screening shall be by natural vegetation, landscaping, or other means approved by the Board of Appeals.

5. The building shall not exceed one thousand square feet in floor area.

6. The building shall not exceed eighteen feet in height.

7. The height of the doors of said garage shall not exceed eleven feet.

8. Said garage shall not be less than forty feet from side and rear lot lines and sixty feet from any street line.

9. There shall be no exterior signs, except as otherwise permitted herein.

10. No stock in trade shall be regularly maintained on the premises.

11. That there is no outside storage of material or equipment.

12. That the hours of normal operation, except for school buses and emergency vehicles, shall not commence before 6:00 A.M. and shall cease by 7:00 P.M. No Sunday or holiday operation permitted.

13. No offensive noise, dust, smoke, odor, glare, or heat is produced.

### 440.4 BUSINESS ACCESSORY USE

Such industry or light manufacturing (including processing, assembly and repairs) as is usual in connection with a permitted principal business use, provided that it does not occupy an area exceeding fifty percent of the total floor area occupied by the principal use, that the major portion of all products manufactured are to be sold at retail on the premises, and that no more than five persons are regularly employed therein.

### 440.5 BUSINESS DISTRICTS

In a GB or HB District, all uses permitted as of right or by special permit and all uses accessory thereto shall be conducted wholly within an enclosed building, except for the following:

1. Uses permitted as of right in R-1, R-2 and R-3 Districts.
2. Outdoor dining areas accessory to a restaurant or hotel on the same premises, and serving only persons seated at tables.
3. Parking lots for passenger automobiles.
4. Exterior signs, as hereinafter permitted.
5. Plants growing in the soil.

## 450 SPECIAL PROVISIONS APPLICABLE TO ALL DISTRICTS

### 450.1 DETENTION BASINS

Detention basins, retention basins, and similar man-made drainage ponds shall be permitted for drainage in a subdivision if approved by the Planning Board in connection with an endorsed subdivision plan. Each detention basin, retention basin or man-made drainage pond of 2,500 sq. ft. or greater, measured at the elevation of the spillway inside the basin, shall be located on a separate vacant lot. This separate, vacant lot shall not be considered a building lot and shall not be subject to the dimensional requirements for dwellings of Section 610, Lot Size Regulations for Dwellings. Grading for a detention basin, retention basin or drainage pond shall begin not less than 20' from the lot line.

### 450.2 SEPTIC SYSTEMS

Notwithstanding the requirement of bylaw Section 200, Definitions, Accessory Use (that an accessory use shall be located on the same lot where the principal use is located), a soil absorption system for a septic system may be located on a parcel separate from the residential lot that it is to serve, provided that no dwelling shall be located on the separate parcel. Such a separate septic system parcel shall not be subject to the dimensional requirements of bylaw Section 610 Lot Size Regulations for Dwellings, but shall not be considered a building lot for any purpose other than for the siting of a septic system.

### 450.3 TRAILERS

No automotive type of trailer or camper, whether mobile or immobile raised on cement blocks or otherwise, shall be occupied for living purposes within the town, except that such trailers may be used as field offices by architects, engineers or contractors engaged in the construction of public, commercial or charitable structures or other public works, and, by special permit granted by the Board of Appeals, by engineers, architects, and contractors engaged in other construction; provided, however, that such approval shall not be given for periods in excess of six months duration.

### 450.4 PUBLIC USE

Any public use (including a public utility or communications use) not specifically listed which is necessary for the vicinity, or which requires a location within the district for reasons of space or function, is allowed in any district. This Section shall not apply to wireless communication towers, personal wireless service facilities and their accessory structures which shall be subject to Sections 540 and 730 of this bylaw.

## 460 SALTMARSH AND TIDELAND CONSERVATION DISTRICT

### 460.1 PERMITTED USES

In a D District no structure shall be erected except non-commercial docks, cat walks, wharves or floats, nor may any area within said district be filled, drained, dredged or excavated except by or under the direction of any Federal, State, County or town agency or as otherwise provided in Subsection 460.2, hereof. Notwithstanding anything to the contrary hereinbefore contained, in a D District the following municipal uses are permitted as of right:

A. Public parking, recreation, or water supply use.

### 460.2 USES PERMISSIBLE BY SPECIAL PERMIT

The owner of any land located in a D District, or his agent, may apply to the Board of Appeals for a special permit for the construction of any structure which would have been permitted on said land prior to the adoption of this Section 460 or for filling, draining, dredging, or excavation. No permit shall be granted which will adversely affect the natural character of the area in which the land referred to in the application is located.

Notice shall be given by certified mail to the Chairman of the Conservation Commission and the Chairman of the Planning Board, or their designated representatives.

## 470 FLOOD PLAIN AND WATERSHED PROTECTION DISTRICT

### 470.1 PURPOSE

The purpose of the Flood Plain and Watershed Protection District is:

A. To protect the health and safety of persons against those hazards which may result from unsuitable development in marshes, bogs and lowlands, or along ponds or watercourses, or in areas subject to flooding.

B. To conserve the values of lands and buildings in such flood-prone areas.

C. To facilitate the adequate protection of the community water supply through preservation and maintenance of the ground water table.

D. To protect and preserve the inland marshes, bogs, ponds, and watercourses and their adjoining wetland soils in order to safeguard the purity of inland and coastal waters and for the protection and propagation of the food chain supportive of marine life.

E. To encourage the most appropriate and suitable use of the land.

F. To preserve and increase the amenities of the town.

This section does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other sections of this bylaw or other applicable laws, regulations or bylaws.

**470.2 RELATION TO OTHER DISTRICTS**

The Flood Plain and Watershed Protection District shall be considered to be superimposed over any districts of the bylaw and in the event any regulations of this Flood Plain and Watershed Protection District are in conflict with the regulations of any districts of the bylaw, the more restrictive regulation shall take precedence.

**470.3 LOCATION**

The locations and boundaries of the Flood Plain and Watershed Protection District shall be as shown on a map entitled “Town of Scituate, Massachusetts, Flood Plain and Watershed Protection District, 1972” on file at the Scituate Town Hall Engineering Office but excluding therefrom all temporary man-made diversionary ditches which pass through or across lands otherwise not subject to flooding, and said map with all its contents is hereby by this reference made a part of this zoning bylaw. All areas in said Flood Plain and Watershed Protection District are subject to the regulations set forth in the following Sections 470.4 through 470.10.

**470.4 DEFINITIONS**

Existing Buildings or Structures - Shall mean those residential and nonresidential buildings or structures existing in the Flood Plain and Watershed Protection District on the date of adoption of the Flood Plain Watershed Protection District bylaw, (1972), provided that said building or structure exists or has the right to exist, in accordance with the provisions of Section 800. herein, at the time that application for a special permit for substantial improvement is made under this section.

**470.5 PERMITTED USES**

In a Flood Plain and Watershed Protection District, except as provided herein and in subsections 470.6 and 470.7, no structure shall be erected, constructed, altered, enlarged or otherwise placed or moved for any purpose, except the following, which are permitted as a matter of right:

A. Conservation of soil, water plants and wildlife, including wildlife management shelters.

B. Nature study, boating, fishing and hunting where otherwise legally permitted, including duck blinds and foot, bicycle, horse paths.

C. Proper operation and maintenance of dams and other water control devices, including temporary alteration of the water level for municipal water supply, agricultural, emergency or maintenance purposes, or for the propagation of fish.

D. Forestry, grazing, crop farming, nurseries, truck gardening and harvesting of crops, including but not limited to such crops as cranberries, marsh hay, seaweed, berries, fruits and seeds.

E. Accessory uses such as flower or vegetable gardens, lawns, fences and non-commercial signs not exceeding three square feet in size.

F. Accessory outbuildings including garages and tool sheds serving an existing structure which legally existed on the date of amendment of this section of the bylaw (March 2, 1992).

**470.6 USES PERMISSIBLE BY SPECIAL PERMIT**

Upon issuance of a special permit by the Board of Appeals and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purposes of this section, the following uses and structures are permitted:

A. Footbridges and duckwalks.

B. Municipal parks and municipal water supply facilities including reservoirs, wells and pumping stations.

C. Temporary storage of materials or equipment, provided such storage does not affect the water quality or the natural drainage pattern on any watercourse.

D. Dams, excavations, or changes in watercourse to create ponds or pools for municipal water supply, agricultural fishing, swimming or other recreational use, scenic features, or for drainage improvements or mosquito control activities.

E. Nonresidential structures used only in conjunction with fishing, shellfishing, or the growing, harvesting or storage of crops raised on the premises, any such structures not to exceed twenty feet in height nor one thousand square feet in total ground coverage, including backfill and grading, and provided that such structure does not affect the water quality or natural drainage pattern on any watercourse.

F. A special permit for substantial improvement of existing structures which legally existed on the date of amendment of this section of the bylaw (March 2,1992) may be issued in accordance with the following:

1. Such improvements must be consistent with the requirements of the National Flood Insurance Program.

2. Any improvements must be consistent with those provisions of the State Building Code (780 Code of Massachusetts Regulations) pertaining to

flood resistant construction, in consultation with the Building Commissioner.

3. Any improvements shall not affect the natural drainage patterns of the watercourse.

**470.7 PROHIBITED USES**

Dumping, filling, excavating or transferring of any material which will reduce the natural storage capacity of the land, interfere with the natural drainage patterns of any watercourse, or degrade the water quality of surface or ground water within the district is prohibited, except activities that are incidental to flood or mosquito control work performed by or under the direction of an authorized governmental agency, or activities incidental to the agricultural uses described in Section 470.5.

**470.8 EXEMPTIONS**

Repair or improvement of existing structures which legally existed on the date of amendment of this section of the bylaw (March 2, 1992) shall be exempted from provisions of the Flood Plain and Watershed Protection District if the activity is (1) deemed by the Building Commissioner to not be a substantial improvement and (2) is consistent with the purposes of the Flood Plain and Watershed Protection District.

**470.9 DETERMINATION OF SUITABILITY**

If any land in the Flood Plain and Watershed Protection District is proven to the satisfaction of the Board of Appeals, after referral as required under Section 940, as being in fact not subject to flooding and not unsuitable because of drainage conditions for any use otherwise permitted under the applicable provisions of the zoning bylaw, but not specifically listed under Section 420, the Board of Appeals may issue a special permit for the proposed use. Such use shall be consistent with all other applicable local bylaws and state regulations and shall not interfere with the purposes of the Flood Plain and Watershed Protection District or pose a threat to the public health, safety or welfare.

**470.10 BUILDING PERMITS**

Whenever an application is made for a building permit on land which the Building Commissioner believes may involve the use of land in the Flood Plain and Watershed Protection District, he or she may require the applicant for such permit to provide as part of such application a plan of the lot on which said buildings is intended to be built, showing elevations of the land contours at one foot intervals, referred mean sea level datum and certified by a registered land surveyor.

# 480 LARGE SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

**(Bylaw voted Special Town Meeting November 8,2010)**

## 480.1 PURPOSE

The purpose of this bylaw is to promote the creation of new large scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

## 480.2 APPLICABILITY

This section applies to large scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

## 480.3 GENERAL REQUIREMENTS FOR ALL LARGE SCALE SOLAR POWER GENERATION INSTALLATIONS

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

A. Compliance with Laws, Ordinances and Regulations.
The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

B. Building Permit and Building Inspection.
No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

C. Site Plan Review.
Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall be subject to site plan review by the Planning Board as described in Section 770 of this Bylaw prior to construction, installation or modification as provided in this section. In order to comply with the provisions of Section 22(c) of the Green Communities Act, site plan review for these large scale installations shall be expedited and no decision shall be rendered more than one year after the date of application. Application requirements shall be as provided below:

1. General. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed in Massachusetts.

2. Required Documents. Pursuant to the site plan review process, the project proponent shall provide the following documents:

   a. A site plan showing:

i. Property lines and physical features, including roads, for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed in Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.

iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

vi. Name, address, and contact information for proposed system installer;

vii. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

viii. The name, contact information and signature of any agents representing the project proponent; and

b. Documentation of actual or prospective access and control of the project site (see also Section 480.3 D);

c. An operation and maintenance plan (see also Section 480.3 E);

d. Zoning district designation for the parcel(s) of land comprising the project site;

e. Proof of liability insurance; and

f. Description of financial surety that satisfies Section 480.3 L

The Planning Board may waive documentary requirements as it deems appropriate.

D. Site Control.
The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

E. Operation & Maintenance Plan.
The project proponent shall submit a plan for the operation and maintenance of the large scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

F. Utility Notification.
No large scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

G. Dimension and Density Requirements.

1. Setback and Yard Requirements.
For large scale ground-mounted solar photovoltaic installations, no solar panel shall be installed within thirty feet of the exterior line of any street or way, or nearer to the side or rear lines of its lot than the "Required Side Yard Distance" and "Required Rear Yard Depth" specified in the following table, provided, however, that where the lot abuts a Residential zoning district or the Saltmarsh and Tideland Conservation District, no solar panel shall be installed within fifty feet of the side or rear lines of its lot:

| Required Side Yard Distance | Required Rear Yard Depth |
|---|---|
| 15 feet | 30 feet |

2. Appurtenant Structures.
All appurtenant structures to large scale ground-mounted solar photovoltaic installations shall be subject to regulation concerning the maximum bulk and height of structures, and the minimum lot area, setbacks, open space, parking and building coverage requirements, which shall be the same as for structures in the Commercial zoning district. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

H. Design Standards.

1. Lighting.
Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation

shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

2. Signage.
A sign consistent with the Town's sign bylaw shall be required to identify the owner and provide the business name for the company(ies) that own and operate the installation, their business address, the name of a contact person, and a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

3. Utility Connections.
Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

I. Safety and Environmental Standards.

1. Emergency Services.
The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

2. Land Clearing, Soil Erosion and Habitat Impacts.
Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large – scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

J. Monitoring and Maintenance.
Solar Photovoltaic Installation Conditions. The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

K. Modifications.
All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

L. Abandonment or Decommissioning.

1. Removal Requirements.
Any large scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 480.3 L 2. of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

   a. Physical removal of all large scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

   b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

   c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. Abandonment.
Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

3. Financial Surety.
Proponents of large scale ground-mounted solar photovoltaic projects shall provide a form of surety acceptable to the Town Treasurer, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

# 490 PLANNED DEVELOPMENT DISTRICT

## 490.1 PURPOSE

The purpose of the Planned Development District (PDD) is to encourage a mix of land uses and activities, including an 18 hole golf course and a community recreation complex, a mix of residential land uses, including permanent affordable housing, and building types that complement each other; to provide for the development of these uses in a comprehensive manner instead of piecemeal to save open space that otherwise would be lost or wasted; to promote more efficient use of land while protecting natural resources such as wetlands, water bodies, ground water and native vegetation; all in conformity to the provisions of Massachusetts General Laws, Chapter 40A, Section 9 for "planned unit developments". The Planning Board shall be the Special Permit Granting Authority in the PDD District.

## 490.2 PERMITTED USES IN PDD

In Subdistricts A, B, C, D, E and F in the PDD District, the following uses are permitted as of right:

A. Uses permitted as of right in Flood Plain and Watershed Protection Districts;

B. Religious and public educational uses, agricultural uses permitted as of right in Residence Districts (Section 420); and

C. Municipal water supply and wastewater treatment plant facilities.

D. In Subdistrict B all of the uses permissible as of right in an R-2 District subject to the same conditions and procedures as therein specified. Minimum lot size, frontage, setback and width requirements for the above uses shall be in accordance with R-2 District provisions.

## 490.3 USES PERMISSIBLE BY SPECIAL PERMIT

Pursuant to Section 970. of this bylaw, the Planning Board may issue a special permit for municipal, residential, recreational and commercial uses within the subdistricts, as outlined below. The subdistricts may be developed in whole or in part, together or separately, in one of several ownerships, on land publicly or privately owned, for the purpose of accommodating the following uses:

**A. Subdistrict A - Affordable Residential Housing District**

This Subdistrict shall consist of two sub-subdistricts: A-1 and A-2 as shown on the Zoning Map.

1. Goals

   Any Subdistrict A residential proposal must be designed to meet the following goals:

   a. To serve affordable housing needs by providing long-term, affordable housing for persons with low and moderate income levels and

   b. To be compatible with the needs of disabled and elderly persons.

2. General Requirements

   Any Subdistrict A residential proposal must meet the following requirements:

a. Contain long-term affordability restrictions that ensure that low and moderate income households will continue to have their affordable housing needs met by housing constructed in Subdistrict A. To the extent permitted by applicable law and regulations, Scituate residents and Scituate employees shall be given preference for affordable housing in Subdistrict A. Scituate residency shall be determined by the Scituate Housing Authority.

b. Contain a low-and moderate income formula requirement for prospective owners or tenants for proposed housing units that is consistent with the regulations promulgated by the Department of Housing and Community Development (DHCD) or any successor agency; and

c. Meet a ”community necessity” within the town, which requirement will be deemed to have been met provided that the town has not already met the minimum requirement set forth in Massachusetts General Laws, Chapter 40B, Section 20, et. seq.

3. Subdistrict A Specific Requirements

a. Any applicant shall be a nonprofit corporation.

b. The applicant shall make its application in response to a request for proposals issued by the Scituate Board of Selectmen or shall make its application directly to the board of selectmen and petition that a request for proposals be issued.

c. Title to the land underlying the property shall be transferred to the nonprofit corporation with the restriction that ownership shall revert to the Town of Scituate should the underlying property be put to a use other than affordable housing, unless the affordability requirement is released as provided herein.

d. The nonprofit corporation shall retain title to the underlying property at all times.

e. The Town of Scituate shall be granted an appreciating mortgage by each individual unit owner which shall be junior to any other mortgage granted by the unit owner to secure the purchase price of the property (which shall include the unit, the land underlying the unit and any interest in any common areas). Said mortgage shall be for an amount that represents the difference between the original purchase price and the fair market value of the unit at the time that said mortgage is discharged. Said mortgage will become due, payable and dischargeable only upon either a release of the affordability requirement imposed by this bylaw. A certificate by the Scituate Housing Authority that a purchase price meets the affordability formula shall be dispositive.

f. Any sale of any affordable unit constructed pursuant to this section shall include a 99 year ground lease. Said 99 year ground lease shall be renewable upon its expiration and shall be automatically revoked upon a sale of the unit for a non-affordable purchase price. An appreciating mortgage held by the Town of

Scituate to secure a particular unit may be assumed by any subsequent buyer of the unit or the Town of Scituate shall discharge the prior existing, junior appreciating mortgage simultaneously with the subsequent buyer's granting of a new appreciating mortgage, provided that, in either case, affordability requirements are met.

g. The affordability of the purchase price of any unit constructed pursuant to this section shall be determined by the nonprofit corporation holding title to the land underlying the property in cooperation and consultation with the Scituate Housing Authority and shall be tied to the original purchase price plus an allowance for inflation as determined by the Consumer Price Index. In the event of a disagreement about affordability, the Scituate Housing Authority's judgment shall control.

h. Each affordable unit constructed and sold pursuant to this section shall pay an annual fee to the nonprofit corporation for the costs of the nonprofit administration and upkeep of common areas. Said fee and any schedule of increases shall be set by the nonprofit corporation prior to any sale or resale of a unit. Said fee and fee schedule shall receive prior approval from the Scituate Housing Authority and shall be disclosed to prospective buyers prior to sale or resale.

i. The nonprofit corporation shall ensure proper maintenance of the common areas in cooperation and consultation with a homeowners association which shall consist of at least five unit owners elected by majority vote of the unit owners on an annual basis.

j. Release Provision
In the event that the nonprofit corporation [by a three-fourths vote of its board of directors] and three-fourths of all unit owners within the non profit's administration determine that there is no longer a reason to require that the units remain affordable, then they may dissolve the affordability requirement, convey the land to the owners outright and turn responsibility for maintenance of common areas over entirely to the homeowners association, provided that a three-fourths vote of the Scituate Town Meeting approving the dissolution of the affordability requirement is obtained prior to any such conveyance; and provided further, that such owners shall each satisfy the outstanding appreciating mortgage held by the Town of Scituate prior to accepting title to the underlying land and prior to selling an individual unit for more than an affordable purchase price.

k. An applicant may, after petitioning the Scituate Board of Selectmen for title to or for permission to develop the property designated as Subdistrict A, submit an application for a special permit for the development of affordable rental housing in accordance with the rules and regulations promulgated by DHCD.

3. Building Requirements

a. Detached single-family units and/or attached townhouse units shall be permitted in Subdistrict A, to a maximum number of one hundred fifty dwelling units in Sub-subdistrict A-1 and a maximum of thirty dwelling units in Sub-subdistrict A-2. No building shall contain more than ten units.

b. No building in Subdistrict A shall exceed two stories or thirty-five feet, as measured under Section 620 of this bylaw.

c. All residential structures and accessory uses, including roads, within the subdistrict shall be set back from the boundaries of the PDD by a buffer strip of at least one hundred feet in width, to be kept in a natural or landscaped condition.

d. Parking facilities shall be provided, in a ratio of two spaces per dwelling unit, in Subdistrict A.

e. Buildings in the subdistrict shall be separated from each other by at least fifty feet.

f. The Planning Board shall give preference to a layout which minimizes paved areas.

g. All residential units shall be connected at the developer's expense to the public sewerage system. Sewer pipes shall be designed as to be water tight, preventing infiltration or exfiltration. In Sub-subdistrict A-2 only, a private sewage disposal system approved by the board of health (and the Massachusetts Department of Environmental Protection when required) may be used until public sewerage is available, at which time connection to the public system must be made within ninety days.

h. As a condition of granting a special permit, land within Subdistrict A, not devoted to the dwelling units, or to permitted accessory uses, shall be set aside as common open space for the use of the PDD residents. The common land shall be conveyed to a corporation or trust comprising of a homeowners association whose membership includes the owners of all units contained on the parcel. The developer shall include in the deed to owners of individual units beneficial rights in the common land and shall grant a conservation restriction to the town over such land pursuant to Massachusetts General Laws Chapter 184, Sections 31-33 to ensure that it is primarily kept in an open or natural state. The restriction shall further provide for maintenance of the common land in a manner which will protect and enhance the ground water, including limitation on the use of fertilizer, pesticides and herbicides, limitation on use of de-icing chemicals, proper maintenance of drainage and sewer pipes, and the like. The restriction shall be enforceable by the town through its conservation commission in any proceeding authorized by the General Laws. The developer/owner shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as an association is capable of assuming the responsibility. The Planning Board shall establish a

standard in terms of percent of homes sold to determine when an association assumes such responsibility.

5. Maintenance Requirements
In order to ensure that the association will properly maintain the land deeded to it, the developer shall cause to be recorded at the Registry of Deeds and/or Land Court as appropriate a Declaration of Covenants and Restrictions which shall, at a minimum, provide for the following:

a. mandatory membership in an established homeowners association as a requirement of ownership of any unit in the subdistrict;

b. provision for maintenance assessments of all units in order to ensure that the common land and facilities are properly maintained. Failure to pay such assessment shall create a lien on the property assessed enforceable by either the homes association or the owner of any unit. The owner shall perform the duties of the home association until the homeowner association assumes the responsibility. To the extent permitted by the conservation restriction, the common land may be used for recreational purposes including walking and bicycle paths, gardens, swimming pools, tennis courts, etc. Utility lines shall be buried in the common land.

**B. Subdistrict B - Open Space, Residential and Recreation**

1. The following may be located on Subdistrict B: golf course, plus practice holes and country club structures primarily related to golfing including typical facilities for dining, recreation and accessory pro shops. A multi-purpose community recreation center, whether or not directly associated with the golf course or clubhouse, including facilities for both indoor and outdoor recreation activities. Detached single-family units and/or attached townhouse units shall be permissible by special permit in Subdistrict B to a maximum of forty units. Said units shall be prorated among property owners on the basis of acreage owned as of the effective date of this PDD bylaw. The number of units permissible on land of each such owner shall be the number of acres so owned as forty bears to the total number of acres is Subdistrict B, exclusive of land owned by the Town of Scituate. Issuance of such special permit shall be subject to all the provisions governing residential uses in Subdistrict A as provided in Section 490.3.A.(4) (a) through (h) above. The board shall adhere to all the requirements of the Flood Plain and Watershed Protection District and insofar as applicable.

2. No building in Subdistrict B shall exceed the height requirements as specified under Section 620 of this bylaw.

3. Parking facilities shall be provided as required in Section 760 (parking), and as follows: golf course: one and six-tenths (1.6) spaces for every acre of land in the property.

4. The Planning Board shall require adequate safeguards for layout of the golf course and pedestrian crossing of roads.

5. The Planning Board shall prohibit use of de-icing chemicals in the parking area.

6. The country club and recreational center structures shall be connected, at the developer's expense, into the public sewerage system. Alternatively, a private sewage disposal system approved by the board of health (and the Massachusetts Department of Environmental Protection when required) may be used until public sewage is available, at which time connection to the public system must be made within ninety days.

7. If any land in Subdistrict B is to be transferred to private ownership, and as a condition of granting a special permit at or before transfer of the title to Subdistrict B, a conservation restriction shall be placed upon the areas thereof to be developed for golf course use as permitted under Massachusetts General Laws, Chapter 184, Section 31. Such conservation restriction shall run with the land in perpetuity and shall ensure that it will be devoted to golf course or other open space use. The restrictions shall further contain design and management restrictions, including proximity to the pond, contour elevations to be preserved, use of fertilizers, herbicides and pesticides, and any other conditions necessary or convenient to protection of the environment, especially the public well and recharge area.

8. As a condition of granting a special permit for residential use in Subdistrict B, the board shall require that the comprehensive development purposes of the PDD Bylaw shall be secured by the submission and approval of a plan showing the location of the maximum number of the dwelling units which may be authorized upon the land of the permittee, according to the pro-rata formula set forth above. In the event the permittee was not a record owner of land in Subdistrict B as of the effective date of the PDD Bylaw, said plan shall show the location of all dwelling units permissible on all land of the permittee's predecessor in title being such record owner as of said effective date. As a further condition of said special permit, the board shall require the delivery of a conservation restriction as provided in Massachusetts General Laws, Chapter 184, Sections 31-33. The conservation restriction shall run to the Town of Scituate in perpetuity and shall be enforceable by the town through its conservation commission. The restriction shall describe all the land of the permittee or the permittee's said predecessor in title except those lots identified on said plan as dwelling locations. The restriction shall be in a form and upon terms acceptable to the board and shall prohibit the use of said land for any purpose except open space, recreation, and golf course purposes as provided in 490.3.

9. Removal of fill or other natural materials from the PDD may be conducted only after the granting of a special permit by the Planning Board. Such removal must be clearly associated with a development project permitted by this section, and must be ancillary thereto.

**C. Subdistrict C – Conservation**

1. Uses in Subdistrict C shall be restricted to those otherwise allowed or permitted in Section 460 (Saltmarsh and Tideland Conservation Districts). Additionally, the following uses may be allowed by special permit after review and comment by the Conservation Commission:

a. Boat launching facilities and associated vehicle parking facilities.

b. Other uses similar in function and design to those in Section 460, providing that all such uses are in conformance with Section 490.1 (Purpose).

2. Section 460.2 notwithstanding the Planning Board shall be the Special Permit Granting Authority in PDD Subdistrict C.

**D. Subdistrict D - Water Resources**

After due consideration of the recommendations of the Massachusetts Department of Environmental Protection, and subject to Planning Board approval, public recreation activities may be located on this parcel. The Planning Board shall ensure by permit considerations that such activities will not harm the quality or quantity of the water supply from the public well in the subdistrict.

**E. Subdistrict E - Wastewater Treatment**

Municipal wastewater treatment facilities may be located in Subdistrict E.

**F. Subdistrict F - Marine and Residential**

1. The following uses may be allowed only by a Special Permit granted by the Planning Board pursuant to the provisions of Section 970 of this bylaw and subject to the conditions herein specified:

   a. Any of the uses permissible either as of right or by special permit in a C (Commercial) District subject to the same conditions as therein specified.

   b. Detached single-family units and/or attached townhouse units to a maximum of one unit per ten thousand square feet of lot area plus a bonus of one unit for each one hundred linear feet of a ten foot wide permanent public pedestrian easement lying between the twelve-foot mean-low-water (MLW) contour and the Flood Plain and Watershed Protection District line (with provision for access from the Driftway and the adjacent dwelling units); plus an additional bonus of one unit per three hundred square feet of minipark to which the public has access [not to exceed seven units], the number of parks not to exceed two, one of which shall be at the end of the access easement furthest from the Driftway, said easements to be maintained by the owner or owners of the dwelling units. Any acreage dedicated to a use other than housing or lying within the Flood Plain and Watershed Protection District shall be excluded from the calculation of the basic number of dwelling units [one for every ten thousand square feet] permitted but shall be used in computing bonus units as set forth above. Any easement qualifying for a housing bonus must be adjacent to land qualifying for the basic housing unit calculation.

2. No building shall exceed two stories or thirty-five feet in height as measured under Section 620 of this bylaw.

3. Parking facilities for dwelling units shall be provided in a ratio of two spaces per unit.

4. Buildings shall be separated from each other by a distance of no less than the height of the taller of the two adjacent buildings, said height to be measured in accordance with Section 620 of this bylaw.

5 As a condition of granting a special permit, residential land including land used to qualify for a bonus, not devoted to the dwelling units, or permitted accessory uses, shall be set aside as common open space. The common land shall be conveyed to a corporation or trust comprising a homeowners association whose membership includes the owners of all units contained on the parcel. The developer shall include in the deed to owners of individual units beneficial rights in the common land and shall grant a conservation restriction to the town over such land pursuant to Massachusetts General Laws, Chapter 184, Sections 31-33 to ensure that it is primarily kept in an open or natural state. The restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its functions, appearance, cleanliness, proper maintenance of drainage and sewer pipes, and the like.

## 490.4 PROCEDURES

A. Pre-application Conference
Prior to the submission of an application for a special permit to develop land within the PDD District, the applicant at his option may confer with the Planning Board to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

B. Procedures
Procedures to be used under this section are as outlined and required in Section 770.3.

C. Application Requirements
Application requirements used under this section are as outlined and required in Section 770.4.

D. Standard of Review
The standard of review used under this section is as outlined and required in Section 770.5. Additionally, the Planning Board will ensure that

1. Major facilities or functions which require siting within scenic areas are designed to be visually compatible with the natural or historical characteristics.

2. The project does not adversely affect the natural environment to the detriment of community character and public health and safety. In particular, the project shall be so designed as to preserve the integrity of drinking water, ground water supply generally, floodplain, salt marshes and any other sensitive environmental features.

E. Project Completion Requirements
Project completion requirements used under this section are as outlined and required in Section 770.6.

**490.5 PERFORMANCE GUARANTEE**

Before approving the definitive plan, the Planning Board shall require that construction of ways and installation of utilities be secured by a type and amount of security satisfactory to the board.

**490.6 CRITERIA FOR REVIEW**

A. No special permit shall be granted and no definitive plan shall be approved unless the Planning Board finds and determines that the proposed project meets all of the requirements of the PDD Subdistrict in which it is located, and further finds that:

1. The project is consistent with the purposes set out in Subsection 490.1, Purpose.

2. Ingress and egress for traffic flow is designed properly so that there will be no serious hazard to vehicles or pedestrians.

3. Adequate parking facilities are provided for each use and structure in the development.

**490.7 DESIGN CRITERIA**

A. Design standards for roads and utilities shall generally conform to those contained in the Planning Board's Regulations for Subdivision Control insofar as reasonably applicable and consistent with Section B, below, but the board may vary those standards to meet the particular needs of the PDD or the general area. In any event, design criteria for development within the PDD shall conform to the guidelines contained in the latest official aquifer study, published at the time of permit application, within the so called "Delineated Zone II Area of

Contribution" surrounding public water well #18A, and shall conform to current regulations of the Massachusetts Department of Environmental Protection with regard to well-head protection measures.

B. In addition, the Planning Board shall employ the following design provisions for the PDD:

1. Finished site grades on Subdistricts A and B shall be maintained a minimum of four feet above ground water.

2. Stormwater drainage systems on Subdistricts A and B shall be designed to infiltrate collected water into the ground without contamination. Stormwater shall not be conducted outside the subdistricts or directly to the pond.

3. No fertilizers, herbicides and pesticides detrimental to ground water quality shall be used on Subdistricts A and B. Irrigation water for Subdistrict B shall be potable.

4. Sanitary wastes shall be collected in watertight sewers, or a private sewage disposal system approved by the Board of Health (and the Massachusetts Department of Environmental Protection when required).

5. No salt or other de-icing chemicals shall be used on pavements within Subdistricts A and B.

6. The use of paved areas shall be minimized within the PDD.

# SECTION 500 - SPECIAL DISTRICTS

## 510 RESIDENTIAL CLUSTER DISTRICT

### 510.1 PURPOSE

The purpose of the Residential Cluster (RC) District, in addition to purposes set out in Massachusetts General Laws, Chapter 40A and the local zoning, is to encourage the more efficient use of land in harmony with its natural features; to encourage creativity in the design of developments through a carefully controlled process; to encourage a less sprawling form of development, a shorter network of streets and utilities, more economical development of land with less consumption of open space; to permanently preserve natural topography and wooded areas within developed areas to preserve usable open space and recreation facilities close to homes; to encourage the creation of affordable housing; to provide an efficient procedure to ensure appropriate high-quality design and site planning and to enhance the neighborhoods in which they occur and to the town as a whole. The Planning Board shall be the Special Permit Granting Authority in the RC District.

### 510.2 PERMITTED USES RC DISTRICT

In the RC District, the following uses are permitted as a right: All of the uses permissible as of right in the R-3 District subject to the same conditions and procedures as therein specified. Minimum lot size, frontage, setback, and width requirements for the above uses shall be in accordance with the R-3 District provisions.

**510.3 USES PERMISSIBLE BY SPECIAL PERMIT**

Pursuant to Section 970 of this bylaw, the Planning Board may issue a special permit for any of the uses permissible by special permit in the R-3 District, subject to the same conditions and procedures as therein specified; or for the purpose of accommodating the following uses:

A. Detached single-family units and/or attached town house units and uses and buildings accessory thereto.

B. Recreational uses related to the residence in the RC District or for use by other residents in the neighborhood.

**510.4 DESIGN STANDARDS AND REQUIREMENTS**

A. Any project shall contain a minimum of twenty acres of lot area.

B. A maximum of one unit per ten thousand square feet of lot area, but in no event, more than four units per acre. In determining lot area, any area held in the same ownership and separated by a public or private way may be considered as a contiguous lot area. Any area in the Town of Scituate Flood Plain and Watershed Protection District shall not be included in determining lot area.

C. Any land area that is given to, and accepted by, the town for recreational, municipal, or school use shall be included in determining lot area.

D. The height of buildings in the RC District shall not exceed two and one-half stories and/or thirty-five feet, the height to be measured vertically from average finished grade of the ground adjoining said buildings to the ridge.

E. All residential structures and accessory uses within the project shall be set back from the boundaries of the development by a buffer strip of at least sixty feet in width, to be kept in a natural or landscaped condition, except in relation to roads existing at the time of the adoption of this bylaw where such strip shall be sixty feet.

F. There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, and parking. Parking facilities shall be provided in a ratio of two and one-half spaces per dwelling unit, either covered or uncovered. There shall be no parking in the buffer strip referred to in 510.4.E. herein.

G. The Planning Board shall give preference to a layout which minimizes paved areas.

H. All residential units shall be connected to all public and private utilities, at the developers expense and in accord with the rules and regulations of the Town Department of Public Works.

I. The developer shall grant to the town such easements as it may request for the proper maintenance, testing or repair of any public utilities.

J. Quality of construction design standards for roads and utilities shall generally conform to those contained in the Planning Board's Regulations for Subdivision Control and/or Design Guidelines for Site Development insofar as reasonably

applicable, but the board may vary those standards to meet the particular needs of the RC District and/or the general area.

K. As a condition of granting a special permit, land not devoted to the dwelling units, or to permitted accessory uses, shall be set aside as common open space for the use of the residents. Such open land shall either be conveyed to the town or accepted by it for a park or open space use, or be conveyed to a nonprofit organization the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned by the owners of lots or residential units within the project, or any combination of the above. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units in perpetuity. In any case where such land is not conveyed to the town, a restriction enforceable by the town shall be recorded providing that such land shall be kept in an open or natural state and not to be built for residential use or developed for accessory uses such as parking and roadway. The restriction shall further provide for maintenance of the common land in a manner which will ensure its suitability for its function, appearance, cleanliness, proper maintenance of drainage and sewer pipes, and the like.

L. The board shall insure proper siltation control and site stabilization during construction.

M. The Planning Board may grant a density bonus for developments that provide affordable housing units. For each affordable housing unit that is provided within the development, an additional unit at market rate may be approved, with the maximum number of affordable units being 15% of the housing units allowed under Section 510.4B.

N. In addition, the Planning Board shall employ the following design provisions for the RC District:

1. No more than two residential units may share a common facade line without having an offset of three feet for an adjoining unit.

2. No building shall be more than one hundred fifty linear feet in length nor contain more than seven units.

3. Buildings in the district shall be separated from each other by a distance of no less than thirty-five feet.

4. Public bikeways and pedestrian walkways may be required by the Planning Board to provide circulation or access to schools, playgrounds, parks, shopping, transportation, open spaces and/or community facilities or for such other reasons as the board may determine.

5. The Planning Board shall give preference to a design that minimizes the possibility of substantial through traffic between existing ways.

## 510.5 SPECIAL PERMIT PROCEDURES

A. Pre-application Conference
Prior to the submission of an application for a special permit to develop one or more projects within the RC District, the applicant at his option may confer with the Planning Board to obtain information and guidance before entering into

binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.

B. Submission of Preliminary Plan

The applicant shall file an original plus ten copies of the preliminary plan with the Planning Board. The Planning Board, within forty-five days from receipt of the preliminary plan, shall review and determine whether the proposed project is consistent with the general or specific provisions set forth therein. The Planning Board may suggest modifications and changes to the preliminary plan in anticipation of the filing of the definitive plan. The contents of the preliminary plan shall be established by regulations of the Planning Board adopted hereunder. In connection with the submission, review, and approval of all plans, preliminary and definitive, the applicant shall deposit with and pay to the Planning Board an amount in accord with the then applicable fee schedule of the Planning Board.

C. Submission of Definitive Plan

1. The applicant shall submit to the Town Clerk an application for a special permit accompanied by the original of the definitive plan plus ten copies thereof, together with a fee to be determined by the board, to include the cost of advertisement and notification of all "parties in interest" as defined in Massachusetts General Laws, Chapter 40A, Section 11.

   a. The Town Clerk shall transmit the application, the original and nine copies of the definitive plan to the Planning Board. One copy each shall be forwarded to the superintendent of public works, board of health, fire department, police department, conservation commission, Building Commissioners, recreation commission, and any other bodies as the Planning Board may determine.

   b. The agencies receiving copies of the definitive plans shall submit to the Planning Board written recommendations on the proposed project within thirty-five days of filing. Failure to comment shall be deemed lack of objection.

   c. Special permits applications shall be reviewed in accordance with the provisions of General Laws Chapter 40A.

   d. Special permits granted under this section shall lapse within two years, excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not begun the Planning Board may grant an extension for good cause, which shall include, but not be limited to, the phased construction of the development, and shall grant an extension if the delay has been caused by the need to seek other permits.

   e. The Planning Board may approve a development plan to be completed in phases, however, no substantial construction or reconstruction except as shown on the recorded plan shall occur without a further submission of plans to the Planning Board, and a notation to this effect shall appear upon the recorded plan and upon deeds to any property within the RC District.

f. Approval of a special permit hereunder shall constitute review and approval under Section 770 of this bylaw, Site Plan Review.

g. Within a reasonable time after the granting of a special permit hereunder, the Planning Board shall appoint an agent, or agents, with such authority as the board shall prescribe.

2. Contents of Definitive Plan
The application for a special permit shall be accompanied by:

a. The original and copies of the definitive plan which shall comply with the requirements of a site plan under Section 770.2 of this bylaw, Site Plan Administrative Review.

b. Impact studies on the following:

i. Traffic study evaluating the impact of the development on capacity, safety, and levels of service on each approach street;

ii. Impact on transportation facilities, shopping facilities, and local businesses;

iii. Impact on the public school system;

iv. Effect of the development on existing town services, including water system, sewage disposal facility, electrical system and highway or other public works services;

v. Fiscal analysis demonstrating cost versus revenue of the proposed development.

c. Other data required to be submitted by any other regulations of the Planning Board which may be adopted hereunder.

**510.6 PERFORMANCE GUARANTEE**

Before approving the definitive plan, the Planning Board shall require that construction of ways, installation of utilities, and construction and installation of all other amenities required by the special permit and this bylaw, as well as possible restoration of the site, be secured by a type and amount of security satisfactory to the board.

**510.7 FINDINGS OF THE BOARD**

After following the proper procedural requirements specified for the granting of a special permit in the Massachusetts General Laws, Chapter 40A, including the holding of a public hearing, the Planning Board may grant a special permit if it finds that the applicant has demonstrated the following:

That the project will be in harmony with the general purposes of this bylaw and the requirements of Massachusetts General Laws, Chapter 40A, that it will not have a greater detrimental impact on the neighborhood than a conventional plan, will be designed with due consideration for health and safety, and is superior to a conventional plan in preserving open space, minimizing environmental disruption, and allowing for more efficient provision of services. In addition, the plan must meet the design standards and requirements identified above.

If the plan is approved, there shall be no amendments or changes without Planning Board, or its designated agents, review and approval. The Planning Board must, however, approve all substantive amendments or changes.

## 520 WATER RESOURCE PROTECTION DISTRICT

### 520.1 PURPOSE

The purpose of the Water Resources Protection District is to safeguard and protect Scituate's sources of water supply. This bylaw is intended to preserve and maintain the filtration and purification capacity of the land, the groundwater table, the purity of groundwater and surface water supplies, to conserve the natural environment, to protect the public health, safety, and welfare and to comply with state law.

### 520.2 FINDINGS

The Town of Scituate finds that:

A. The Old Oaken Bucket Pond, Tack Factory Pond and The Reservoir and their watersheds and tributaries, and the groundwater underlying Scituate are the primary sources of Scituate's existing and future drinking water supply;

B. The Old Oaken Bucket Pond is listed in the Massachusetts Department of Environmental Protection's (DEP's) water withdrawal permit as Scituate's surface water supply source. The Massachusetts Drinking Water Regulations, 310 CMR 22.00, establish a Surface Water Protection Zone, known as a Zone A, which is significant to the surface water supply source and is required to be protected;

C. The tributaries to Old Oaken Bucket Pond are a water resource that is integrally connected with, and flows into, the reservoir, surface waters, lakes, streams and coastal estuaries. These waters also constitute significant recreational and economic resources of the town used for bathing and other water-related recreation, shellfishing and fishing;

D. The Town's drinking water also comes from groundwater. Groundwater is the water held in the cracks and spaces in the soil. Groundwater is stored in--and moves slowly through--layers of soil, sand and rocks called aquifers. Public drinking water wells obtain water from a portion of the aquifers in Scituate.

**E.** The Massachusetts Drinking Water Regulations, 310 CMR 22.00, establish Zones of Contribution or Zone II's to designate that area of an aquifer that contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated, or 180 days of pumping at approved yield, with no recharge from precipitation.

F. Within each of these areas, many human activities can occur that have been shown to contaminate the surface water supply and groundwater used by public wells; Accidental spills and discharges of petroleum products and other toxic and hazardous materials and sewage discharge have repeatedly threatened the quality of groundwater and surface water supplies and related water resources throughout towns in Massachusetts, posing potential public health and safety hazards and threatening economic losses to the affected communities.

G. It is of critical importance to the Town that both the surface water supply and its Zones of Contribution to public water supply wells be protected from contamination by human activities to the greatest extent possible.

## 520.3 WATER RESOURCE PROTECTION DISTRICT

The Water Resource Protection District includes areas significant to the Town's drinking water supply sources which require zoning protection, as shown on the a map entitled "Proposed Water Resource Protection District by Amory Engineers, P.C." dated March 2014. This district contains two Subdistricts, Zone A's, consisting of areas designated by DEP as influencing the surface water supply, and Zone II's, designated by DEP as Zones of Contribution to the public drinking water supply wells.

This district and its subdistricts shall be superimposed over any other districts established in this bylaw. The requirements enumerated hereafter for the Water Resources Protection District shall be in addition to, rather than in place of, the requirements for the underlying district. Where property is located in both the Zone A and Zone II Subdistricts, the more restrictive regulation and requirements shall apply.

## 520.4 BUFFER ZONE

A. Non-Disturbance Buffer Zone**:** A non-disturbance buffer zone shall exist one hundred and fifty feet horizontally from the high water mark of Tack Factory Pond Reservoir and from the edge of all tributaries in the reservoir watershed. Within this buffer zone, in addition to all other restrictions of the Water Resources Protection District, the following additional activities are prohibited:

1. any activities which cause earth movement or disturbance;

2. vegetation removal or cutting;

3. construction or placement of any permanent structures, other than those associated with the providing of public water;

4. any surface or sub-surface discharge, including, but not limited to, storm water runoff and domestic or industrial wastewater.

## 520.5 DESIGN AND OPERATIONS GUIDELINES

For all uses within the Water Resources Protection District the following design and operation guidelines shall be observed. Please note that more restrictive use and activity regulations which apply to the Zone A's and Zone II's are found in Section 520.6 below.

A. Safeguards
Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

B. Location
Where the premises are partially outside of the Water Resources Protection District, potential pollution sources such as on-site waste disposal systems shall be located outside the district to the extent feasible.

C. Disposal

For any toxic or hazardous wastes to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with Massachusetts General Laws, Chapter 21C.

D. Drainage

All runoff from impervious surfaces shall be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed by the Scituate Department of Public Works and Conservation Commission. Infiltration standards may be met using the following or similar best management practices:

1. For lots occupied, or proposed to be occupied by single or two family residences, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, in order to maintain pre-development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways, and other impervious surfaces shall be routed through grassed water quality swales, as sheet flow over lawn areas, or to constructed stormwater wetlands, sand filters, organic filters, and/or similar systems capable of removing nitrogen from stormwater. Rooftop runoff must be designed to recharge the first 1 inch of rainfall.

2. For lots occupied or proposed to be occupied by other uses, a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (detention) ponds, water quality swales, sand filters, organic filters or similar site-appropriate best management practices capable of removing nitrogen and other contaminants from stormwater and by meeting the Stormwater Management Standards and technical guidance contained in the current DEP's Stormwater Management Handbook, for the type of use proposed and the soil types present on the site. Such runoff shall not be discharged directly to rivers, streams, or other surface water bodies, wetlands or vernal pools. Dry wells shall be prohibited.

3. Except when used for roof runoff from non-galvanized roofs, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities. All such artificial recharge systems shall be maintained in full working order by the owner(s) under the provisions of an operation and maintenance plan approved by the Town to ensure that systems function as designed. Infiltration systems greater than three feet deep shall be located at least one hundred feet from drinking water wells. Infiltration basins or trenches shall be constructed with a three foot minimum separation between the bottom of the structure and maximum groundwater elevation.

E. Erosion and Sedimentation Control

All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Engineer, after

consultation with the conservation agent, are in place. Such control measures shall remain in place until the Town Engineer determines, after consultation with the conservation agent that the danger of erosion or sedimentation no longer exists. Hay bales shall only be used where it has been determined that the danger of soil erosion or sedimentation is minimal and in those instances where they are used as a control method, no bales shall be allowed to remain in place if they have begun to fall apart or deteriorate.

F. Dimensional Regulations

In order to minimize erosion of existing natural slopes and reduce resulting sedimentation of natural drainage areas, the following dimensional requirements shall apply within the Water Resources Protection District. The Board of Appeals may grant a variance from any regulation or percentage set forth in this paragraph for locations outside a Zone A or Zone II, provided the applicant for such variance satisfies the criteria set forth in Massachusetts General Laws Chapter 40A, Section 10.

1. No more than fifteen (15%) of the area or two thousand five hundred (2,500) sq. ft., whichever is greater, of any lot shall be rendered impervious unless a system of storm water management and artificial recharge of precipitation is developed which is designed to:

    a. prevent untreated discharges to wetland and surface water;

    b. preserve hydraulic conditions that closely resemble pre-development conditions;

    c. reduce or prevent flooding by managing peak discharges and volumes of runoff;

    d. minimize erosion and sedimentation;

    e. avoid significant degradation of groundwater;

    f. reduce suspended solids and other pollutants to improve water quality and

    g. provide increased protection of sensitive natural resources.

2. There shall be no grading, earth disturbance activity or vegetation clearing of land having a natural slope exceeding twenty-five percent (25%).

3. No finished slope shall be created that exceeds 25% with the exception of side slopes associated with new road construction.

**520.6 USE AND ACTIVITY REGULATIONS**

The following use and activity regulations are in addition to the standards in Section 520.4. They include use and activity regulations which apply to the Water Resource Protection District, its Subdistricts, and locations where the two Subdistricts overlap, as specified below:

| **Prohibited Land Uses and Activities in Water Supply Protection Areas** | **Water Resource Protection District** | **ZONE A (Surface Water)** | **ZONE II (Ground-water)** | **OVER-LAPPING ZONE A's and ZONE II's** |
|---|---|---|---|---|
| 1. Treatment or disposal works subject to 314 CMR 3.00 or 5.00, except for:<br>a. the replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;<br>b. treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with Title 5, 310 CMR 15.00, provided the facility owner demonstrates to the Department's satisfaction that there are no feasible siting locations outside the Zone A. Any new facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent.<br>c. treatment works approved by the Department designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and<br>d. discharge by public water system of waters incidental to water treatment process | | ✓ | | ✓ |
| 2. Facilities that generate, treat, store or dispose of hazardous waste except:<br>a. very small quantity generators, as defined by 310 CMR 30.00;<br>b. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;<br>c. waste oil retention facilities required by M.G.L. c. 21 s. 52A; and<br>d. treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters | ✓ | | ✓ | |
| 3. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31 | ✓ | | ✓ | ✓ |
| 4. Human or animal cemeteries or mausoleums | | ✓ | | ✓ |
| 5. Automobile graveyards, junkyards, or salvage operations | ✓ | | ✓ | ✓ |
| 6. Landfills or open dumps | ✓ | | ✓ | ✓ |
| 7. Self-service laundries, unless connected to public sewerage | ✓ | ✓ | ✓ | ✓ |

| **Prohibited Land Uses and Activities in Water Supply Protection Areas** | **Water Resource Protection District** | **ZONE A (Surface Water)** | **ZONE II (Ground-water)** | **OVER-LAPPING ZONE A's and ZONE II's** |
|---|---|---|---|---|
| 8. Facilities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.000, except for: very small quantity generators as defined by 310 CMR 30.000; and treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters | | ✓ | | ✓ |
| 9. Floor drain systems in existing industrial and commercial process areas and hazardous material and hazardous waste storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 2.00), connect the drain to a municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate regulations and policies. | ✓ | | ✓ | ✓ |
| 10. Storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate | ✓ | | ✓ | |
| 11. Storage of road or parking lot deicing and sanding materials unless covered or contained | | ✓ | | |
| 12. Storage of commercial fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate | ✓ | | ✓ | ✓ |
| 13. Storage of fertilizers unless covered or contained | | ✓ | | |
| 14. Storage of animal manures, unless stored in a structure designed to prevent the generation and escape of contaminated runoff and leachate | ✓ | | ✓ | ✓ |
| 15. Stabling, hitching, standing, feeding or grazing of livestock or other domestic animals within 150 feet of the bank of the Old Oaken Bucket Pond or a tributary thereto. | | ✓ | | ✓ |
| 16. Storage of animal manure, unless covered or contained, and storage is a minimum of 150 feet from any waterbody | | ✓ | | ✓ |
| 17. Commercial outdoor washing of vehicles and commercial car washes | | ✓ | | ✓ |
| 18. Motor vehicle repair operations, including automobiles, airplanes, and watercraft | | ✓ | | ✓ |
| 19. Dumping of snow from outside the district. | ✓ | ✓ | ✓ | ✓ |
| 20. Dry cleaning establishments | ✓ | ✓ | ✓ | ✓ |
| 21. Metal Plating, finishing, or polishing establishment | | ✓ | | ✓ |

| **Prohibited Land Uses and Activities in Water Supply Protection Areas** | **Water Resource Protection District** | **ZONE A (Surface Water)** | **ZONE II (Ground-water)** | **OVER-LAPPING ZONE A's and ZONE II's** |
|---|---|---|---|---|
| 22. Photographic processing establishment | ✓ | ✓ | ✓ | ✓ |
| 23. Printing establishment | ✓ | | ✓ | ✓ |
| 24. Electronic circuit assembly establishment | ✓ | ✓ | ✓ | ✓ |
| 25. Chemical and bacteriological laboratories | ✓ | ✓ | ✓ | ✓ |
| 26. Painting, wood preserving and furniture stripping establishment | ✓ | ✓ | ✓ | ✓ |
| 27. Solid waste combustion facilities or handling facilities as defined by 310 CMR 16.00 | | ✓ | | ✓ |
| 28. Underground storage tanks | | ✓ | | ✓ |
| 29. Sand and gravel operations | | ✓ | | ✓ |
| 30. Petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983, except for liquefied petroleum (liquid propane) | ✓ | | ✓ | ✓ |
| 31. Storage of liquid hazardous materials or liquid petroleum products unless such storage is above ground level on an impervious surface; and in containers or above-ground tanks within a building, or outdoors in covered containers or above-ground tanks with a containment system designed and operated to hold 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater. | ✓ | | ✓ | ✓ |
| 32. Storage of liquid hazardous material, liquid propane, or liquid petroleum products, *unless* storage is incidental to normal household use, outdoor maintenance, or heating of a structure; use of emergency generators; or a response action conducted or performed in accordance with M.G.L.c.21E and 310 CMR 40.000 and which is exempt from a groundwater discharge permit pursuant to 314 CMR 5.05; or the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline, provided the replacement is performed in accordance with applicable state and local requirements; and storage is above ground on an impervious surface; and in containers or above-ground tanks within a building, or outdoors in covered containers or above-ground tanks with a containment system designed and operated to hold 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater. | | ✓ | | ✓ |

| Prohibited Land Uses and Activities in Water Supply Protection Areas | Water Resource Protection District | ZONE A (Surface Water) | ZONE II (Ground-water) | OVER-LAPPING ZONE A's and ZONE II's |
|---|---|---|---|---|
| 33. Removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high groundwater table elevation unless re-deposited within 45 days and except for the construction of building foundations or the installation of utility works. | ✓ | | ✓ | ✓ |
| 34. Rendering impervious any lot/parcel more than 15% or 2,500 square feet, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality. | ✓ | | ✓ | ✓ |
| 35. Land uses that render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater, but no more than 20% with artificial recharge. | | ✓ | | |
| 36. Land uses that render impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater, unless a system for artificial recharge, that will not degrade groundwater quality is provided. However no more than 20% of any lot or parcel shall be rendered impervious. | | | | ✓ |

**520.7 VIOLATIONS**

Written notice of any violations of this section shall be provided by the Building Commissioner to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than thirty days be allowed for either compliance or finalization of a plan for longer-term compliance. In the enforcement of this section, the Building Commissioner shall notify the Director of the DPW and Director of Public Health of any violations and seek their assistance in securing compliance**.**

**520.8 INTERPRETATION OF BOUNDARIES OF WATER RESOURCE PROTECTION DISTRICT, ZONE A AND ZONE II SUBDISTRICTS AND TRIBUTARY BUFFER**

All plans submitted in connection with applications for building permits, special permits and other approvals under this bylaw shall include field verification of boundaries of the Water Resource Protection District, its Zone A and Zone II Subdistricts, or a tributary buffer governed by this section by a professional land surveyor. This information shall be provided in an electronic file produced by a computerized drafting system, in either Autocad Drawing format (.dwg), Data Exchange Format (.dxf) or ESRI Interchange format (.e00), registered to the Massachusetts State Plane (Mainland) Coordinates, North American Datum of 1983. Where this information is disputed by parties in standing, further field verification by the DEP may be requested. Where the DEP is able to field verify these boundaries, the decision of the DEP in these matters shall be final.

## 530 ACCESSORY DWELLINGS

### 530.1 THE PURPOSE OF THE ACCESSORY DWELLING BYLAW SECTION IS:

A. To provide an opportunity for homeowners who can no longer physically or financially maintain their single-family home to remain in homes they might otherwise be forced to leave;

B. To make housing units available to moderate income households and to employees of local businesses who might otherwise have difficulty finding homes within the town;

C. To provide a variety of types of housing to meet the needs of its residents and workers;

D. To protect stability, property values and character of the single-family residential neighborhood and the vitality of business districts; and,

E. To legitimize conversions to enable the town to monitor conversions for code compliance.

### 530.2 SPECIAL PERMIT PROCEDURES AND CONDITIONS

The Planning Board may authorize an accessory dwelling by special permit in any residential district, or business district, provided that the following standards and criteria are met:

A. Accessory dwellings shall be complete, separate housekeeping units that function as a separate unit from the primary structure or dwelling.

B. Accessory dwellings units created within structures used for businesses shall be located above the first floor or street level. No more than three accessory dwellings may be created in any one building. Area requirements of Section 610.1 of 10,000 sq. ft. for each family occupying a dwelling in a Business District shall not apply to accessory dwellings.

C. Only one accessory dwelling unit shall be created within a single-family house or on a lot containing a single family house.

D. An accessory dwelling associated with a single family house must be located within the interior of and under the same roof as the single-family house, in a structure attached thereto, or in a detached structure on the same lot that complies with all required setback, building height, and yard requirements for a primary structure.

E. The accessory dwelling shall be designed so that the appearance of the building remains unchanged as much as feasibly possible. Unless otherwise required by the Massachusetts Building Code, any new exterior stairs needed to provide primary or secondary means of egress for the accessory dwelling shall be located on the side or rear of the building.

F. The accessory dwelling shall be clearly a subordinate part of the single-family dwelling or business use. No accessory dwelling shall exceed the maximum of either seven hundred and fifty square feet or forty percent of the total square footage of the floor area of the primary dwelling, whichever is greater, with the exception of accessory dwellings located in the business district which are unrestricted as to size. For purposes of this section, the computation of maximum floor area shall be limited to the principal residence and shall exclude the floor area in an attached or detached structure.

G. At least two private off-street parking spaces shall be available for use by occupants of each accessory dwelling. A waiver of this requirement may be granted by the Planning Board if occupancy or other circumstances indicate the need for less parking, but in no case shall there be less than one parking space per bedroom.

H. The design and size of the accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health and any other applicable codes and other local bylaws.

I. Adequate provisions shall be made for the disposal of sewage, waste and drainage generated by the occupancy of accessory dwellings in accordance with the requirements of the board of health.

**530.3 APPLICATION PROCEDURE**

A. An application for approval of a special permit for an accessory dwelling shall include a notarized letter of application from the owner(s) stating that owner(s) will occupy one of the dwelling units on the premises.

B. The application form and other required submittals for a special permit for an accessory dwelling in a business structure shall be prescribed by the Planning Board.

**530.4 AFFORDABLE ACCESSORY DWELLINGS**

A. Purpose
The purposes of this bylaw are to encourage accessory dwellings that are affordable to low- or moderate-income households and that qualify for inclusion in the Subsidized Housing Inventory under Massachusetts General Laws Chapter 40B, Sections 20-23, as low- or moderate-income housing units.

B. Applicability
An affordable accessory dwelling shall be permitted in the R-1, R-2 and R-3 Districts and the Business Districts provided it complies with the requirements of this bylaw.

C. Relationship to Site Plan Review
An application for a building permit for an affordable accessory dwelling permit shall be subject to Site Plan Review under Section 770.

D. Requirements for Affordable Accessory Dwellings in All Zoning Districts
The following requirements apply in all zoning districts in which an affordable accessory dwelling is permitted:

1. No more than fifteen new building permits for affordable accessory dwellings shall be issued in a single calendar year.

2. The affordable accessory dwelling must comply with low- or moderate-income housing regulations and guidelines of the Local Initiative Program (LIP), in effect on the date of application for a building permit.

3. The affordable accessory dwelling must be rented to and occupied by a qualified renter as defined in Section 200.

4. The monthly rent shall not exceed the maximum affordable rent for a household of appropriate size for the accessory dwelling unit as defined in Section 200.

5. The affordable accessory dwelling shall be secured by an affordable housing use restriction or a regulatory agreement and declaration of restrictive covenants effective for a minimum of fifteen years, recorded at the Registry of Deeds and/or Land Court as appropriate, in a form that meets the approval requirements of the Local Initiative Program. For units located in a residential zoning district, the use restriction may be revocable upon sale of the principal residence, after a minimum of five years of actual occupancy by a qualified renter as evidenced by certification in paragraph 6 below.

6. The renter shall obtain certification annually from the Scituate Housing Authority or its designee, or another entity determined by the Planning Board, that his or her household income complies with income for a qualified renter as defined in this bylaw. The owner shall obtain certification annually from one of the above agencies that the rent is equal to or less than the maximum affordable rent. Failure to comply shall be deemed a violation of this bylaw and subject to the enforcement provisions of Section 920.

7. The affordable accessory dwelling shall clearly be a subordinate part of the single-family dwelling or business use.

8. Two private off-street parking spaces shall be available for use by occupants of each affordable accessory dwelling. A waiver of this requirement may be granted by the Planning Board if occupancy or other circumstances indicate the need for less parking, but in no case shall there be less than one parking space per bedroom.

9. The affordable accessory dwelling must be designed so that the appearance of the building remains unchanged to the maximum extent practical. Unless otherwise required by the Massachusetts Building Code, any new exterior stairs needed to provide primary or secondary means of

egress for the affordable accessory dwelling shall be located on the side or rear of the building.

10. The design and size of the affordable accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health and any other applicable codes and other local bylaws.

11. The septic system serving the affordable accessory dwelling shall meet current Title V regulations and shall be reviewed and approved by the Board of Health. If the property is served by sewer, application for an increase in flow must be approved prior to issuance of a building permit for the affordable accessory dwelling.

E. Additional Requirements for Affordable Accessory Dwellings in a Residence District
In addition to the requirements of Section 530.4 D., an affordable accessory dwelling permitted in a Residence District must meet the following design standards:

1. The affordable accessory dwelling must be located within the interior of and under the same roof as a single-family home, in a structure attached thereto, or in a detached structure on the same lot that complies with all required setback and other dimensional requirements for a primary structure.

2. The lot where the affordable accessory dwelling is located must conform to the minimum lot area, width and frontage requirements of Section 610.

3. Not more than one affordable accessory dwelling unit shall be permitted in a single-family home or in an attached or detached structure.

4. For an affordable accessory dwelling in a single-family home or in an attached or detached structure on the same lot as a single-family home, the owner must occupy one of the units as a permanent legal residence.

5. The living space in an affordable accessory dwelling shall not exceed a maximum of seven hundred and fifty square feet or forty percent of the total square footage of the primary dwelling, whichever is greater, and shall contain no more than two bedrooms. For purposes of this section, the computation of maximum floor area shall be limited to the principal residence and shall exclude the floor area in an attached or detached structure.

F. Additional Requirements for Affordable Accessory Dwellings in a Business District
In addition to the requirements of 530.4 D., an affordable accessory dwelling permitted in a Business District must meet the following:

1. No more than three affordable accessory dwellings may be permitted in any one building.

2. The dwelling must be located above the first floor or street level of a structure used principally for businesses, except that one affordable accessory dwelling may be located on the first floor if:

   a. The dwelling is entered from a side of the building other than that facing the street, and

   b. The dwelling unit has direct access to the parking spaces associated with it, and

   c. The unit is accessible to persons with disabilities, determined by the Building Commissioner to meet applicable regulations of the Massachusetts Architectural Access Board for dwelling unit interiors, entrances, accessible routes and parking, and occupied by a qualified renter household with one or more persons with disabilities.

G. Affordable Accessory Apartment by Special Permit

1. Application for a special permit for an affordable accessory dwelling shall be in accordance with the procedures of Section 530.3.

2. Where a single family home is located on a conforming lot within the R-1 and R-2 Districts, the Planning Board may issue a special permit for an affordable accessory dwelling in a detached structure on the same lot such as a garage or barn.

3. The Planning Board may issue a special permit for an affordable accessory dwelling on a nonconforming lot in the R-1 or R-2 Districts.

4. Where an affordable accessory dwelling is proposed to be located within the Business District, the Planning Board may allow more than three affordable accessory dwellings in one building or waive the requirements of Section 530.4.F. 2 if a special permit is issued in accordance with this Section.

5. The Planning Board shall have the right to revoke a special permit issued hereunder if the applicant violates any provision of this bylaw or any condition imposed upon the issuance of the special permit. Revocation may occur only after a hearing held on notice to the applicant.

H. Submission of Use Restriction and Owner's Affidavit

No occupancy permit shall be issued for an affordable accessory dwelling until the applicant submits the following documentation to the Planning Board, who shall immediately notify the Building Commissioner that it has been provided:

1. A copy of the affordable housing use restriction or regulatory agreement and declaration of restrictive covenants, signed by the owner and the town, the original of which must be filed at the Registry of Deeds and/or Land Court as appropriate.

2. A notarized affidavit from the owner of the property, indicating that the unit is intended for occupancy by a qualified renter, that the owner will provide annual certification of compliance with this bylaw as required in Section 530.4.D.6 above, and in the case of an affordable accessory dwelling in a single family home or in a detached structure on the same lot, that the owner will occupy one of the dwelling units on the premises.

## 540 WIRELESS COMMUNICATION OVERLAY DISTRICT

### 540.1 PURPOSE

The Wireless Communications Overlay District is intended to provide for the construction, erection and installation of wireless communication towers, personal wireless service facilities and their accessory structures in a manner which meets the requirements of the Telecommunications Act of 1996, and balances the following needs:

- Protection of the town from the effects of the uncontrolled proliferation and placement of wireless communication towers, personal wireless service facilities and their accessory structures with resultant impact on its landscape and character;

- The legitimate desire of residents of the town to access and utilize new technologies as such become available and

- The right of businesses to provide necessary and marketable services.

The Wireless Communications Overlay District is intended to minimize adverse visual impacts of wireless communication towers, to avoid potential damage or detrimental impact on adjoining properties, to limit any health, safety and environmental impacts, and to maximize the use of existing wireless communication towers, personal wireless service facilities and their accessory structures.

### 540.2 RELATION TO OTHER DISTRICTS

The Wireless Communications Overlay District shall be considered to be superimposed over any other existing districts of the zoning bylaw and, in the event any provision of this district is in conflict with regulations of any other district, the more restrictive regulation shall take precedence.

### 540.3 PERMITTED USES

The following uses are allowed by right in the Wireless Communications Overlay District:

A. All uses allowed in the underlying zoning district.

B. An antenna completely enclosed within a structure, as provided in Section 730.1.

C. A wireless communication antenna on an existing wireless communication tower which does not increase the height of the tower more than twenty feet, as provided in Section 730.3 A.

**540.4 USES PERMISSIBLE BY SPECIAL PERMIT**

The following uses may be permitted by special permit in the Wireless Communications Overlay District:

A. Uses permitted by special permit in the underlying zoning district in accordance with the provisions of that district.

B. The construction and erection of wireless communication towers, personal wireless service facilities and their accessory structures in accordance with the provisions of this section.

C. Installation of a wireless communication antenna on the exterior of an existing building provided that a special permit is obtained from the Planning Board in accordance with the provisions of Section 730.2.

D. Installation of a wireless communication antenna on an existing wireless communication tower which increases the height of the tower more than twenty feet provided the applicant demonstrates that it is necessary for the provision of wireless communications and a special permit is obtained from the Planning Board in accordance with the provisions of Section 730.3 B.

**540.5 EXEMPTIONS**

The following are exempted from the provisions of this section:

A. Television and radio antennas, including satellite dishes, intended for private use.

B. Amateur radio wireless communication towers used in accordance with the terms of an amateur radio service license issued by the Federal Communications Commission provided that the tower is not used or licensed for any commercial purposes.

**540.6 PROCEDURES**

A. Application Process.
Except as provided in Section 540.5, erection of all wireless communication towers, personal wireless service facilities and their accessory structures shall require a special permit from the Planning Board. Prior to the submission of an application for a special permit under this section, the applicant is strongly encouraged to meet with the Planning Board to discuss the proposal and clarify filing requirements.

B. Applicant.
A licensed telecommunications carrier shall be an applicant or coapplicant on all applications for special permits for wireless communication towers, personal wireless
service facilities and their accessory structures. All wireless communication towers shall be designed to hold facilities for a minimum of three licensed telecommunications carriers. If requested by the town, space shall be reserved on all such towers for the installation of municipal public safety antennas, provided no intermodulation conflicts are anticipated.

C. Filing Requirements.

Applications for special permits made under this section shall include the following information in addition to the information required for Major Site Plan Review under Section 770 of this bylaw:

1. A map showing the anticipated range of coverage for all proposed personal wireless service facilities, and the location of any existing wireless communication tower within two miles of the site for which the application is filed.

2. Where a wireless communication tower is proposed, a map showing the farthest point within a two mile radius from which the tower will be visible.

3. A site plan by a registered professional engineer showing the locations of the proposed wireless communication tower, personal wireless service facilities and their accessory structures; the height above grade of any tower or supporting structure; topography with five foot contours at a minimum; proposed access drives and their construction, and other areas proposed to be paved. Where a wireless communication tower is proposed, the locations of all existing structures on the property and adjoining lots, and all residential structures within five hundred feet of the proposed facility shall be shown, with distances, at grade, from the residential structures to the base of the proposed tower.

4. Where a wireless communication tower is proposed, and there are existing homes within five hundred feet of the tower, the applicant shall submit sight line graphs or photographic superimpositions showing the appearance of the tower at completion from at least three of these homes, including the three that are closest or most significantly impacted.

5. A landscape plan, showing plantings, signs and fencing, prepared by a registered landscape architect.

6. Where a wireless communication tower is proposed, manufacturer's specifications shall be submitted for the proposed tower describing the technical reasons for its design and its capacity for co-location, including the number and type of antennas it can accommodate. For all proposals, specifications or other information shall be submitted showing representations, dimensioned and to scale of any tower, antenna, mount, accessory structure, fence, cable and other appurtenances, also showing the number, location, dimensions, materials of construction and color of these facilities.

7. A copy of the Federal Communications Commission license, any filings with the Federal Aviation Administration and any other federal or state licenses required
shall be submitted to the Planning Board prior to the applicant obtaining a building permit.

8. A copy of filings with the Federal Communications Commission and Massachusetts Department of Public Health as required under 105 CMR

122 shall be submitted to the Planning Board and Board of Health prior to the applicant obtaining a building permit. These filings shall include documentation of maximum exposures from the proposed operation as per the formulas listed in these regulations under "Non-Ionizing Radiation Limits for the General Public from Non-Occupational Exposure to Electromagnetic Fields; Employees from Occupational Exposure to Electromagnetic Fields; and Exposure from Microwave Ovens."

D. Review by Consultants.
The Planning Board may hire at the applicant's expense whatever qualified professionals the Board deems necessary for the review of an application for wireless communication towers, personal wireless service facilities and their accessory structures. The applicant shall be required to deposit with the town a sum of money sufficient to cover costs associated with this review in accordance with the Planning Board's fee policy.

E. Public Hearing.
The Planning Board shall hold a public hearing relative to the Special Permit application in accordance with the provisions of Sections 940 and 970 of this bylaw and Sections 9 and 11 of Chapter 40A of Massachusetts General Laws.

F. Height Demonstration.
The Planning Board may require the applicant to float a balloon or use a crane test at the location of a proposed wireless communication tower at its proposed elevation to demonstrate its expected height within the two weeks prior to the public hearing. If a balloon is used, it shall be of a size, type and color visible for a distance of not less than four miles. The time and date on which this height demonstration is to be performed, and a rain date, shall be advertised in a newspaper of general circulation in the town at least a week prior to the date of the test. This advertisement shall be paid for by the applicant.

G. Term of Special Permit.
A special permit issued for any wireless communication towers, personal wireless service facilities and their accessory structures shall be valid for fifteen years unless otherwise indicated by the Planning Board. At the end of the specified time period, all facilities shall be removed by the owner/operator or a new special permit shall be required. Where substantial use has not commenced within two years, the special permit shall lapse as provided in Massachusetts General Laws Chapter 40A, Section 9.

## 540.7 PERFORMANCE STANDARDS

A. Wireless Communication Towers.
In addition to the standards for special permits under Section 950.3 of this bylaw, all wireless communication towers, personal wireless service facilities and their accessory structures shall meet the following performance standards:

1. Federal and State Requirements. Wireless communication towers, personal wireless service facilities and their accessory structures shall be constructed, erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including

radiofrequency radiation regulations as set forth in 105 CMR 22 and the Telecommunications Act, as the same may be amended. Prior to obtaining a building permit, the applicant shall submit an Environmental Assessment that meets Federal Communications Commission requirements to the Planning Board for each facility for which it is required.

2. Type. Wireless communication towers shall be of a free-standing lattice tower or monopole type construction. No guyed towers shall be erected.

3. Dimensional / Locational Requirements.

   a. Height. No wireless communication tower shall exceed one hundred and eighty feet in vertical height above the existing grade, provided, however, that at the discretion of the Planning Board, a greater height may be permitted upon a demonstration that additional height is necessary for the provision of wireless communications.

   b. Setback from Lot Line. The Planning Board may require wireless communication towers to be set back from the property lines of the lot on which they are located to protect abutting properties or traffic on adjoining roads if this is considered necessary for public safety. This setback shall not exceed the overall vertical height of the tower and any attachments plus five feet. If the stability of the structure can be verified from manufacturer's specifications or engineering studies, this requirement may be reduced or waived by the Planning Board.

   c. Setback from Dwellings. No wireless communication tower shall be erected or constructed within one hundred feet of any residential dwelling.

   d. Location Outside Wetlands and Sensitive Areas. Wireless communication towers, personal wireless service facilities and their accessory structures shall not be located in wetlands, wetland buffer areas or other sensitive natural areas which are subject to the jurisdiction of the Conservation Commission under Massachusetts General Laws Chapter 131, Section 40 or the Town of Scituate Wetlands Bylaw, unless the Planning Board makes a finding that such a location serves the best interest of the town. All proposals shall be subject to review by the Conservation Commission under state and local regulations.

B. Accessory Structures.
It is strongly recommended that applicants construct no more than one above-ground accessory structure in connection with the construction of a wireless communication tower. This structure should be large enough to house the equipment of all telecommunications carriers who may co-locate on the tower, or be capable of expansion to house their equipment. Such accessory structures shall meet the following performance standards:

1. Accessory structures shall not exceed twelve feet in height.

2. Exterior access shall be provided directly to each carrier's bay.

3. Within each accessory structure, a generator or generators shall be provided capable of future expansion to provide sufficient power to operate the equipment of all potential carriers at this location in the event of an electrical power failure. No generator shall be located outside of an accessory structure. The applicant shall make every effort to mitigate the intake and exhaust noises of all generator(s).

4. All accessory structures shall be screened from public view with landscaping.

C. Performance Bond.
The applicant shall post a performance bond with the town to cover the potential future removal of wireless communication towers, personal wireless service facilities and their accessory structures prior to obtaining a building permit. The amount of the bond shall be sufficient to cover the cost of removal and restoration of the site based on contractor's estimates.

D. Proof of Continued Operation.
The applicant or owner/operator and subsequent owners/operators shall, prior to January 1st of each subsequent year following the erection of a wireless communication tower, send a signed affidavit to the Town Clerk and the Building Commissioner indicating that each facility supported by the tower is still in operation. If the town has not received an affidavit for any facility by March 31, the facility(ies) shall be considered to be no longer in use.

E. Abandonment.
All wireless communication towers, personal wireless service facilities and their accessory structures not in use for a period of one year shall be dismantled and removed at the owner's/operators expense following notification of the owner/operator. Following removal of these facilities, the site shall be restored to its condition prior to their construction to the greatest extent possible, with the exception of landscaping improvements which may be permitted to remain. If the wireless communication tower or other facilities are not removed after notification of the owner/operator, the Building Commissioner shall initiate action to dismantle them and restore the site.

F. Reconstruction or Replacement of Existing Wireless Communication Towers.
Wireless communication towers, personal wireless service facilities or their accessory structures which were in existence at the time of the adoption of this section may be altered, extended or replaced on the same site by special permit, in accordance with Section 800 of this bylaw and applicable provisions of this Section.

**540.8 COLOR, LANDSCAPING AND SIGNS**

A. Color.
Wireless communication towers, personal wireless service facilities and their accessory structures shall be painted or colored so as to achieve the best possible

camouflage in the existing background environment. The Planning Board may require a light blue or light gray, non-reflective coloration for the portion of a tower above the tree line, or other coloring similar to that of the natural surroundings.

B. Fencing.
Fencing shall be erected around the base of any wireless communication towers, personal wireless service facilities and their accessory structures. This fencing shall be not less than eight feet in height to prevent public entry to the facility. Barbed wire shall not be used as part of this fencing.

C. Plantings.
A dense hedge of fast growing shrubs shall be planted around the exterior of the fencing required in Section 540.8 B. These shrubs shall be not less than four feet in height when planted. The Planning Board may also require trees to be planted between a tower and any existing or potential residential structures. It is recommended that species indigenous to southeastern Massachusetts be used for these plantings.

D. Signs.
No exterior lighting or signage shall be installed with the exception of signs for safety such as "Danger", "Keep Out," or "No Trespassing". A sign shall be posted showing the name of a responsible person, and a phone number where that person can be reached in case of an emergency.

E. Lighting.
Lighting must comply with all applicable provisions of this bylaw.

### 540.9 MONITORING AND MAINTENANCE

A. Radiofrequency Radiation Monitoring.
By March 31 of each year after any personal wireless service facility is erected or installed, the owner/operator shall submit calculations of radiofrequency radiation from the site to the Planning Board and Board of Health. These calculations shall be signed and certified by a radiofrequency engineer, and shall include a statement that they meet the requirements of the Federal Communications Commission and Massachusetts Department of Public Health.

B. General Maintenance.
The applicant shall maintain the wireless communications facility in good appearance and good operating condition. Such maintenance shall include, but not be limited to, structural repair, painting of the wireless communication towers, personal wireless service facilities and accessory structures and maintenance of screening and landscaping.

## 550 FLEXIBLE OPEN SPACE DEVELOPMENT

### 550.1 PURPOSE

The purpose of Flexible Open Space Development is to preserve natural and cultural resources which contribute to the town's history and character, to discourage development sprawl which may result from conventional zoning, and to allow maximum flexibility and

creativity in the design of single and two family residential subdivisions, permitting greater preservation of open space than would normally occur with conventional development.

**550.2 APPLICABILITY**

The Planning Board may issue a special permit for a Flexible Open Space Development for any parcel containing a minimum of 160,000 sq. ft. in the R-1 District or 80,000 sq. ft. in the R-2 District, exclusive of wetlands as defined in Massachusetts General Laws Chapter 131, Section 40 or local wetlands regulations (Town of Scituate Bylaws Section 30700). Lots created through a Flexible Open Space Development shall be exempt from the lot area, frontage, and lot width requirements of bylaw Section 610, Lot Size Regulation for Dwellings and Section 620.3, Setback and Yard Requirements, except as required in Section 550.6 below.

The number of housing units for a Flexible Open Space Development shall not exceed that allowed under conventional development of the property in accordance with this bylaw and Town of Scituate Subdivision Rules and Regulations (Subdivision Regulations). The Planning Board shall be the Special Permit Granting Authority for any special permit for a Flexible Open Space Development issued under this Section.

**550.3 APPLICATION REQUIREMENTS**

Applicants seeking approval of a Flexible Open Space Development shall file an application for a special permit with the Planning Board for a Definitive Flexible Open Space Development Plan. This application shall include an application form, applicable fees, sixteen copies of a Conventional Density Sketch Plan and a Definitive Flexible Open Space Development Plan. Both plans are required for a Flexible Open Space Development. The Definitive Flexible Open Space Development Plan shall be endorsed by the Planning Board and recorded at the Registry of Deeds and/or the Land Court, as applicable.

The Conventional Density Sketch Plan shall show the number of lots which could be developed under current zoning and the Subdivision Regulations. The determination of lots allowed shall be exclusive of any land defined as wetland by Massachusetts General Laws, Chapter 131, Section 40 and local wetlands regulations (Town of Scituate Bylaws Section 30700). The maximum number of lots allowed for a Flexible Open Space Development shall not exceed the number of lots shown on the approved Conventional Density Sketch Plan.

The Conventional Density Sketch Plan shall be prepared by the applicant's engineer and shall follow the drawing specifications for a preliminary plan as described in Section IV.2, subsections a. through s. of the Subdivision Regulations, excluding subsections m. n. and s. (storm drainage, road profiles, and aerial photographs). Drainage improvements shall be sketched on the plan to illustrate the plan's drainage concept.

The Definitive Flexible Open Space Development Plan shall contain all information required by Subdivision Regulations Section 6.3 for the Contents of a Definitive Subdivision Plan, with the following additional information required:

A. In addition to those items required by the Subdivision Regulations, the subdivision plan shall show the following:

1. The areas and locations of open space proposed to be permanently preserved. The areas so designated shall be of a size and location to satisfy the stated purposes and standards of Section 550.1.

2. The areas and locations of all area(s) that will be cleared, regraded or improved for roads or structures, designated as Developed Areas.

B. In addition to those items required by the Subdivision Regulations, the Topographic and Grading Plan shall show the following:

1. Boundaries of any land which is subject to the state Wetlands Act, Massachusetts General Laws Chapter 131, Section 40 or local wetlands regulations (Town of Scituate Bylaws Section 30700), determined by an Abbreviated Notice of Resource Area Delineation approved by the Conservation Commission.

2. Viewsheds for scenic views from existing roads.

3. The areas and locations of open space proposed to be permanently preserved. The areas so designated shall be of a size and location to satisfy the stated purposes and standards of Section 550.1.

4. The areas and locations of all area(s) that will be cleared, regraded or improved for roads or structures, designated as Developed Areas.

C. In addition to those items required by the Subdivision Regulations, the Landscape Plan shall show walkways, bikepaths and any other pedestrian amenities.

D. A draft deed to transfer proposed open space to the Town for conservation purposes, or to a conservation trust. If the land is intended to be privately owned, a draft deed restriction and documentation that the Commonwealth of Massachusetts' Secretary of Environmental Affairs is interested in obtaining a conservation restriction on this land.

E. A draft deed restriction prohibiting subdivision of any lot in the Flexible Open Space Development, including the open space.

## 550.4 PROCEDURE

A. Pre-Application Meeting.
A pre-application meeting with the Planning Board prior to filing the special permit application and preparing a Definitive Flexible Open Space Development Plan is strongly encouraged. The Conventional Density Sketch Plan and a preliminary concept plan for the Definitive Flexible Open Space Development Plan, should be provided for distribution to the Planning Board a minimum of one week prior to this meeting. The preliminary concept plans shall be at a scale of 1" = 40', unless the applicant and Planning Board agree on a more appropriate scale, and shall illustrate sufficient detail to describe the design concepts and key development issues for each plan.

B. Application and Review Procedure.

The applicant shall submit to the Planning Board all application materials referenced in Section 550.3, above. The application procedure shall conform to that of Section 770 and Section 940 of this bylaw, and Massachusetts General Laws Chapter 40A, Sections 9 and 11. The standards of review in Section 550.5 below, shall be used to determine whether the application qualifies as a Flexible Open Space Development.

To evaluate road design and construction, and the proposed method of drainage, applications shall be reviewed by the town's consulting engineer at the applicant's expense.

C. Board of Health Review of Definitive Flexible Open Space Development Plan.
The Board of Health shall review lots shown on the Definitive Flexible Open Space Development Plan and make a report to the Planning Board according to the manner provided for lots in a subdivision under Massachusetts General Laws Chapter 41, Section 81-U.

D. Special Permit Approval.
Prior to the approval of the Definitive Flexible Open Space Development Plan, the Planning Board shall approve the Conventional Density Sketch Plan by a four-fifths vote and issue a certificate of approved density for the Definitive Flexible Open Space Development Plan based on the number of approved lots in the Conventional Density Sketch Plan.

The process for approval of a Flexible Open Space Development Special Permit shall be the same as that for approval of special permits described in Massachusetts General Laws Chapter 40A, Section 9. As part of the approval of a special permit for a Flexible Open Space Development, the Planning Board shall make a finding based on evidence and information provided by the applicant and reviewed by the board, that the Flexible Open Space Development is superior to a conventional subdivision, shall identify specific benefits to the town consistent with those in the Purpose section above, and shall include a description of these benefits in their findings.

**550.5 DESIGN STANDARDS**

In reviewing an application for a special permit for a Flexible Open Space Development, the Planning Board shall consider the extent to which the application is superior to a conventional development by determining whether it satisfies the following standards:

A. Important natural and historic features of the land, as determined by the Planning Board, shall be protected and the design shall minimize the size of developed areas. A minimum of 30% of the area of the parcel shall be permanently protected as open space. Up to 30% of this minimum area may consist of wetlands as defined by Massachusetts General Laws Chapter 131, Section 40 or the local wetlands regulations (Town of Scituate Bylaws Section 30700). Wherever possible, the Flexible Open Space Development shall preserve views from existing roads.

B. The construction of buildings and laying out of developed areas, roads, storm drains, sewage disposal systems, retaining walls and utilities shall respect the natural features of the parcel, minimizing changes to the topography and

maximizing the amount of preserved wooded areas, open space, amenities and buffers if proposed. The following guidelines should be applied:

1. Site disturbance beyond the paved area of the road should be minimized. Open space should include any significant natural features, and should be maximized.
2. Open space should include buffers to wetlands and may also include buffers along major roads, adjoining developed property and interior roads.
3. Where it is not possible to preserve adjacent open space, the semi-rural appearance of existing streets should be maintained by preserving existing bordering trees and vegetation where appropriate.
4. Water and sewer utilities should be located under the paved section of roads to minimize site disturbance.
5. Low impact development techniques which minimize site disturbance should be used to infiltrate stormwater whenever feasible.
6. The number of curb cuts should be minimized, and they should be located in a manner to avoid any conflict with existing traffic flows.

C. Provision, satisfactory to the Planning Board, shall be made with regard to the protection and maintenance of any and all common land and other common facilities within the Flexible Open Space Development.

**550.6 MINIMUM REQUIREMENTS**

A special permit for Flexible Open Space Development may authorize the creation and use of lots meeting the following minimum dimensional requirements in lieu of those of Section 610, Lot Size Regulation for Dwellings, and Section 620.3, Setback and Yard Requirements. The maximum number of lots for building sites in a Flexible Open Space Development shall not exceed the maximum number of buildable lots which could be created through conventional development of the site as determined by an approved Conventional Density Sketch Plan for the parcel.

A. Lot Area and Lot Width.
Each lot shall be at least of a size and width capable of supporting construction of a single or two-family dwelling, its accessory structures, and an individual sewage disposal system, unless a viable alternative method of sewage disposal is proposed.

B. Frontage.
The frontage for each proposed building lot in a Flexible Open Space Development shall be that necessary, in the opinion of the Planning Board, to provide for adequate access to the lot.

C. Setbacks.
All dwellings shall be set back a minimum of fifteen feet from front, side and rear lot lines. One story detached accessory structures shall be set back a minimum of eight feet from front, side and rear property lines. However, setbacks from the perimeter of the development shall conform to the required setbacks for conventional development in the underlying zoning district.

D. Not more than one single or two family dwelling and its accessory structures and uses may be located on a lot created as part of a Flexible Open Space Development pursuant to this Section.

E. Protection of Open Space.
Permanent protection of open space is an integral part of this bylaw and is required in all applications. All open space shall be preserved by donation to the Town for conservation purposes, donation to a conservation trust, or by a deed restriction accepted by the Commonwealth of Massachusetts Office of Energy and Environmental Affairs.

Open space should be linked to other open space uses abutting the property, and where intended for public use, public access should be provided. The use shall be designated as preservation, passive or active recreation, view-shed protection, buffer protection, and/or other open space uses deemed appropriate by the board.

F. Restriction on Further Subdivision.
Prior to the start of construction, a deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further subdivided into additional building lots. A note shall be added to the plan to reference this condition. The Planning Board may impose additional restrictions on development and use of the lots as is deemed appropriate.

G. The Planning Board may specify roadway, drainage and utility design requirements deemed necessary to ensure adequate access, lessen congestion, provide proper drainage, protect public safety or provide for water, sewage, utilities or other municipal services.

### 550.7 RECORDING OF PLANS

An approved Definitive Flexible Open Space Development Plan, the special permit, agreements for maintenance of roads or utilities, any required conditions, and any other agreements, as applicable, shall be recorded at the Plymouth County Registry of Deeds and/or the Land Court, as applicable. Copies of as-built plans and the recorded documents shall be forwarded to the Planning Board within three months of the date of recording.

## 560 VILLAGE BUSINESS OVERLAY DISTRICT

### 560.1 PURPOSE

The purpose of the Village Business Overlay District is to promote opportunities for local, small-scale businesses; encourage alternative modes of transportation such as public transit, bicycling, and walking; provide for higher density mixed use and multifamily housing in village areas; provide for a variety in residential housing development patterns and which reflect the unique characteristics of each subarea; increase the production of housing affordable to low and moderate income households; and encourage efficient provision of necessary utilities and community services. The Village Business Overlay District will not change the zoning of the underlying district which can continue to be applied except where an applicant voluntarily wishes to use the provisions of this Section 560.

**560.2 PERMITTED USES**

In the Village Business Overlay District, all of the uses permitted in the underlying zoning district(s) shall be permitted as of right.

**560.3 USES PERMISSIBLE BY SPECIAL PERMIT**

The following uses may be permitted by special permit in the Village Business Overlay District:

A. Any use permitted by special permit in the underlying zoning district in accordance with the provisions of that district.

B. A mixed use development provided that a special permit is obtained from the Planning Board in accordance with the provisions of Section 560 of this bylaw.

**560.4 REQUIREMENTS FOR MIXED USE DEVELOPMENTS**

The Planning Board may issue a special permit for a mixed use development including one or more mixed use buildings and which may also include additional buildings containing only multiple dwellings and including no other use, on the same lot in the Village Business Overlay District, subject to the following conditions:

A. The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with any requirements of this bylaw.

B. In the opinion of the Planning Board, the project meets the Design Review Standards of Section 560.8.

C. Fifteen percent of the total number of dwelling units must be affordable to low- and moderate-income households as defined in Section 560.7 B, Affordability Standards, Rental or Sales Price.

D. In order to concentrate retail uses in the center of each village, so they can better be supported by pedestrian activity, on Front St., Booth Hill Rd., all of Country Way in Greenbush, Country Way south of the Bound Brook in North Scituate, the Driftway, and Gannett Rd. more than 50% of the net floor area of the first floor of a mixed use building shall be occupied by retail uses.

E. All new mixed use buildings must meet the following dimensional requirements:

| | |
|---|---|
| **Minimum Lot Area Per Dwelling Unit** | The number of units permitted shall be equivalent of up to 16 units per 40,000 sq. ft. *or*<br>The equivalent of 17 to 20 units per 40,000 sq. ft. may be authorized if significant public benefits are provided [1] *or*<br>Due to the higher residential densities already existing in that village, the equivalent of up to 36 units per 40,000 sq. ft. may be authorized in Scituate Harbor if parking is located underground *and* significant public benefits are provided[1] |
| **Open Space** | 20% of lot area [2] |

| | |
|---|---|
| **Frontage** | An amount sufficient in the opinion of the Planning Board to provide adequate access for the proposed use, not less than 20'. |

[1] See Section 560.5, Bonus Density Requirements, below.

[2] Open space shall not include land set aside for buildings, driveways or parking uses. This requirement may be waived by the Planning Board in the case of re-use of existing buildings for mixed use.

Where dimensional requirements are not specified, construction must meet the requirements of the underlying zoning district.

**560.5 BONUS DENSITY REQUIREMENTS**

The Planning Board may, at its discretion, permit density up to the equivalent of 20 units per 40,000 sq. ft. of lot area in Greenbush or North Scituate, or up to the equivalent of 36 units per 40,000 sq. ft. in Scituate Harbor if parking is provided under the mixed use structure, provided the Board makes a written finding that the developer will provide significant improvements providing a public benefit, in addition to those improvements necessary to meet the requirements of this bylaw.

These improvements shall include off-site infrastructure serving a public purpose, such as sidewalks; land suitable for a public way; upgrades to drainage or water distribution systems where these are desired by the Town; off-site drainage improvements to mitigate impacts of stormwater on Old Oaken Bucket Pond; open space in desirable locations, with public access, in addition to the open space required by this Section 560; land or infrastructure for neighborhood wastewater treatment or other community infrastructure; additional affordable units above the number required, or other improvements deemed of significant value by the Planning Board. All infrastructure used for the density bonus shall have been recommended in the Master Plan or other plans approved or used by the Town of Scituate Board of Selectmen, DPW, Board of Health, Conservation Commission or Planning Board. In order to make this determination, the following are required:

A The applicant shall provide a written description of the intended improvements with the public benefit of each and its significance to the Town, and a sketch plan showing the location and type of improvements and their size or extent.

C. The Planning Board may require a bond to cover the cost of any improvements that will be constructed, or a binding agreement approved by Town Counsel, to remain in place until the improvements are completed to the satisfaction of the town.

D. The applicant shall provide adequate parking on site, in total or in part, as indicated in Section 560.6, Parking Requirements for Mixed Use Buildings, below for all proposed housing units.

E. A specific time frame for the completion of all required off-site infrastructure improvements shall be incorporated as a condition of approval of the Planning Board.

**560.6 PARKING REQUIREMENTS FOR MIXED USE BUILDINGS**

Parking shall be provided for all uses according to the requirements of Section 760, Parking Requirements, except that it may be reduced by the Planning Board as described below.

A. Due to the proximity of transit service, the Planning Board may authorize the number of required parking spaces indicated in the table below for office or retail uses in mixed use buildings:

| Use | Number of Spaces Required |
|---|---|
| Office or Retail in Mixed Use Buildings in Scituate Harbor or North Scituate | 1 space per 300 square feet within 400 feet of a Town Public Parking Lot, or within 400 feet of an MBTA Parking Lot if parking is available during the hours of operation of the retail or office use. |

B. The Planning Board may waive the parking requirements of this Section for office and retail uses in all villages if the applicant can demonstrate that sufficient on-street parking (public or private) exists that may adequately fulfill, in part or in whole, the parking needs of the applicant, or that special circumstances exist, such as the shared use of a parking lot by activities having different peak demand times.

C. In Greenbush and North Scituate, due to the proximity of transit, the Planning Board may reduce required parking for residential units in a mixed use building from standard requirements, as follows:

| Use | Number of Spaces Required |
|---|---|
| One bedroom unit | 1 space |
| Two bedroom unit | 1.5 spaces |
| Three or more bedroom unit | 2 spaces |

**560.7 AFFORDABILITY STANDARDS**

All affordable housing units required to meet the special density standards of this section shall meet the following criteria:

A. Applicability.
Applications requesting seven or fewer dwelling units are exempt from this requirement. The Planning Board may waive this requirement if housing units are entirely within an existing historic structure either on the National Register of Historic Places, the State Register of Historic Places or on a list of historic structures maintained by the Scituate Historical Society.

B. Rental or Sales Price.
The initial rental or sales price shall be affordable to low- and moderate-income households with income at or below eighty (80) percent of area median income, adjusted for household size, for the metropolitan or non-metropolitan area that

includes the Town of Scituate as determined annually by the U.S. Department of Housing and Urban Development (HUD).

C. Deed Restriction
The subsequent rent or sales prices or rents shall be controlled through a deed rider or an affordable housing restriction as defined by Massachusetts General Laws Chapter 184, Section 31, recorded at the Plymouth County Registry of Deeds and/or Land Court as applicable, and shall be in force in perpetuity or as long a period as legally possible.

D. Location Of Units
All affordable housing units shall be distributed throughout the remaining proposed housing units. The number of one-, two- and three-bedroom units shall be in the same proportion as that of the market rate units. The affordable units shall be designed so the exteriors are comparable in general design and appearance to those of the market rate units.

E. Off-Site Units
At the discretion of the Planning Board, the applicant may substitute off-site affordable housing units which are priced and deed-restricted as required under this Section. The number of affordable units provided must be at least the number required by this Section. In considering whether to accept these units, the Planning Board shall consider the geographic distribution of affordable housing throughout the town and avoid concentration in any one particular area of Scituate.

F. Compliance with LIP Program
As required for affordable housing to count towards the Town of Scituate's Housing Inventory, the applicant must comply with low- or moderate-income housing regulations and guidelines of the Local Initiative Program (LIP), 760 CMR 45.00, or another similar state-approved program in effect on the date of application. Evidence must be provided to the Planning Board of a recorded deed restriction on resale, designation of a monitoring agent acceptable to the Planning Board, and an affirmative marketing plan prior to issuance of the first occupancy permit.

G. Number of Affordable Units
The number of affordable housing units required shall be equal to fifteen per cent (15%) of the total of proposed housing units, rounded to the nearest whole number, except that fractions up to and including .5 units shall be rounded down to the next lower whole number. The requirements for affordable units are thus as follows:

| **Total Housing Units** | **Required Affordable Units** |
|---|---|
| 8-10 | 1 |
| 11-16 | 2 |
| 17-23 | 3 |
| 24-30 | 4 |
| 31-36 | 5 |
| 37-40 | 6 |
| Above 40 | 15% of total, calculated according to Paragraph G. above |

**560.8 DESIGN REVIEW STANDARDS**

In reviewing an application for a special permit for development within the Village Business Overlay District, the Planning Board shall consider the extent to which the application satisfies the general standards enumerated in Section 750 and the Design Review Standards detailed below.

A. Roofs.

Roofs shall be pitched to center ridge in keeping with the distinguishing architectural characteristics of the villages.

Dormers within pitched roofs shall be encouraged, but no more than twenty feet in width. Dormers shall be exempt from roof pitch requirements.

Sloped or pitched roofs with a minimum of 8:12 slope shall be required, except as provided in paragraph D., below.

To allow design variation, up to twenty percent of the roof area may be flat or of other design than a sloped or pitched roof.

B. Façade treatment.

1. The use of awnings or canopies over windows of first floor commercial uses shall be encouraged.

2. A minimum of fifty percent of ground floor building façades and thirty percent of second floor building façades facing public ways shall be glazed.

C. Front Yard Setbacks.

1. To reflect the different intensities of existing development in the individual villages, while encouraging development close to the street to promote shopping and walkability, the following front yard setbacks shall be established in the Village Business Overlay District:

| Location: | Country Way and the Driftway in Greenbush | All Other Streets in Greenbush | North Scituate | Scituate Harbor |
|---|---|---|---|---|
| Minimum Front Yard: | 5’ | 10’ | None | None |
| Maximum Front Yard: | 15’ | 25’ | 10’ | 10’ |

The Planning Board may waive the maximum front yard setback on corner lots for existing buildings which are intended to be converted to mixed use.

2. In order to prevent a “canyon” effect caused by the taller buildings needed to accommodate higher densities, in any building or lot located on Front Street in Scituate Harbor containing more than two stories, the third story and above shall be set back a minimum of seven feet behind the first story. In these cases, the roof over the first two stories shall be exempt from Section 560.8 A, Roofs, above.

3. Parking areas are prohibited within the front yard setbacks in North Scituate and in Greenbush on Country Way and the Driftway to preserve green space in the town's least densely developed villages. The Planning Board may waive this requirement at their discretion where existing buildings are redeveloped for mixed use.

D. Side and Rear Yard Setbacks.
In the Village Business Overlay District, rear yard setbacks shall be as follows:

| Location: | Greenbush | North Scituate | Scituate Harbor |
|---|---|---|---|
| Minimum Rear Yard: | 8' | 8' | 15' |

Where a property is adjacent to a residential zoning district or a residential use, the minimum side or rear yard setback shall be twenty feet in Greenbush or North Scituate and 30' in Scituate Harbor. Larger setbacks are required in Scituate Harbor as a buffer for abutting properties and nearby small scale neighborhood housing.

E. Special Setbacks - Scituate Harbor.
In order to protect views of the water that give the harbor its special character, and to provide a buffer for nearby small scale neighborhood housing, the height of mixed use buildings shall be limited within key setback areas in Scituate Harbor. In Scituate Harbor, within 50' of the water's edge, or within 50' of an adjacent residential zoning district the maximum height for new mixed use buildings shall be 35'.

F. Greenbush Design Standards.
To encourage new development on large parcels while visually maintaining the smaller residential scale characteristic of the area, the following limitations shall apply to mixed use buildings in Greenbush:

1. No building structure shall be longer than one hundred twenty feet measured along any side of the building which faces the street.

2. Front building facades shall be no longer than fifty feet without articulation.

G. Parking and Landscaping.

1. Driveways shall be no greater than twenty-four feet in width. Shared access to parking lots by two or more businesses is to be encouraged wherever possible.

2. A Landscape Plan shall be required for all submissions, except where waived by the Planning Board. The Planning Board may adopt specific regulations for landscaping in the Water Resource Protection District and other areas.

3. Special Standards for the Water Resource Protection District.

In order to protect water quality in the town's Reservoir and groundwater drinking water supplies, the following special standards for landscaping and stormwater management apply to development under this Section 560 within in the Water Resource Protection District:

a. On-Site Recharge. To the greatest extent possible, all stormwater shall be recharged on site and design techniques shall be used to reduce the generation of stormwater and non-point source pollution by limiting impervious surfaces, treating stormwater, maximizing open space and minimizing disturbance of natural areas.

b. Minimization of Impervious Surface. Impervious surface shall be minimized by: providing only as much parking as required by this bylaw, particularly within the buffer described in Section 520.5; using short and narrow driveways, permeable paving, green rooftop systems, and low impact development techniques as described in references such as the Massachusetts Executive Office of Environmental Affairs LID homepage (http://www.mass.gov/envir/lid/default.htm) in current versions wherever possible.

Treatment of Front Yards. All front yards shall be landscaped, but new lawn area shall be minimized and the use of fertilizer in general shall be discouraged. Front yards shall not include impervious surfaces except for a driveway, walkways, or paved outdoor dining patios, which shall constitute no more than twenty-five percent of the front yard to the greatest extent possible.

Use of Best Management Practices. At a minimum, drainage shall be handled through Best Management Practices as described in the current version of the Massachusetts Department of Environmental Protection Stormwater Management, Vol. II: Stormwater Technical Handbook.

4. New landscaping shall not include invasive plants, as identified on a list provided by the Planning Department, and to the greatest extent possible, existing invasive plants will be removed. Native plants shall be used in landscaping wherever possible.

5. Screening**.** All buildings and parking areas within 50' of an adjacent residential zoning district shall be screened on each side adjoining residential premises, except where screening is already provided by an existing fence, wall, hedge or natural terrain feature. Said screening shall be maintained in good condition and no advertising shall be placed thereon, and shall be designed so as not to obstruct vehicle sight distances at entrances, exits or street intersections. Screening provisions may be modified or waived by the Planning Board for good cause.

### 560.9 SPECIAL PERMIT REVIEW PROCEDURE

A. Pre-Application Meeting. A pre-application meeting with the Town Planner prior to the submittal of a special permit application is strongly encouraged. A preliminary concept plan should be provided at this meeting. The preliminary concept plans shall be at a scale of 1" = 40', unless the applicant and Town Planner agree on a more appropriate scale.

B. Review Process**.** The application requirements, standard of review, project completion requirements and applicability of approval requirements described in Section 770 Site Plan Review shall also apply to this Section.

## 570 HUMAROCK VILLAGE RESIDENTIAL OVERLAY DISTRICT

**(Bylaw voted Annual Town Meeting March 29,2008)**

### 570.1 PURPOSE

This zoning overlay district is hereby adopted to regulate, condition and protect the village center of the small ocean-front community of Humarock, which lies on an environmentally sensitive barrier beach; to encourage redevelopment of parcels containing outdated uses; and to allow alternative forms of residential development at an appropriate scale for the land. Paramount goals are to promote development which is harmonious with the natural features of the peninsula which constitutes the Humarock area; to beautify and protect the adjacent resource areas; and to enhance the entrance to the Humarock public beach. The provisions of the underlying zoning shall remain in full force and effect, applicable to the land, except and to the extent an applicant elects to utilize the provisions of this Section 570 and obtain all required relief pursuant to this Section 570.

### 570.2 PERMITTED USES

In the Humarock Village Residential Overlay District, all of the uses permitted in the underlying zoning district(s) as of right shall be permitted as of right.

### 570.3 USES PERMISSIBLE BY SPECIAL PERMIT

The following uses may be permitted by special permit in the Humarock Village Residential Overlay District:

A. Any use permitted by special permit in the underlying zoning district in accordance with the provisions of that district.

B. A multi-family development on a parcel containing a minimum of 30,000 sq. ft. of lot area as defined by Section 610.1 of this bylaw in single ownership provided that a special permit is obtained from the Planning Board in accordance with the provisions of Section 570 of this bylaw. A multi-family development shall consist of residential dwelling units, except that in those portions of the overlay on Marshfield Ave., and on Central Ave. south of Webster Street, for which the underlying zone is General Business District, any use allowed in the General Business District may be permitted on the first floor with the approval of the Planning Board.

**570.4 DIMENSIONAL REQUIREMENTS FOR MULTI-FAMILY DEVELOPMENTS**

The Planning Board may issue a special permit for multi-family developments in the Humarock Village Residential Overlay District, subject to the following dimensional requirements:

A. Density. All new residential multifamily developments shall conform to the following density limitations:

1. The maximum number of dwelling units permitted shall be the equivalent of up to seven units per 40,000 sq. ft. of lot area or

2. A maximum number of units equivalent to eight units per 40,000 sq. ft. may be authorized under Section 570.5 if the permit granting authority finds that significant public benefits are provided, which benefits are not otherwise achievable under the existing special permit requirements or not otherwise required to construct an applicant's project.

B. Setbacks. No building containing residential townhouses shall be erected within twenty-five feet of the exterior line of any street or way, except that a setback of eight feet is permitted from any private way bordering the General Business District on both sides because of the very limited amount of residential traffic on these streets. In order to provide an adequate visual buffer to multi-family uses in an area that is generally more densely developed, and more environmentally sensitive, than other areas, this requirement shall be exempt from Section 620.4, Paragraph A of this bylaw which allows a setback equal to or greater than the average of buildings on the same side of the street between two intersecting ways and within two hundred feet of the lot in question.

A building containing a business use on the first floor shall have a minimum setback of sixteen feet from the exterior line of any street or way. The second floor and any attic or upper floor(s) shall be set back a minimum of twenty-five feet from the exterior line of any street or way.

The required side yard distance and rear yard depth for all buildings shall be a minimum of fifteen feet.

No structure may be erected within twenty-five feet of the South River.

C. Height. No building shall exceed two and one-half (2 ½) stories or thirty-five feet in height measured to the ridge, whichever is lower. For the purpose of this Section a half story shall be defined as a story directly under a sloping roof where the area with a ceiling height of 7'3" or greater is less than 2/3 of the floor area of the story next below. All habitable attics considered a story under other sections of the bylaw shall be subject to this section.

In order to provide a transition from the scale of existing buildings in the surrounding area, no building within thirty-five feet of the property line shall exceed thirty feet measured to the ridge.

D. Floor Area Ratio. No building or buildings shall have Floor Area Ratios greater than 0.425 for the area of the lot or parcel. Floor Area Ratio is defined as follows:

1. Floor – The gross floor area in square feet of all of the buildings on a parcel, including enclosed porches, sheds, shower houses, and other structures, but not including overhanging 2nd or 3rd floor balconies or ground level parking beneath a building.
2. Area – The area in square feet for the same parcel.
3. Floor Area Ratio – The gross floor area of all buildings on a parcel divided by the total area of the parcel.

The applicant shall provide the calculation of Floor Area Ratio with the total gross floor area and total area of the parcel in sq. ft.

E. Compliance with Required Setbacks, Height and Other Dimensional and Use Restrictions. Prior to an applicant filing for a special permit under this Section 570, said applicant must have obtained, to the extent required, required federal (including, without limitation, Army Corps of Engineers) or State (including, without limitation, Chapter 91) permits, approvals or licenses ("Approvals"), which approvals shall be consistent with the requirements and limitations of this Section 570.

F. Access to Water. All multi-family projects adjacent to the South River or Atlantic Ocean shall provide public access to waterways, which shall be maintained to promote public access, with appropriate signage. An easement or other deeded rights shall be provided to insure this access can be maintained.

**570.5 BONUS DENSITY REQUIREMENTS**

The Planning Board may, at its discretion, permit an increase in density up to the equivalent of one additional unit per 40,000 sq. ft. of lot area in the Humarock Village Residential Overlay District, provided the Board makes a written finding that the applicant will provide significant improvements offering a public benefit to Humarock, in addition to improvements necessary to meet the requirements of this bylaw, and which improvements are not otherwise achievable under the existing special permit requirements or not otherwise required to construct an applicant's project.

These improvements shall include on-site or off-site infrastructure, improvements or amenities not otherwise required by any town board or agency, serving a public purpose, to be constructed in an attractive, ecologically sensitive manner. Some examples are:

- Preservation of an existing but threatened water-dependent use that is valued by the community;
- Land acquisition or donation of open space to the Town or a qualified conservation organization to create or acquire open space in desirable locations in Humarock, especially the Residential Overlay or Business Districts, including public "pocket parks" and other appropriate properties;
- Streetscape improvements including lighting, underground utilities on Marshfield Ave., benches, signage, plantings and sidewalks;
- Parking, walkways or landscaping providing or enhancing public access to the beach, the ocean or the South River;

- Improvements to the public beach entrance; public rest rooms; boat ramps; or pumpout services;
- Upgrades to drainage or water distribution systems where these are desired by the Town;
- Off-site drainage improvements to mitigate impacts of stormwater or sewage on the South River;
- Land or infrastructure for neighborhood wastewater treatment or other community infrastructure;
- Additional affordable units above the number required;
- or other improvements deemed of significant value by the Planning Board.

In order to make this determination, the following are required:

A. The applicant shall provide the Planning Board with a written description of the intended neighborhood improvements, the public benefit provided, significance to the Town, provision for maintenance if required, applicant's cost estimates, and a sketch plan showing the location and type, size and extent of improvements.

B. The Planning Board may require a bond to cover the cost of any improvements that will be constructed, or a binding agreement approved by Town Counsel, to remain in place until the improvements are completed to the satisfaction of the Town.

C. The applicant shall provide a list of all permits and approvals required in connection with any proposed public benefit(s) with the application. These approvals shall be obtained prior to approval of the development, unless an exception for good cause is explicitly authorized by the Planning Board.

A specific time frame for the completion of all required off-site infrastructure improvements shall be incorporated as a condition of approval of the Planning Board.

The Planning Board shall be under no obligation to grant such density bonus and may determine, in its sole discretion, whether the offered improvements are sufficient in nature, scope, cost or otherwise, to justify such bonus. The offer and commitment by an applicant to provide all or any number of the above enumerated examples does not, in and of itself, justify or require the Planning Board to grant such density bonus.

**570.6 PARKING AND LANDSCAPING**

A. Parking. Regardless of any provisions of other sections of this bylaw, no uses shall be intensified without providing adequate numbers and size of parking spaces as required by the Table of Minimum Parking Requirements in Section 760.6 for all proposed uses, except that the Planning Board may reduce the parking requirement for a slip or mooring to one space where access is through a property containing a residential multi-family development and the applicant demonstrates that parking will be sufficient for the use. Each parking space shall contain no less than one hundred sixty-two square feet of area [typically nine feet by eighteen feet]

and shall have adequate back-up room and aisle width, as well as maneuvering area.

No parking areas shall be paved except those limited areas servicing handicapped parking and access paths to those spaces. All other parking areas shall be constructed of a dust free permeable surface. Curbing or wheel stops shall be provided to designate the location of spaces within parking areas. Curbing shall be cut where necessary to allow proper drainage into rain gardens or adjacent vegetated areas.

B. Driveways. Driveways shall be eighteen feet in width, but may be reduced to 16' with the approval of the Planning Board. All multi-family Residential Developments shall provide access from Public Ways. Maneuvering spaces shall be provided so that vehicles are not required to back onto a public or private way. Shared access may be required by Planning Board where feasible.

C. Lighting. All lighting shall consist of full cut-off or shielded fixtures at appropriate height to lessen impacts on adjacent properties, and shall not cause glare for motorists, pedestrians or neighboring properties.

D. Plantings – general. The following design standards shall apply to all planted areas.

1. Native landscaping appropriate to a beach and dune environment shall be used, with plants tolerant of low watering and low maintenance.

2. To the greatest extent possible, existing native trees and shrubs shall be maintained.

3. No tree, shrub or plant shall be used that has been identified as an Invasive Species by the Massachusetts Plant Advisory Group in the most recent version of *The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts* (with annotated list,) or has been identified as invasive or banned on the *Massachusetts Prohibited Plant List* as periodically updated by the Massachusetts Department of Agriculture.

4. Existing invasive plants shall be removed.

E. Outdoor Parking Area Plantings. Each outdoor parking area shall contain a planted buffer area at least fifteen feet deep from any public or private ways. Any parking area of more than ten spaces shall be required to have at least 10 % of the interior area of the lot landscaped and vegetated.

F. Screening. All outdoor parking areas within seventy-five feet of a parcel in residential use or in the R-3 District shall be screened on each side adjoining the residential use or district by a buffer of dense vegetation of a minimum of six feet in height at the time of planting, except where screening is already provided by an existing fence, wall, hedge or natural terrain feature. This screening shall be maintained in good condition and shall be designed so as not to obstruct vehicle sight distances at entrances, exits or street intersections.

When parking will be located under a building, the parking area shall be screened except for the location of necessary entrances and exits. Lattice or similar open screening shall be used to at least the height of the base flood elevation or highest overwash level, in order to allow the free movement of coastal storm flood water.

## 570.7 DESIGN STANDARDS FOR MULTI-FAMILY DEVELOPMENTS

A. General. All residential units shall consist of townhouses accessed from the ground, except that apartments with access from a higher floor shall be permitted where the first floor contains a retail or business use. In all construction, materials and styles shall be used that are similar to those used in residential building in Humarock and reflect the traditional seaside character of the area.

B. Façade Treatment. No exterior face of any building shall exceed thirty-five feet in any plane (measured horizontally) without an offset of at least twenty-four inches. The use of balconies, awnings or canopies shall be encouraged. No building shall have an overall length of more than 135 feet.

C. Roofs. Roofs shall be pitched to center ridge in keeping with the distinguishing architectural characteristics of typical ocean-side villages located in New England. Dormers within pitched roofs shall be encouraged, but shall not occupy more than 50 % of the total roof area and shall be no more than twenty feet in width. Dormers shall be exempt from roof pitch requirements but shall have pitched roofs. Sloped or pitched roofs with a minimum of 8:12 slope shall be required, except that to allow design variation, up to twenty percent of the roof area may be flat or of other design than a sloped or pitched roof.

D. Utilities and Drainage.

E. All utility service lines shall be underground.

F. Drainage.

1. Recharge. In order to protect the water quality of the South River and preserve environmentally sensitive dune and barrier beach areas, to the greatest extent possible, all stormwater shall be recharged on site and design techniques shall be used to reduce the generation of stormwater and non-point source pollution by limiting impervious surfaces, treating stormwater, maximizing open space and minimizing disturbance of natural areas.

2. Use of Best Management Practices. All runoff and drainage shall be managed using “Best Management Practices”, as described in the current version of the Massachusetts Department of Environmental Protection Stormwater Management, Vol. II: Stormwater Technical Handbook, including use of rain gardens and other techniques. Wherever possible, bioretention stormwater systems shall be used for removal of contaminants and sediment. Where drainage systems contain visible infrastructure it shall be landscaped or camouflaged.

3. Minimization of Impervious Surface. Impervious surface shall be minimized by providing only as much parking as required by the Zoning Bylaw; using short driveways, permeable paving, green rooftop systems, and low impact development techniques as described in references such as the Massachusetts Executive Office of Environmental Affairs LID homepage (http://www.mass.gov/envir/lid/default.htm) in current versions, wherever possible. The total area of impervious surface shall not exceed the area of impervious surface that existed on the lot at the time the application is submitted.

G. Trash storage and mechanical equipment. All dumpsters, trash storage areas and mechanical equipment such as air conditioning units shall be completely screened from view of adjacent properties and public rights of way with fencing, walls or vegetation. All mechanical equipment, including that attached to the side or roof of a building, shall be designed to be an integral part of the building. The location of all mechanical equipment shall be shown on plans submitted with the special permit.

H. Septic systems. In order to provide the maximum protection for the South River, all septic systems shall incorporate nitrogen removal.

I. Open space area. In order to preserve open space, conserve natural resources, maintain unobstructed overwash areas, enhance the general appearance of the area, avoid adverse impact of overcrowding and provide visual access to open space, 30 % of the total area of any project site shall be dedicated to landscaped open space. This open space area shall be free of buildings except 2nd or 3rd floor balcony overhangs, structures, driveways or parking. The open space shall be subject to a deed restriction prohibiting construction on this area and providing for maintenance to ensure its attractive appearance and cleanliness.

**570.8 HOUSING AFFORDABILITY STANDARDS**

All requirements of Section 560.7 for affordable dwelling units in the Village Business Overlay District shall apply to multi-family developments of ten or more units in the Humarock Village Residential Overlay District, except that the minimum number of affordable units shall be ten percent of the total dwelling units, rounded to the nearest whole number.

**570.9 SPECIAL PERMIT REVIEW PROCEDURES**

A. Pre-Application Meeting. A pre-application meeting with the Town Planner and an informal discussion with the Planning Board prior to the submittal of a Special Permit application are strongly encouraged. A preliminary concept plan should be provided at this meeting. The preliminary concept plans shall be at a scale of 1” = 40’, unless the applicant and Town Planner agree on a more appropriate scale.

B. Review Process. The application requirements, standard of review, project completion requirements and applicability of approval requirements described in Section 770 Site Plan Review shall also apply to this Section. A landscape plan stamped and signed by a Registered Landscape Architect will be required as part of all applications for a special permit. All applications shall be subject to the Design Review process described in Section 750 of this bylaw.

# SECTION 600 - DIMENSIONAL REGULATIONS

## 610 LOT SIZE REGULATIONS FOR DWELLINGS

### 610.1 LOT AREA AND WIDTH REQUIREMENTS

A. In all districts, except as herein provided, no dwelling shall hereafter be erected on a lot having less area, exclusive of any part of said lot within the line of a street or way or below mean high water, than the "Required Lot Area," or having less width measured through that part of the dwelling erected, or to be erected, thereon, where said lot is the narrowest, than the "Required Lot Width," specified in the following table for the district in which said lot is located. Lot width shall be measured between side lot lines and parallel to the lot frontage, or as close to parallel to lot frontage as is practicable on irregularly shaped lots.

| District | Required Lot Area | Required Lot Width |
|---|---|---|
| "R 1" | 40,000 sq. ft. | 175 feet |
| "R 2" | 20,000 sq. ft. | 125 feet |
| "R 3" | 10,000 sq. ft. | 100 feet |
| "GB," "HB," and "C" | 10,000 sq. ft.* | 100 feet |

*for each family occupying the dwelling, except in the case of accessory dwellings

The Required Lot Areas specified above shall be exclusive of any land under water bodies, bogs, swamps, wet meadows or marshes, as defined in Massachusetts General Laws Chapter 131, Section 40.

### 610.2 LOT FRONTAGE REQUIREMENTS

A. General Requirements
In all districts, except as herein provided, no dwelling shall hereafter be erected on a lot which does not abut on at least one street or way for a distance of at least one hundred feet. No dwelling shall be hereafter erected on a lot which has a width of less than one hundred feet at any point between the frontage street or way and the nearest part of the dwelling erected or to be erected on said lot. In the case of a cul-de-sac lot, the exterior line of the way on which a lot abuts shall be a curve having a radius of one hundred fifty feet or less, the frontage abutting the way shall be at least sixty feet, and the lot shall have the required lot width at the nearest part of the dwelling erected or to be erected on said lot from the frontage street or way. In a GB General Business District and a C Commercial District, no nonresidential use or structure shall be hereafter permitted or erected, respectively, on a lot which does not abut on at least one street or way for a distance of at least sixty feet.

B. Fifty Foot Frontage Lots
It shall be permissible, by a special permit granted by the Board of Appeals, to erect a single-family detached dwelling on a lot which abuts on at least one street or way for a distance of at least fifty feet, and which has a width of at least fifty feet

at every point between the frontage street or way and the nearest part of the dwelling to be erected on said lot, provided that the following conditions are met:

1. Any such lot to be created, after the effective date of this by-law, shall be at least two times the required area of upland for the zoning district in which it is located. Upland shall be defined as all land not subject to protection under Massachusetts General Laws, Chapter 131, Section 40. Each lot must contain an area of contiguous upland equal to the minimum lot size in its zoning district.

2. When two or more such so-called fifty-foot lots are approved at the same time that will share a lot line, common driveways, approved in accordance with Section 720 of this bylaw, shall be utilized so that there is a maximum of one curb cut per one hundred feet of frontage.

3. Any lot that receives a special permit under this Section may not be further subdivided, and the special permit shall include a condition to this effect. A deed restriction shall be shown on the plan and thereafter recorded that shall provide that any such lot is (or lots are) subject to a special permit recorded therewith and that said lot or lots shall not be further subdivided.

4. The Board of Appeals in granting a special permit for a fifty foot frontage lot may impose such conditions, safeguards and limitations as it may deem reasonably appropriate to protect the neighborhood or otherwise serve the purpose of this bylaw, such as but not limited to requirement of front, side or rear yards greater than the minimum required by this bylaw.

C. Cushing Highway Egress Control

Greater frontage than required above may be necessary to meet the requirements of this subsection. Egress onto Chief Justice Cushing Highway must meet the following requirements, unless

1. The Board of Appeals grants a special permit for an alternate configuration, upon its determination that safety will be adequately protected using an engineering analysis submitted by the applicant documenting compliance with common engineering standards, including A Policy on Geometric Design of Highways and Streets, dated 1984, from the American Association of State Highway Transportation Officials (AASHTO), or,

2. The Massachusetts Department of Public Works imposes requirements precluding compliance.

| Estimated Vehicle Trips per Day: | Under 200 | Over 200 |
|---|---|---|
| Exiting vehicle unobstructed sight distance at edge of traveled way: | 400' | 750' |
| Driveway centerline separation from others serving 200+ movements: | N/A | 400' |
| Driveway sideline separation from intersecting street sideline: | 50' | 200' |
| Maximum driveway width: | 18' | 24' |
| Minimum curb radius: | 25' | 50' |
| Mandatory provisions to allow vehicles in reverse to avoid backing: | Yes | Yes |

No existing parcel shall be divided into lots having frontage which would preclude meeting the driveway separation requirements, unless access rights-of-way are deeded to enable shared egress.

D. Residential Compound Developments

1. Purpose.
The purpose of Subsection 610.2.D shall be to provide an alternative to residential subdivision development (a process which promotes a developer to site the maximum number of lots possible within the tract of land in order to make the construction of the required subdivision road affordable), by providing for limited residential development within a large tract of land without requiring the construction of a subdivision road so as to:

a. promote large lot development;

b. reduce construction costs;

c. reduce impacts of new development on abutting properties;

d. eliminate future town maintenance, responsibility and costs for the development; and,

e. preserve the semi-rural character of the town.

2. Standards.
A Residential Compound Development shall consist of a group of not more than five single-family dwellings sharing common frontage and a private access road which shall meet the requirements for a Common Driveway of Section 720, except as provided in Subparagraph e., Access, below. The Planning Board may grant a special permit for a Residential Compound Development in any residential district subject to the following provisions;

a. Tract Frontage
Such shared common frontage may be permitted on a single tract of land held in one ownership, which has a minimum of one hundred continuous feet of frontage on a public way or a private way, provided that any such private way has been approved and constructed in accordance with the Planning Board's Subdivision Rules and Regulations.

b. Minimum Tract Size
Said tract of land shall contain at least four times the gross size that is required in the district for the number of lots proposed for said tract. Any land which, at the time of submission of an application under this section, is subject to a perpetual restriction, such as the conservation, preservation, agricultural preservation, or watershed preservation restrictions described in Massachusetts General Laws, Chapter 184, Section 31 or any other restriction similar thereto, shall not be included in the minimum tract size.

c. Dimensional Requirements
There shall be no minimum lot width or lot frontage requirements within such a tract; however, no structure other than a fence may be erected within fifty feet of any perimeter line in an R-1 or R-2 District or within thirty feet of any lot line in an R-3 District.

d. Minimum Lot Size
No building lot shall be reduced in size below two times the minimum lot area required for the district in which it is located.

e. Access
Each building lot in such a tract shall have adequate and legally enforceable rights of access to a public street via a private access road which shall meet the minimum requirements for a Common Driveway of Section 720, except that the minimum surface width shall be twenty feet for a development of four or five lots, and sixteen feet for a development of two or three lots. The Planning Board may reduce the required width of private access roads serving four or five lots to no less than eighteen feet; that of private access roads serving three lots may be reduced to no less than fourteen feet; and that of private access roads serving two lots may be reduced to no less than twelve feet, in each case with the prior approval of the Fire Chief. Each building lot shall have actual access over said private access road.

f. Open Space
Any land within such a tract not designated as a building lot shall be designated as permanent open space. Such land may be used only for conservation, outdoor recreational facilities of a noncommercial nature, agriculture, preservation of scenic or historic structures, and structures accessory to any of the above uses (including swimming pools, tennis courts, stables, greenhouses). In all cases, a perpetual restriction of the type described in Massachusetts General Laws, Chapter 184, Section 31 (including all future amendments thereto and corresponding provisions of future laws) running to or enforceable by the town shall be recorded in respect of such permanent open space land. Such restrictions shall be in such form and substance as the board shall prescribe and may contain such additional restrictions on development and use as the board shall deem appropriate.

3. Limitation on Further Development
No such tract for which a special permit has been issued under this section may be further subdivided and a notation to this effect shall be shown on the plan and recorded.

4. Other Restrictions
Any plan approved under this subsection shall contain statements indicating the following:

a. That the land lies within a tract approved for shared common frontage;

b. That development of the land is permitted only in accordance with the land uses indicated thereon;

c. That the town will not be requested or required to accept or maintain any municipal services whatsoever including but not limited to the private access, drainage, open space or any other improvement within said tract.

d. Further, all deed restrictions with respect to ownership, use and maintenance of permanent open space shall be referenced on, and recorded with, the plan.

5. Procedure for Approval
Any person desiring a special permit pursuant to this subsection shall submit an application in writing to the Planning Board, along with an application fee as required in the most recent schedule of fees, in such form that complies with the requirements of Section 770 of this bylaw and any other requirements the Planning Board may impose, which shall include the following:

a. A plan setting forth:

1. the details of all entrances and exits to and from the public street;

2. all proposed deed restrictions;

3. the proposed locations of all existing and proposed structures;

4. the location and details of all existing and proposed utilities and proposed connections;

5. the existing and proposed easements or rights of way traversing or adjacent to the tract; and

6. the boundaries, if any, of any area which the conservation commission has determined to be subject to Massachusetts General Laws, Chapter 131, Section 40;

b. The advice and recommendations of the department of public works on the impact of said development on municipal services and that the subsequent approval by said department - must be obtained of "as-built plans" prior to the issuance of any building permit; and

c. The report of the Board of Health and its approval or disapproval of the plan, in accordance with the provisions of the Subdivision Rules and Regulations, Section 6.4.

6. Special Permit Conditions
A special permit shall be issued under this section only if the Planning Board, as the Special Permit Granting Authority shall find that the proposed development is in harmony with the general purpose and intent of this section and that it is designed in such a manner to make it sufficiently advantageous to the town to depart from the requirements of this bylaw otherwise applicable to the residential districts in which the development is located.

a. Mandatory Conditions
If a special permit is granted, the Planning Board shall impose as a condition of approval that the following occur prior to the issuance of any building permit for any lot within the tract

i. that copies of all recorded instruments shall be filed with the board prior to the issuance of any building permit;

ii. that "as-built" plans shall be forwarded to the Planning Board prior to the issuance of any building permit;

iii. that all site work and grading must be performed in accordance with the special permit as granted prior to the issuance of any building permit; and

iv. that all site work and grading must be completed, inspected by the department of public works and determined by said department to conform to the requirements of said special permit prior to the issuance of any building permit for any lot within the tract.

b. Optional Conditions
If a special permit is granted, the Planning Board may impose as a condition of approval that:

i. the applicant shall post adequate security to ensure that the private access road, utilities and grading will be completed in accordance with the plan as approved by the special permit;

ii. the applicant shall provide reasonable on-site betterments, including, but not limited to, fencing, stone walls, landscaping and signage; and

iii. the plan shall conform to any other reasonable condition as the Planning Board shall require.

**610.3 REDUCTION OF LOT SIZE**

No lot upon which a building stands shall be reduced in size by conveyance of any part thereof, or by any other means (other than by reason of natural erosion of seashore lots) so that the area remaining has less than the area and dimensions required by this Section, except that, pursuant to the Subdivision Control Law, General Laws Chapter 41, Sections 81 K and L, a lot on which two or more dwellings were standing when the Subdivision

Control Law went into effect in the Town of Scituate may be divided into separate lots, on each of which one such dwelling remains standing. If such division results in a nonconforming setback for one or more of the existing dwellings, or a lot that does not meet the minimum lot area, these nonconformities will be considered legally pre-existing nonconformities. Further alterations of these dwellings or the boundaries of the lots on which they are standing shall not increase any nonconformity under the provisions of this bylaw unless the applicant obtains the zoning relief required for pre-existing nonconforming structures under Section 800 of this bylaw.

## 620 HEIGHT AND OPEN SPACE REQUIREMENTS

### 620.1 BUILDING HEIGHTS

In R-1, R-2 and R-3, Districts, no building shall be constructed or altered to exceed more than three stories or thirty-five feet in height, whichever is lower, the height in each case to be measured vertically from the average finished grade of the ground adjoining such building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs.

In GB, HB and C districts, no building shall be constructed or altered to exceed more than three stories or forty feet in height whichever is lower, the height in each case to be measured vertically from the average finished grade of the ground adjoining such building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs.

| District | Building Height |
|---|---|
| R-1, R- 2, R-3 | 3 stories or 35' whichever is lower |
| GB, HB, C | 3 stories or 40' whichever is lower |

Notwithstanding the regulation of building height in Section 620.1 and allowed height projections in Section 620.2, no building with a gable, hip or gambrel roof in the R-1, R-2 or R-3 Districts shall exceed 40 feet, measured vertically from the average finished grade of the ground adjoining such building to the highest point of any roof.

In the GB and HB Districts, the third floor of structures shall be set back from the front a minimum of seven feet; alternately the third floor shall be in the roof with the use of dormers. Dormers shall have a maximum width of twelve feet. Gable end structures where the gable faces the street, or gambrel roof lines, may be exempt providing that the scale and massing adheres to that of the historic structures of the area. The design shall maintain the traditionally historic character of these districts.

### 620.2 HEIGHT PROJECTIONS

Chimneys, spires, towers and other projections not used for human occupancy, whether constituting separate structures or attached to buildings, may be constructed above the height limitations hereinbefore established, but no structure or projection, except a wind energy conversion system, shall be constructed in any district to a height greater than seventy-five feet, except that a wireless communication tower may be erected in the

Wireless Communications Overlay District at a height greater than seventy-five feet subject to a special permit approved by the Planning Board as provided in Section 540, a wireless communications antenna may be installed at a height greater than seventy-five feet subject to a special permit approved by the Planning Board as provided in Section 730, and other structures or projections may be constructed to a height greater than seventy-five feet by special permit granted by the Board of Appeals.

**620.3 SETBACK AND YARD REQUIREMENTS**

In all zones, except as herein provided, no building shall hereafter be erected on its lot within one hundred feet of the exterior lines of the Chief Justice Cushing Highway (or, if lesser, nearer to those lines than fifty percent of lot depth), or within sixty feet of the exterior lines of the New Driftway and the Driftway from the extension of the easterly boundary of South Shore Auto Parts Company, Inc. (Assessors Lot No. 53-3-9), easterly to New Kent Street, and then New Kent Street northerly to the intersection of New Kent Street and Kent Street; or within thirty feet of the exterior line of any other street or way; or nearer to the side lines of its lot than the "Required Side Yard Distance," or nearer to the rear line of its lot than the "Required Rear Yard Depth," specified in the following table for the district in which said lot is located:

| District | Required Side Yard Distance | Required Rear Yard Depth |
|---|---|---|
| R-1 and R-2 | 15 feet | 8 feet for one story detached accessory buildings. 30 feet for all other buildings. |
| R-3 | 8 feet | 8 feet for one story detached accessory buildings. 20 feet for all other buildings. |
| GB, HB, and C | 8 feet for dwellings, 8 feet for all other buildings unless having a party wall on the same lot line. | 20 feet for dwellings, 8 feet for all other buildings. |

**620.4 MODIFICATIONS AND EXCEPTIONS**

A. In all districts, no building need be set back on its lot further from the line of a street or way than the average distance from such line of the buildings on the same side thereof between two intersecting streets and ways and within two hundred feet of the lot in question. In determining such average, accessory buildings shall not be counted. A vacant lot or a lot occupied by a building set back more than the required distance set forth in the preceding paragraph shall be considered as though occupied by a building set back the required distance.

B. In GB, HB, and C Districts, no open display or other open use where permitted, and no sign or other structure shall be located nearer than fifty feet to the exterior line of Chief Justice Cushing Highway, or twenty feet to the exterior line of any other street or way, except for the following:

1. Utility pole or mail box;

2. Plants growing in the soil, if not obstructing the view from the street of cars entering or leaving the premises;

3. Parking lot for passenger automobiles;

4. Sign attached to a building if extending not more than three feet in front of said building, and only above a height of ten feet.

C. Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen inches in width, steps, unroofed porches, bulkheads or window sills into any required yard or other open space.

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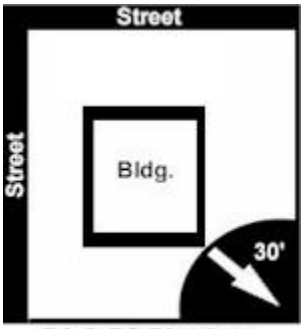
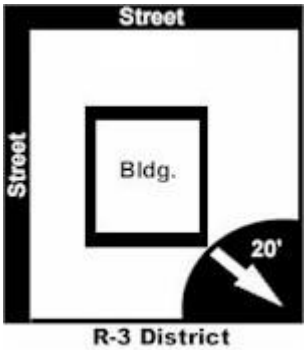
D. Within fifty feet of the exterior line of Chief Justice Cushing Highway there shall be no parking areas (paragraph B notwithstanding) and there shall be visual and acoustic buffering at least equivalent to that provided by natural vegetation characteristic of the location before development. Trees having trunk diameters of six inches or greater shall be removed only if necessary for access, safe visibility at points of egress, to remove unhealthy trees, or to provide water views to travelers.

E. With the exception of one-story accessory buildings, in the case of a corner lot, the required rear yard depth shall be an arc located 30 feet from the point opposite the intersection of the two streets where two lot lines that are not front lot lines intersect in the R-1 or R-2 district, or 20 feet from this point in an R-3 district, as shown in the diagram below**.**



R1 & R2 Districts



R-3 District

# SECTION 700 - GENERAL PROVISIONS AFFECTING ALL DISTRICTS

## 710 SIGNS

The purpose of this section is to:

1. protect public health, safety and welfare;
2. reduce traffic hazards;
3. promote and protect the aesthetic nature of the town;
4. protect property values;
5. and promote economic development.

### 710.1 SIGNS IN RESIDENTIAL DISTRICTS

In the R-1, R-2, R-3 and RM District the following exterior signs are permitted as a matter of right:

A. Property protection type signs such as "beware of dog" and "no trespassing" not exceeding one square foot in size and no more than four signs within sight from any given point.

B. On-site for sale signs, for rent signs, rooms to let signs, etc. provided they are no larger than six square feet for individual houses on the affected property and no more than one sign is allowed at a time.

C. Signs advertising yard sales, garage sales, etc. only while event is in progress, and no larger than two square feet in size.

D. Political signs shall not exceed six square feet in size, and may be staked into the ground, in a window, or vehicle mounted. Political signs may be erected thirty days prior to the applicable election and must be taken down within three days after such election. Signs for candidates who win state fall primary elections may remain up until three days after the full general election.

E. Onsite tradesmen signs such as "Acme Construction" or "Green Landscaping" not to exceed six square feet and only while work is in progress on the site.

F. One non-flashing sign not over eight square feet in area indicating the owner or occupant.

G. One non-flashing sign not over eight square feet in area pertaining to permitted structures and uses on the premises as listed in Sections 420.1,I, J, K, and L, Section 420.2 and Section 420.3.F provided that such sign complies with Section 620.4.B. A permit from the Building Commissioner or his designee is required after review and approval by the Planning Board.

**710.2 SIGNS IN RESIDENTIAL DISTRICT BY SPECIAL PERMIT**

A special permit by the Board of Appeals shall be granted only after a finding that: the sign is reasonable in design and size, the sign is economically necessary, and the sign will not be a hazard to the public.

A. Property protection signs larger than one square foot, but never to exceed ten square feet shall require a special permit from the Board of Appeals.

B. For sale signs, for rent signs, rooms to let signs, etc. between six square feet and twenty square feet.

C. Business and commercial signs may be placed along travelled ways for the purposes of indicating direction to their facility by special permit of the Board of Appeals after review and comment by the Planning Board. Such signs must be needed for directional purposes and must not exceed one hundred square feet in size.

**710.3 SIGNS IN BUSINESS AND COMMERCIAL DISTRICTS**

In the GB, HB, and C Districts, all signs allowed as a matter of right in the residential district shall be allowed, additionally, exterior signs pertaining to uses on the same premises as the location of such sign are permitted upon the issuance of a permit by the Building Commissioner subject to the following restrictions:

A. No sign shall obstruct visibility in such a way as to constitute a hazard to the safety of persons travelling upon a public way.

B. The top edge of such sign, whether freestanding or not, shall be placed not higher than the main roof of the highest building located on the premises, or if no building exists, the average height of the main roofs of the buildings on the next adjacent properties where buildings do exist.

C. Such signs may be illuminated only from the exterior of the advertising matter.

D. No sign shall exceed one hundred square feet gross display area.

E. Each business unit or industrial unit is permitted not more than two signs, but excluded from this sub-section are signs necessary for public safety or convenience.

F. No business and commercial signs of general advertising nature, which do not pertain to a structure or use on the same premises as the location of such sign shall be permitted with the Town of Scituate except as provided in Section 710.2.C., 710.4.B., and 710.6.A.

**710.4 SIGNS IN BUSINESS AND COMMERCIAL DISTRICTS BY SPECIAL PERMIT**

Special permits by the Board of Appeals shall be granted only after a finding that: the sign is reasonable in design and size, the sign is economically necessary, and the sign will not be a hazard to the public.

A. For sale signs, for rent signs, rooms to let signs, etc. between six square feet and twenty square feet.

B. Signs may be placed along traveled ways within Business and Commercial Districts for the purpose of indicating directions to its facility by special permit of the Board of Appeals after review and comment by the Planning Board. Such signs must be reasonably needed for directional purposes, and must not exceed one hundred square feet in size.

**710.5 GENERAL PROVISIONS PERTAINING TO SIGNS IN ALL DISTRICTS**

A. No signs shall be affixed upon or painted on any rock, tree, utility pole, or town sign on public property within the Town of Scituate.

B. No signs shall be permitted within the town greens without special permission from the board of selectmen or their designee.

C. No signs shall obstruct visibility of vehicular traffic.

D. No sandwich board signs are allowed on sidewalks.

E. Nothing herein shall be construed to prohibit the placement within the Town of Scituate of street signs, traffic signs, directional signs or any other governmental authority or agency signs.

F. Any lawful sign existing at the time this amendment to the bylaw is adopted may be continued, although such signs do not conform to the provisions hereof.

G. Any total replacement or substantial change of an existing sign shall be required to conform to the above provisions.

H. Signs shall be affixed and maintained in such a way as to be safe and free of hazard to the public, and shall be maintained in good repair.

I. No sign or display may be moving, or make use of blinking or intermittent lights or any other animation.

J. Fixed free standing signs are subject to setback restrictions in Section 620.4.B.

### 710.6 CHURCH AND CIVIC GROUP SIGNS

A. Church and civic groups may erect temporary signs and/or banners to promote important functions of their group. Such signs shall be no larger than three feet by four feet and banners shall be no larger than four feet by ten feet or forty square feet overall. Lettering shall include only the name of the event, place, time, date and name of sponsoring organization. The sign or banner shall be erected for not more than twenty-one days prior to the event and shall be removed immediately following the event. Banners may be hung only in the areas designated as Commercial or Business Districts and will be placed no closer than one thousand feet together. Permission to erect such a sign or banner shall be given only by consent of the Building Commissioner or his designee. All banners hung across a street or public way shall be positioned at a height so as not to impede pedestrian or vehicular access.

### 710.7 ACCESSORY USE SIGNS

In a residential district the following accessory use signs are allowed upon the issuance of a permit by the Building Commissioner or his designee:

A. One sign not over two square feet in area depicting the permitted home occupation.

### 710.8 ACCESSORY USE SIGNS BY SPECIAL PERMIT

A. One sign between two and ten square feet depicting the permitted home occupation.

## 720 COMMON DRIVEWAYS

### 720.1 APPLICABILITY

A Common Driveway is a driveway used as common access to two or three lots which cannot serve more than three lots in total. Common Driveways shall access lots from no more than one access point on an existing street or a street shown on an approved subdivision plan. A Common Driveway shall access lots over a portion of the approved

frontage of one of the lots served. Common Driveways shall not satisfy zoning frontage requirements.

All Common Driveways shall require a special permit from the Planning Board, except that Common Driveways less than five hundred feet in length serving two lots with adjoining legal frontage shall not require a special permit but will be subject to the provisions of Section 770, Site Plan Review, except that the application requirements shall be those necessary in the opinion of the Planning Board to demonstrate that the Common Driveway meets the Standards of Review of Section 770.5.

**720.2 PURPOSE**

The purpose of this Section 720, Common Driveways, is to provide guidelines for the Planning Board to permit Common Driveways in order to reduce the number of access points on public or private roads; to protect wetlands and sensitive natural areas from disturbance, including stormwater runoff; and to preserve a rural atmosphere in the Town of Scituate, when these driveways meet reasonable construction and design standards.

**720.3 APPLICATION REQUIREMENTS**

All applications for special permits for Common Driveways shall include a completed application form, fourteen copies of the Common Driveway Plan, and a proposed Common Driveway Agreement.

The Common Driveway Plan shall contain the Common Driveway; the Common Driveway easement; the area of the lots served which falls within seventy-five feet of the Common Driveway easement; the width and proposed surface of the Common Driveway with a cross-section including berms and cleared shoulders; and the locations of turnarounds for emergency vehicles. The Planning Board may require a locus plan showing the entire area of the lots served, the adjoining access road, and the Common Driveway. The Common Driveway Plan shall be prepared and stamped by a Registered Professional Engineer or a Registered Professional Land Surveyor.

A note shall be placed on the plan, and the deed for each lot served by a Common Driveway shall include, a restrictive covenant stating that the Common Driveway shall never be considered for acceptance as a town road and that all maintenance and repair of the Common Driveway and drainage facilities shall be the responsibility of the owners of the properties served by the Common Driveway.

**720.4 ADDITIONAL INFORMATION**

The Planning Board may require additional information if they consider it necessary to review the adequacy of a proposed Common Driveway.

**720.5 COMMON DRIVEWAY AGREEMENT**

Prior to the approval of a special permit, an agreement for maintenance of the Common Driveway and drainage facilities shall be provided in a form acceptable to the Planning Board.

**720.6 PROCEDURE**

The Planning Board shall be the Special Permit Granting Authority for special permits for Common Driveways. The procedure for approval of special permits for Common Driveways shall meet the applicable provisions of Massachusetts General Laws, Chapter

40A, Sections 9 and 11. Thirteen copies of the application and Common Driveway Plan shall be submitted with the special permit application.

The Common Driveway Plan approved by the Planning Board shall be submitted for the Board's signature when the special permit is signed by the Planning Board. The special permit, Common Driveway Plan, and Common Driveway Agreement executed by the applicant shall all be recorded at the Plymouth County Registry of Deeds and/or Land Court as applicable, and certified copies of each shall be forwarded to the Planning Board within six months of the approval of the special permit.

**720.7 DESIGN STANDARDS**

All Common Driveways shall conform to the following design standards:

A. The location and construction of Common Driveways should minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees of over 12" caliper and other natural features of special significance.

B. Common Driveways shall have a minimum surface width of sixteen feet, exclusive of two foot shoulders on either side cleared of brush and trees. With the agreement of the Fire Chief, the minimum surface width of a Common Driveway serving three lots may be reduced to fourteen feet, and for two lots, to twelve feet. The Planning Board may require one foot wide Cape Cod berms and/or swales to direct drainage and infiltrate runoff.

C. No Common Driveway shall be allowed to be constructed off any cul-de-sac or dead end of a public or private way. No Common Driveway shall be connected or attached to any other Common Driveway. No Common Driveway shall be extended without prior approval of the Planning Board.

D. Common Driveways shall be located within an easement which may allow space for installation of water lines and utilities as needed. Water lines and appurtenances shall be shown on the Common Driveway Plan. Underground utilities are encouraged for all Common Driveway construction.

E. Common Driveways shall be constructed using a minimum 12" thick sorted gravel sub-base. The base course and top course for paved driveways shall each be a minimum 1 1/2 " thickness. Surfacing with bank gravel, peastone, crushed stone or another permeable or semi-permeable surface may be recommended for use within one hundred feet of a wetland or in other sensitive areas.

F. Common Driveways shall not exceed one thousand feet in length, measured from the street line to the end of the Common Driveway.

G. Runoff draining onto abutting properties shall not exceed that which existed prior to construction of the Common Driveway.

H. No driveway, parking or turning area or other impervious area shall be located above major components of a septic system, including septic tanks, leaching fields, and distribution boxes, except where approved by the Board of Health.

I. To provide better traffic safety and reduce the visual impacts of traffic on abutting properties, the Planning Board may require Common Driveways to be set back from lot lines and/or screened with a buffer of trees and/or shrubs.

J. Turnarounds for emergency vehicles shall be provided with a minimum length of 30' and width of 20' in locations approved by the Fire Chief.

K. Sight distances at the entrance of a Common Driveway along the intersecting road should conform to current American Association of State Highway and Transportation Officials (AASHTO) standards.

L. The lot width for lots served by a Common Driveway may be measured parallel to the Common Driveway, except in the case of fifty foot frontage lots.

### 720.8 CONSTRUCTION

Construction of the Common Driveway shall be supervised by a Registered Professional Engineer who shall certify in writing to the Building Commissioner at completion that the driveway and drainage structures were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a Registered Professional Land Surveyor and the supervising engineer. As-built plans shall include the locations of easements for all drainage structures including swales and must be provided to the Department of Public Works, with a copy to the Planning Board, within three months of the completion of construction of a Common Driveway. The Building Commissioner shall not issue a final Certificate of Occupancy for a dwelling served by a Common Driveway unless the Building Commissioner is satisfied that access, construction of the Common Driveway, installation of necessary utilities and site restoration are in full compliance with the approved plans and the special permit.

### 720.9 SURETY

An acceptable amount and form of surety for construction of the Common Driveway and drainage system shall be established by the Planning Board and provided to the Planning Board by the applicant prior to approval of the special permit. The Department of Public Works shall inspect the site and if it finds that all construction, including grading, loaming and seeding, clean up of earth materials and construction debris is complete, it shall so certify to the Planning Board. Thereafter, the Planning Board may release surety held under this Section.

## 730 WIRELESS COMMUNICATION ANTENNAS ON EXISTING STRUCTURES

### 730.1 ENCLOSED WIRELESS COMMUNICATION ANTENNAS

The installation of a wireless communication antenna within an existing structure shall be permitted in any zoning district provided that such antennas are totally enclosed and cannot be seen from outside the structure, subject to the applicant obtaining Site Plan Administrative Review from the Planning Board under Section 770 of this bylaw.

### 730.2 WIRELESS COMMUNICATION ANTENNAS ON EXISTING BUILDINGS

A wireless communication antenna may be installed on the exterior of an existing building in any zoning district, provided a special permit is obtained from the Planning Board which shall meet all the requirements of Section 770 for Major Site Plan Review, and which also meets the following provisions:

A. Application Filing

Applications must include representations, dimensioned and to scale, of all proposed antennas, mounts, equipment shelters, cable runs and any other construction or development, and elevations of the building where they are to be located. These shall show clearly the elevation of the highest point above ground level, the materials of construction and the color of any antenna, mount, fence, cable or other appurtenances. The Planning Board may also require information included in the filing requirements for wireless communication towers, personal wireless service facilities and their accessory structures described in Section 540.6 C. of this bylaw. The Planning Board may waive any portion of the application filing requirements upon request of the applicant if the Planning Board determines that such a waiver would be in the public interest.

B. Performance Standards

A wireless communication antenna installed on the exterior of an existing building shall meet the following performance standards:

1 . The applicant shall demonstrate to the Planning Board that the existing building or structure is structurally sound and capable of handling the additional loads created by the antenna.

2. The antenna shall not extend above the roofline of the structure unless it is located directly next to a chimney or other projection, in which case it shall not exceed the height of the chimney or other projection, and shall not project more than eighteen inches from the surface of the building, roof, or chimney; and in no event shall any part of the antenna extend more than twelve feet above the roof line.

3. An antenna mounted on a structure shall be colored or painted to blend with the structure.

4. All antennas shall be screened to the greatest extent possible to minimize visibility from abutting properties and ways.

5. All antennas and appurtenant equipment not in use for a period of six months or more shall be removed from the property at the owner's/operator's expense.

**730.3 WIRELESS COMMUNICATION ANTENNAS ON EXISTING WIRELESS COMMUNICATION TOWERS**

A. A wireless communication antenna may be installed on an existing wireless communication tower in any zoning district provided there is no more than a twenty foot increase in the height of the tower above ground level.

B. A wireless communication antenna may be installed on an existing wireless communication tower so as to increase the height of the tower more than twenty feet above ground level provided the applicant demonstrates that it is necessary for the provision of wireless communications and provided a special permit is obtained from the Planning Board which meets all the requirements of Section 770 for Major

Site Plan Review and which also meets the Performance Standards 730.2 B. 1. and 3., above. In addition to the information required for a Major Site Plan Review application, the applicant shall include information required in Section 730.2 A above in the application for this special permit.

**730.4 WIRELESS COMMUNICATION ANTENNAS ON UTILITY POLES**

A wireless communications antenna may be installed on a utility pole in any zoning district provided the antenna is not more than ten feet in height, subject to the applicant obtaining a Major Site Plan approval from the Planning Board under Section 770 of this bylaw and the application meeting applicable standards of Section 730.2 A. and B., paragraphs 1, 3 and 5 regarding plan submissions, structural soundness, camouflage and removal. Prior to the public hearing on the special permit, the applicant shall provide information to the Planning Board concerning the need for the antenna(s). This may include coverage maps to show the need for the antenna(s) or similar information. Prior to approving the special permit, the Planning Board must make a written finding that there is a demonstrated need for the antenna(s) to provide or improve cell phone, computer or similar devices' service for purposes of coverage and/or capacity.

## 740 WIND ENERGY CONVERSION SYSTEMS

The Planning Board is hereby established as a Special Permit Granting Authority, in connection with the construction of wind energy conversion systems (WECSs) in the Town of Scituate. A special permit may be issued for the erection of a WECS, as an accessory use, in any district, except the Saltmarsh and Tideland Conservation District, provided that the following conditions are met:

**740.1 SETBACKS FROM TRAVELED WAYS**

The minimum setback distance for a WECS from any traveled way shall not be less than three-quarters times the height of the system measured from the uppermost vertical projection (including blades or rotors) to grade. Setback shall be measured to the center of the tower base.

**740.2 SETBACKS FROM PROPERTY LINES**

The minimum setback distance for a WECS from side and rear property lines shall not be less than 0.75 times the height of the system, as measured in Section 740.1., minus the required sideyard distance of the abutting property, as defined in Section 620.3. A setback from a common property line shall not be required when the abutters are joint owners of the WECS or when the abutting owner(s) grants an easement to the owner of the WECS.

**740.3 TOWER AND FOUNDATION DESIGN**

The design of the tower and any supporting foundations shall be certified by a registered professional engineer to be in conformance with the Massachusetts State Building Code (780 CMR).

**740.4 PREVENTION OF TOWER ACCESS**

Climbing access to the tower shall be limited:

A. by the installation of a fence with a locked gate around the tower base, or

B. by placing the tower climbing apparatus no lower than ten feet from the ground. If a fence is used, it shall be no less than five feet in height and shall be constructed so as to prevent passage through it.

**740.5 CONFORMANCE TO ELECTROMAGNETIC INTERFERENCE REGULATIONS**

The WECS shall be certified by the manufacturer to be in conformance with the Regulations of the Federal Communication Commission (47 CFR Part 15) relating to harmful interference with radio or television reception.

**740.6 NOISE LEVEL STANDARDS**

The wind facility and associated equipment shall conform t o the provisions of the Department of Environmental Protection Division of Air Quality Noise Regulations (310 CMR 7.10). An analysis prepared by the registered qualified engineer will be required to demonstrate compliance with the above standards. **(Amendment approved by the Attorney General Sept. 4, 2008)**

**740.7 ABANDONMENT**

A WECS 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 a WECS is designated as abandoned, the owner shall be required to immediately dismantle the installation.

**740.8 LAPSE OF SPECIAL PERMIT**

Any special permit granted under this subsection shall lapse if construction of the WECS is not commenced within two years following the date of its issuance, unless good cause for failure to begin construction can be shown.

## 750 DESIGN REVIEW FOR BUSINESS, COMMERCIAL, MIXED USE AND MULTI-FAMILY DEVELOPMENT

**750.1 APPLICABILITY**

In order to preserve and enhance the aesthetic quality of Scituate's built environment and to conserve the value of its land and buildings, this section will establish a process of design review for construction of new buildings or expansion of existing buildings which are required by this Bylaw to follow the procedures or standards of Section 770 for Major Site Plan Review or that require approval by the Board of Appeals. This Section shall not apply to approval of the following: Flood Plain Special Permits, Common Driveway Special Permits, or special permits for accessory dwellings except where these are proposed above businesses.

Nothing in this section shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material, color or the outward appearance of a building, or to prevent meeting requirements by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the adoption of this section. Single and two-family houses shall be exempt from this Section. The Planning Board or Board of Appeals may waive this process where, in their opinion, it is not needed because projects are minor, or for other good cause.

**750.2 DESIGN REVIEW COMMITTEE**

A Design Review Committee shall be appointed by the Planning Board to perform the review under this Section. It shall consist of three members, preferably with training and experience in architecture or related professions. If possible, one member shall have training or experience in historic preservation or shall be knowledgeable with regard to historic architectural styles. Each member shall have a term of three years. Appointments shall be subject to the terms of Section 10310 of the Town's General Bylaws. There shall be no limit on the number of terms a member can serve.

**750.3 REVIEW PROCESS**

The Design Review Committee shall, upon written request of the Planning Board or Board of Appeals, meet with the applicant following receipt of an application by the Planning Board or Board of Appeals. The Design Review Committee shall provide written findings and recommendations to the Planning Board and Board of Appeals during the process of the public hearings on the proposal.

**750.4 APPLICATION MATERIALS**

The Design Review Committee requires a site plan showing the existing conditions of a site as well as the proposed changes, a roof plan showing locations of mechanical equipment, and all other exterior equipment and structures mounted on the roof; and four exterior building elevations, whether or not they will be changed. All drawings should have dimensions and notes to indicate specific materials and finishes and be clearly marked as new or existing to remain, whether or not materials are proposed for modification. The Design Review Committee may request additional materials to illustrate exterior materials, finishes or details.

**750.5 DESIGN GUIDELINES**

The Design Review Committee shall review new buildings and substantial improvements with professional judgment, and with reference to general guidelines that the proposed development shall relate harmoniously to the nature and context of existing buildings in the vicinity.

The following list addresses some of the elements by which the suitability of proposed designs are evaluated:

A. Scale of the Building: The scale of a building depends on its overall size and mass, its relationship to the open space around it, and the sizes of its doors, windows, porches and balconies. The scale gives a building "presence"; that is, it makes it seem big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and with its neighborhood.

B. Height: A sudden dramatic change in building height can have a jarring effect on the streetscape, i.e., the way the whole street looks. A tall building can shade its neighbors and/or the street and sometimes create a canyon-like effect. The height of buildings should be visually compatible with the heights of the buildings in the neighborhood.

C. Proportion of Building's Front Façade: The "first impression" a building gives is that of its front façade, the side of the building, which faces the most frequently

used public way. The relationship of the width to the height of the front façade should be visually compatible with that of its neighbors.

D. Rhythm of Solids to Voids in Front Facades: When you look at any façade of a building, you see openings such as doors or windows (voids) in the wall surface (solid). Usually the voids appear as dark areas, almost holes, in the solid and they are quite noticeable, setting up a pattern or rhythm. The pattern of solids and voids in the front façade of a new or altered building should be visually compatible with that of its neighbors.

E. Proportions of Opening within the Facility: Windows and doors come in a variety of shapes and sizes; even rectangular window and door opening can appear quite different depending on their dimensions. The relationship of the height of windows and doors to their width should be visually compatible with the architectural style of the building and with that of its neighbors.

F. Roof Shapes: A roof can have a dramatic impact on the appearance of a building. The shape and proportion of the roof should be visually compatible with the architectural style of the building and with those of neighboring buildings.

G. Relationship of Façade Materials: The facades of a building are what give it character, and the character varies depending on the materials of which the facades are made and their color and texture. Many different materials are used on facades – clapboards, shingles, patterned siding, brick or other masonry unit – depending on the architectural style of the building. The facades of a building, particularly the front façade, and those facades occurring on corner lots, should be visually compatible with those of other buildings around it.

H. Historic or traditional architecture: Historic elements reflect Scituate's rich architectural traditions. Historic, traditional or significant structures or architectural elements should be preserved to the extent possible.

I. Site Features: The size, placement and materials of landscaping, walks, walls, fences, signs, lighting, driveways and parking areas may have a visual impact on a building. These features should be visually compatible with the building and neighboring buildings. Invasive species, as indicated on a list available from the Planning Department, shall not be used in new landscaping. Unique or attractive natural features, which may include rocks, outcroppings, existing vegetation and specimen trees, shall be incorporated in the proposed landscaping.

## 760 PARKING REQUIREMENTS

### 760.1 PURPOSE

The purpose of these requirements is to ensure that adequate quantity of well-designed off-street parking is provided to service all parking demands.

### 760.2 APPLICABILITY

Off-street parking shall be provided to service the net increase in parking demand created by new construction, additions, or change of use. Structures and land uses in existence on January 1, 1988, are not subject to these requirements so long as they are not enlarged or

changed in a manner that increases their parking needs. All parking required by this Section shall be provided on-site except as provided in Section 760.8.

**760.3 DESIGN REQUIREMENTS**

Each parking space shall contain no less than one hundred sixty-two square feet of area [typically nine feet by eighteen feet] and shall have adequate back-up room. All required parking spaces and driveways, except those serving single or two-family residences, shall be paved, unless the Planning Board determines that the intensity of use does not merit paving or that an alternative surface is in the public interest.

**760.4 PARKING LOT PLANTING**

Parking lots shall have at least one tree per eight parking spaces to be located in planting areas inside of the lot or within ten feet of paved area. Existing trees may fulfill this requirement, provided the trees are distributed throughout the lot. Such trees shall be at least two inches trunk diameter with not less than forty square feet of unpaved soil or other permeable surface area per tree. At least five percent of the interior of any parking lot having twenty-five or more parking spaces shall be maintained with landscaping, including trees, on plots of at least four feet in width. Trees and soil plots shall be so located as to provide visual relief and sun and wind interruption within the parking area and to assure safe patterns of internal circulation.

**760.5 CONSTRUCTION EXEMPTION**

The Planning Board may grant a special permit under this section to temporarily waive the construction of a portion of an approved parking plan if the applicant can show that special circumstances exist, such as shared use of a parking lot by activities having different peak demand times. Such special permit shall expire two years after its approval date. The area of the approved parking plan that will not be constructed shall remain open or shall be landscaped according to a plan approved by the Planning Board. At least 120 days prior to the expiration of the two year term of the special permit, a special permit application may be filed to for a permanent construction waiver in accordance with this section. The Planning Board shall consider, among other relevant evidence, the adequacy of the parking during the two-year temporary waiver period. The Planning Board may impose reasonable conditions on any permanent parking waiver granted by special permit under this section.

**760.6 TABLE OF MINIMUM REQUIREMENTS**

| Use | Number of Spaces Required |
|---|---|
| Single family residential | 2 |
| Two-family residential | 4 |
| Accessory Dwelling (Section 530) | 1 space per bedroom |
| Residential (except single or two-family dwellings) | 1 space per bedroom |
| Retail or service uses (other than automotive service station) | 1 space per 200 square feet gross floor area |
| Automotive service or body shop | 1 space per service bay |

| | |
|---|---|
| Professional or other office, bank | 1 space per 300 square feet of gross floor area |
| Restaurant, bar | 1 space per 4 seats |
| Industrial, light manufacturing | 1 space per 400 square feet of gross floor area |
| Warehouse | 1 space per 600 square feet of gross floor area |
| Places of public assembly, including auditoriums, theaters, clubs, houses of worship and recreational facilities | 1 space for every 3 occupants as determined by State Building Code |
| Marina | 1 space per boat capacity |
| Rest, nursing or convalescent home or hospital | 1 space per 3 beds |
| Laundromat | 1 space per 2 washing machines |
| Bowling alley | 1 space per 2 lanes |
| Commercial Golf Course | 1.6 spaces for every acre of land in the property |
| Hotels and motels | 1.25 spaces/guest unit plus spaces required for other commercial uses |
| Inns | 1.25 per guest unit |
| Bed and breakfast | 1 per bedroom |
| Clubs and lodges | 1 space for every four occupants as determined by the Building Code |
| Religious exempt uses other than houses of worship | 1 space for every four occupants as determined by the Building Code |
| Educational exempt uses | 1 space for every 200 square feet of gross floor area |
| All other uses | Parking spaces adequate to accommodate normal demand as determined by the Planning Board |

**760.7 BUSINESS AND COMMERCIAL PARKING REQUIREMENTS**

Whenever off-street parking in the General Business and Commercial Districts is required in accordance with this Section 760, the following provisions shall apply:

A. Each lot shall contain a buffer area, at least six feet deep, between the street line and the balance of the lot. This buffer area, which shall be separated from the street and the balance of the lot by a curb, shall be seeded and landscaped except along a driveway entrance or where a pedestrian walkway and/or bicycle parking is being provided.

B. In all areas not subject to egress controls as specified under Section 610.2.C of this bylaw, driveway entries shall be at least twenty feet wide and if there is more than one driveway entry on a lot, these entries shall be located at least one hundred and twenty feet apart, center to center.

C. If the street frontage of a lot is two hundred feet or less, only one driveway entrance shall be permitted. If the street frontage exceeds two hundred feet, additional driveway entries shall be permitted in the ratio of one additional entry for each additional two hundred feet or portion thereof of frontage.

D. Pedestrian access. Safe and continuous pedestrian access must be provided to and within a parking area, preferably in connection with interior landscaping, and connecting to current or anticipated adjacent pedestrian facilities and to adjoining transit facilities.

E. Bicycle racks. A bicycle parking rack must be provided in all cases where five or more automobile parking spaces are required, with the location convenient to, and when practical provided weather protection by, the building it serves. The number and location of bicycle parking spaces is at the discretion of the Planning Board, but shall be not less than 10% (rounded to the nearest whole number) of automobile spaces required; provided that, if in the opinion of the Planning Board such bicycle parking spaces will compromise public health, safety or welfare, the Planning Board may allow fewer than the minimum 10% bicycle parking spaces.

### 760.8 BUSINESS DISTRICT PARKING REQUIREMENTS WAIVERS

The Planning Board may waive the parking requirements of this Section for office and retail uses in the General Business or Harbor Business Districts if the applicant can demonstrate that sufficient on-street parking (public or private) exists that may adequately fulfill, in part or in whole, the parking needs of the applicant, or that special circumstances exist, such as the shared use of a parking lot by activities having different peak demand times.

## 770 SITE PLAN REVIEW

### 770.1 PURPOSE

The purpose of this bylaw is to ensure that new land uses or additions to existing uses, that are of a size that may have significant impacts on neighborhoods or the town are designed to meet established standards and the goals and objectives of the Scituate Master Plan. No building permit shall be issued for, and no person shall undertake, any use, alteration or improvement subject to this section unless an application for site plan review has been prepared for the proposed development in accordance with the requirements of this Section, and unless such application has been approved by the Planning Board in accordance with this Section.

### 770.2 SITE PLAN ADMINISTRATIVE REVIEW

A. Applicability.

In any district now existing or hereafter adopted, no site other than that used for a single-family or two-family dwelling shall be altered and no structure, other than a single or two-family dwelling, shall be constructed, externally altered or externally enlarged, and no business or commercial use shall be expanded in ground area,

changed from one type of business or commercial use to a different type of business or commercial use, or established in an existing structure not theretofore used for business or commercial purposes, except in conformity with a site plan which had first been administratively reviewed by the Planning Board and bears the endorsement of the approval thereof by said board.

The Planning Board may, at its discretion, waive the site plan requirement when it deems the proposed site work or building work to be minor or insignificant in nature of effect. An applicant may apply for a waiver by filing a form prepared by the Planning Board for this purpose, with such reasonable documentation of the proposed work as the Planning Board may require. The Planning Board shall consider the request at a public meeting within thirty days of the application, and shall notify owners of properties directly abutting the site or directly across a street or way from the site, but no public hearing need be held on the application. The Planning Board may require a filing fee in an amount to reimburse the Planning Board for its administrative costs in processing the application for waiver. If the request for a waiver is denied, the applicant shall file an application for site plan review.

B. Procedure.
Any person desiring approval of a site plan under this section shall submit ten copies of said plan and application materials, together with an appropriate fee to be determined by the Planning Board, to the Planning Board. The Planning Board shall notify the Town Clerk within two working days upon the receipt of all required application materials. The Planning Board shall issue a decision within thirty days of the filing of a site plan application, unless the period is extended by mutual agreement of the applicant and the Planning Board. Application requirements, standard of review, project completion requirements, and approval requirements are as set forth below under Major Site Plan Review.

**770.3 APPLICABILITY – MAJOR SITE PLAN REVIEW**

In any district now existing or hereafter adopted, no site, other than that used for a single or two-family structure, shall be altered, and structure, other than a single or two-family dwelling, shall be constructed, externally altered or externally enlarged, and no business or commercial use shall be expanded in ground area, changed from one type of business or commercial use to a different type of business or commercial use, or established in an existing structure not theretofore used for business or commercial purposes, when that additional area or new use requires an increase of at least five parking spaces as specified in Section 760 from the current use of the property on the date of the Site Plan Review application to the proposed use of the property, regardless of how many parking spaces are in existence, except in conformity with a site plan that has first been reviewed by the Planning Board and bears the endorsement of the approval thereof by said board.

**770.4 PROCEDURE**

Any person desiring approval of a major site plan review application under this section shall submit ten copies of said plan and application materials, together with an appropriate fee to be determined by the Planning Board, to the Planning Board, as well as provide written notification to the Town Clerk of the submission. The Planning Board, within sixty-five days of submission of the plan, shall hold a public hearing, notice of which shall be published in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen days before the date of the hearing, and shall be

mailed to all "parties in interest" as defined in Massachusetts General Laws, Chapter 40A, Section 11, and to any other property owners deemed by the board to be affected thereby. Notice shall be given by certified mail by the Applicant. The list of persons to be notified shall be prepared by the applicant and certified by the board of assessors. Insofar as possible, this hearing shall be held jointly with any other hearing required to be held for this project.

**770.5 APPLICATION REQUIREMENTS**

The site plan shall be prepared, stamped and signed by a registered architect, registered professional engineer and/or registered professional land surveyor in accordance with Massachusetts General Laws Chapter 112, unless the Planning Board otherwise permits by vote in advance. The plan shall be at a scale of one inch equals twenty feet or such other scale as the Planning Board may accept to show details clearly and adequately, and shall be accompanied by a locus plan, at a scale of one inch equals eight hundred feet, encompassing an area at least one-quarter mile in diameter. Information may be submitted on separate sheets for purposes of clarity. If the multiple sheets are used, they shall be accompanied by an index sheet indicating the information presented on the area encompassed by each sheet. Sheet sizes shall be twenty-four inches by thirty-six inches. A margin of two and one half inches shall be allowed on the left hand side and one inch margin on the remaining three sides. In addition to the information required above, the plan shall show or contain the following:

A. A title block presenting the following information:

1. Title (project name), date and scale.

2. Name of owner and of applicant if different from owner.

3. Name and address of architect, professional engineer or land surveyor.

B. Bar scale adjacent to the title block.

C. A north point.

D. A signature block.

E. A table indicating the zoning classification or classifications applicable to the subject site; the required and proposed setbacks, side yard, and rear yard distances; the intended use of the site and any building thereon; the number of people anticipated on the site; existing and proposed floor area and/or number of dwelling units; and the number of required existing and proposed parking spaces.

F. The ownership, area, dimensions and boundaries of the land for which the site plan review is sought, with the names of all adjoining owners as found in the most recent tax list.

G. The existing and proposed elevations of the site, together with elevations extending a minimum of fifty feet into adjacent land. Where any land on or adjacent to the site is within the Flood Plain and Watershed Protection District, and/or area that the conservation commission has determined to be subject to Massachusetts

General Laws, Chapter 131, Section 40, the boundaries of such area(s) shall be indicated on the plan, together with the percent of the site defined as wetlands.

H. The locations of all existing on-site buildings, buildings on adjacent property within fifty feet of the locus, public or private ways, easements and rights-of-way together with notation as to the purpose of any such easements or rights-of-way and the name of the person or entity benefited by the easement or rights-of-way, driveway locations and vehicular and pedestrian access and egress points on the site, on adjoining property within one hundred feet of the site, and directly across the street from the site for a distance of one hundred feet beyond the site's boundaries.

I. Existing natural features such as waterways, drainage course, large boulders or ledge outcroppings, trees of twelve inches caliper or more, and stone walls. Where a portion of the site is to remain undisturbed by proposed site work, such area shall be so indicated on the plan.

J. All existing structures to remain after work is completed, and all proposed structures, parking spaces, driveway openings, service areas, and other open uses, all facilities for sewage, refuse, other waste disposal and surface water drainage, all landscape features such as fences, walls, and the location, sizes, and types of all vegetation and other landscape materials to be retained or installed on the site.

K. The location, ground coverage outline and dimensions of existing structures and structures to be proposed to be erected together with generalized indications of all future additions or expansions contemplated at the time of application.

L. The proposed circulation and flow of traffic within the proposed development and all proposed or anticipated public and private ways adjacent thereto.

M. The location and function of all exterior entrances and exits to all buildings that will be on the site when completed.

N. The location and function of all pedestrian walkways, ramps, and amenities that will be on the site when completed.

O. A description and the location of all signs and exterior lighting, except seasonal displays of lights for the purpose of the celebration of holidays.

P. With the exception of single-family residences, an architectural design and building layout showing the type of structures proposed and type of exterior materials to be used.

Q. The location of all public and private water supply wells within the site boundaries or within four hundred feet of the site boundary and, where applicable, the boundary line of the Water Resources Protection District as specified in Section 510 of this bylaw (whether on- or off-site.)

**770.6 STANDARD OF REVIEW**

In reviewing a site plan application under this section, the Planning Board shall assure, to a degree consistent with a reasonable use of the site for the purpose permitted by the regulations of the district in which the land is located, all of the following:

A. Protection of adjoining premises against detrimental and offensive methods of utilizing the site.

B. Traffic safety and ease of access at street and highway entrances and exits of driveways, taking account of traffic volume, grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections and times of peak traffic flow.

C. Safety and adequacy of driveway layout, pedestrian safety, off-street parking and loading sites, minimizing glare from headlights and light intrusion, sufficiency of access for service vehicles such as electricity, gas, fuel, telephone, laundry, rubbish removal, water, sewer, fire, police, ambulance or other routine or emergency vehicles.

D. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted on the site, safety and adequacy of water supply and distribution, and of fire fighting facilities on the site.

E. Adequacy of surface and storm-water drainage and snow-melt runoff within and from the site, including but not limited to all walkways, driveways, buildings, parking and loading areas. If the subject site is located within the Water Resources Protection District, the Planning Board shall review the adequacy of measures proposed to maximize the recharge and surface infiltration of surface runoff from impervious surfaces and the diversion of such runoff towards vegetated areas; and

F. If the subject site is located within the Water Resources Protection District, the adequacy of provisions made to protect against toxic or hazardous materials or oil discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points, secured storage areas for toxic or hazardous materials or oil, and indoor storage provisions for corrodible or dissolvable materials.

G. Minimizing the volume of cut and fill, the number of trees of 6” caliper or greater removed, the length of stone walls removed, soil erosion, and destruction of other natural features.

H. Minimize obstruction of scenic views from publicly accessible locations.

I. Parking areas shall be adequately buffered and shaded using native vegetation. Parking lots with ten or more spaces shall be planted with at least one shade tree per ten spaces, of a caliper of at least 2 ½ inches dbh, with each tree providing shade to the parking area. Parking areas and visually degrading elements such as dumpsters and loading docks shall be designed to minimize visual intrusion from public ways and residentially owned or zoned areas. In addition, suitable screening of such areas by wood fences and dense, native evergreen hedges of five feet or

more at time of planting shall be utilized. The use of chain link fences shall be avoided except in industrial areas. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties. No outdoor light shall be located more than twenty feet above the ground.

J. Safe, functional, and convenient pedestrian, bicycle, and where practical transit access, and continuity of the pedestrian and bicycle network within the property and to nearby pedestrian and bicycle facilities and trip generators.

## 770.7 PROJECT COMPLETION REQUIREMENTS

A. The Building Commissioner may, at any time during the development of a parcel or structure subject to site plan approval, inspect the premises to determine whether work has been completed in conformity with the approved site plan and, upon making such a finding, shall report the same to the Planning Board with a recommendation that the Planning Board issue a Certificate of Completion. The Building Commissioner may, prior to making the above finding, if she or he deems it necessary to protect the town and its inhabitants, require that a registered professional engineer, land surveyor, and if applicable, a registered architect, certify that the completed work is in conformance with the approved site plan. If satisfied that the work has been so completed, the Planning Board shall issue such certificate.

B. If the Building Commissioner finds that the work is not progressing or has not been completed in conformity with the approved site plan, she or he shall revoke any building permit issued in compliance on such approved site plan and take such other lawful action as she or he may deem necessary to enforce compliance with this section.

C. Site plan approval shall lapse after two years from the grant thereof if a substantial use or construction thereof has not sooner commenced except for good cause. Such approval, for good cause, may be extended in writing by the Planning Board upon written request of the applicant submitted to the Planning Board at least 60 days prior to the expiration of the two year period.

## 770.8 ADDITIONAL PROVISIONS

A. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of site plan review.

B. The Planning Board may include in its regulations reasonable administrative fees, and consultant review fees.

C. The appeal of any decision of the Planning Board on a site plan application shall be made in accordance with the provisions of General Laws Chapter 40A, Section 17.

D. The Planning Board may deny a site plan that fails to furnish adequate information required by this Section. Further, the Planning Board may deny a site plan which,

although proper in form, depicts a use or structure(s) so contrary to health, safety and welfare of the public that no set of conditions would render the project tenable.

E. Before approving the site plan, the Planning Board may require that the satisfactory completion of the construction of features shown on the site plan, including landscaping, parking, drainage, signs, and lighting, and the conditions imposed by the Planning Board be secured by a type and amount of security satisfactory to the Planning Board.

**770.9 APPLICABILITY OF APPROVAL REQUIREMENTS**

For the purpose of this section, the following uses shall be considered as business or commercial uses, and all buildings designed, arranged or constructed for or occupied by, one or more such uses shall be considered as business or commercial buildings:

A. Any of the uses permitted in GB, HB, or C Districts, but not permitted in R-1, R-2, or R-3 Districts (with or without Board of Appeals authorization).

B. Any of the following R-1, R-2, or R-3 District uses, when located in a GB, HB, or C District:

1. Nursery school or other agency for day care of children, or private organized camp.

2. Rest home, convalescent home, nursing home or assisted living facility.

3. Commercial livery or mooring for marine pleasure craft.

4. Commercial golf course

5. Riding academy on lots of less than five acres of land

6. Boarding or Lodging House, Inn or Bed and Breakfast Establishment

7. Salesroom or stand for the display and sale of agricultural and horticultural products, or commercial greenhouse on lots of less than five acres of land.

C. An apartment house, garden apartment building or other multiple dwelling for residential use by more than two families.

# SECTION 800 - NON CONFORMING STRUCTURES AND USES

## 810 STRUCTURES AND USES ALREADY IN EXISTENCE

**810.1 EXISTING USES AND STRUCTURES**

Any lawful structure or any lawful use of land or structure, existing at the effective date of this bylaw or any amendment thereto, subject to the limitations established in Massachusetts General Laws, Chapter 40A, Section 6, as amended, or any construction or operation for which a building permit has been issued prior to the effective date of this

bylaw or any amendment thereto may be continued, although not in conformity with the provision thereof, unless or until abandoned or not used for a period of two years or more. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

**810.2 ALTERATION OF SINGLE AND TWO FAMILY NONCONFORMING STRUCTURES**

The Building Commissioner may permit the repair, alteration, reconstruction, extension or structural change of a lawful, dimensionally nonconforming single or two-family dwelling, or a portion thereof, or accessory structures thereto, provided the proposed repair, alteration, reconstruction, extension or structural change meets the following conditions:

A. In the case of a building or structure which is nonconforming solely because of insufficient lot frontage or lot area, or both, the proposed repair, alteration, reconstruction, extension or structural change shall meet all dimensional requirements for front, side and rear yard setbacks, and maximum height; provided, that any repair, alteration, reconstruction, extension or structural change which by itself or in the aggregate with other repairs, alterations, reconstructions, extensions or structural changes would increase the gross floor area of the nonconforming single or two family home which existed on the date that the single or two family home became nonconforming by more than 20% may not be permitted by the Building Commissioner pursuant to this paragraph.

B. In the case of a dimensionally nonconforming building or structure with sufficient lot frontage and lot area, where said building or a portion thereof is nonconforming as to one or more of the dimensional requirements for front, side or rear yard setbacks or maximum height, the proposed repair, alteration, reconstruction, extension or structural change shall meet all dimensional requirements for front, side, or rear yard setbacks or maximum height; provided, that any repair, alteration, reconstruction, extension or structural change which by itself or in the aggregate with other repairs, alterations, reconstructions, extensions or structural changes would increase the gross floor area of the nonconforming single or two family home which existed on the date that the single or two family home became nonconforming by more than 20% may not be permitted by the Building Commissioner pursuant to this paragraph.

In all other instances of alteration, reconstruction, extension or structural change to single or two family dwellings, the applicant may petition the Board of Appeals for a finding under General Laws Chapter 40A, Section 6 to allow the proposed repair, alteration, reconstruction, extension or structural change.

**810.3 NONCONFORMING STRUCTURES OTHER THAN SINGLE AND TWO FAMILY**

The Board of Appeals may allow the repair, alteration, reconstruction, extension or structural change of a nonconforming structure other than a single or two family dwelling (or structures accessory thereto) if the board makes a finding that such repair, alteration, reconstruction, extension or structural change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The repair, alteration, reconstruction, extension or structural change of such nonconforming structure so as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard setback, shall require the issuance of a variance from the board of appeals.

## 820 CHANGE OF NONCONFORMING USE

The Board of Appeals may by a finding under General Laws Chapter 40A Section 6 authorize a nonconforming use to be changed to a specified use not substantially different in character, or not substantially more detrimental or injurious to the neighborhood than the existing nonconforming use, subject to the following limitations:

1. If the pre-existing, nonconforming use is located within the Water Resources Protection District, such use may not be changed to a use specifically prohibited by the Use Regulations of the Water Resources Protection District enumerated in Section 510.4.

2. If the pre-existing, nonconforming use is located within the Water Resources Protection District, such use may not be changed to another nonconforming use if the changed use would result in a greater average daily sewage discharge, as determined by Title V, the State Environmental Code, than average daily sewage discharge of the pre-existing use or greater storage, usage or disposal of toxic or hazardous material.

Pre-existing nonconforming uses may be extended or altered provided that there is a finding by the Board of Appeals that the extension or alteration shall not be substantially more detrimental to the neighborhood.

## 830 REPAIR AND RESTORATION OF NONCONFORMING STRUCTURES AND USES

A non-conforming structure or use damaged or destroyed by accidental causes may be repaired, reconstructed or restored either within the same portion of the lot or within a different portion of the lot provided that doing so renders the structure less non-conforming than previously and used as before, provided that such repair, reconstruction or restoration shall be completed within four years of said accidental damage or destruction; and further
if an application for a finding under General Laws Chapter 40A, Section 6 special permit or building permit necessary for the repair, reconstruction or restoration of the nonconforming building, structure or use has been filed by the third anniversary of such accidental damage or destruction, and if, in the opinion of the Building Commissioner the issuance of said permits is faithfully and continuously pursued, the four year time limit may be extended by the Building Commissioner by the period of time between application for and issuance of all such permits (including all periods of time attributable to litigation involving such permits) or as necessary to allow sufficient time to complete the permitted repair, reconstruction or restoration work in accordance with the Massachusetts Building Code, (provided said building or structure existed or had the right to exist at the time of application in accordance with Section 800 of the bylaw.)

# SECTION 900 - ADMINISTRATION

## 910 PERMITS

### 910.1 BUILDING PERMITS

It shall be unlawful for any owner or person to erect, construct, reconstruct, convert or alter a structure, or change the use, increase the intensity of use, or extend or displace the use of any structure or lot without applying for and receiving from the Building Commissioner the required permit therefore.

Special permits are not valid until they have been recorded in the Registry of Deeds and/or Land Court as applicable as provided in Massachusetts General Laws Chapter 40A, Section 11. Proof of recording shall be presented to the Building Commissioner.

### 910.2 OCCUPANCY PERMITS

No premises, and no building erected, altered or in any way changed as to construction or use under a permit or otherwise, shall be occupied or used without an occupancy permit signed by the Building Commissioner, which permit shall not be issued until the premises, structure, and its uses and accessory uses comply in all respects with this bylaw, and if applicable a site plan certificate of completion shall be issued.

## 920 ENFORCEMENT

### 920.1 PROCEDURE

The Building Commissioner shall have the duty to enforce this bylaw and may institute appropriate civil or criminal proceedings or both in the fulfillment of such duty. Any person who is aggrieved by an alleged violation may file a written request to the Building Commissioner for enforcement of this bylaw with reference to such alleged violation. A copy thereof shall also be filed with the Town Clerk. The Building Commissioner shall take such action thereupon as he deems appropriate with reference to such violation; but if he determines that there is no violation, he shall give written notice of his decision to such aggrieved person and shall file a copy of such notice with the Town Clerk within fourteen days after the receipt of such request.

### 920.2 APPEAL OF DECISION OF BUILDING COMMISSIONER

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of inability to obtain a permit or enforcement action from the Building Commissioner, as provided in Massachusetts Generals Laws, Chapter 40A, Section 8, as amended.

## 930 VIOLATIONS AND PENALTIES

### 930.1 FINES

Any person violating or causing to be violated any provision of this bylaw, or of the conditions under which a permit is issued, or any decision rendered hereunder may be

fined not more than three hundred dollars for each offense. Each day that such violation continues shall constitute a separate offense.

**930.2 NONCRIMINAL PENALTY**

As an alternative to enforcement by way of a fine through the district court under Section 930.1, the Building Commissioner may use the noncriminal disposition penalty provisions of General Laws Chapter 40 Section 21D and Section 10230.B of the Town's General Bylaws. For purposes of noncriminal disposition, any person violating or causing to be violated any provision of this bylaw, or of the conditions under which a permit is issued, or any decision rendered hereunder may be subject to a noncriminal penalty of twenty-five dollars for each offense. Each day that such violation continues shall constitute a separate offense.

## 940 REFERRALS

Before taking any action on an application for a special permit under this bylaw, the Special Permit Granting Authority (SPGA) shall refer the special permit application to the Board of Health, Department of Public Works, Conservation Commission, Board of Selectmen, and Planning Board (or Board of Appeals, whichever is applicable) for written comments and recommendations before taking any action on said special permit application. In addition to the above-noted boards, an SPGA may refer a special permit application to the Design Review Committee, the Traffic Rules and Regulations Committee, and any other town agency, board, department, or officer for comments and recommendations if it so desires before taking final action on said special permit application. The decision of the SPGA to refer the matter to another Town agency, board, department, or officer may be made at any meeting of the SPGA without a public hearing. Any such board or agency to which applications are referred for comment shall make its recommendations and send copies thereof to the SPGA and the applicant within thirty-five days of receipt of the referral request by said board or agency. The SPGA shall not act upon said special permit until either comments from all referred boards or agencies have been received or said thirty-five days have elapsed, whichever is sooner. Applications referred to more than one board or agency may be reviewed jointly by said boards or agencies.

## 950 BOARD OF APPEALS

**950.1 ESTABLISHMENT**

There is hereby established a Board of Appeals consisting of three members and two associate members which shall be appointed by the Board of Selectmen in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 12.

**950.2 POWERS**

The Board of Appeals shall have the following powers:

A. Authority to Hear Appeals
To hear and decide appeals in accordance with Massachusetts General Laws, Chapter 40A, Section 8, as amended.

B. Authority to Grant Special Permits
To hear and decide, in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 9, applications for special permits including:

1. Permits for uses requiring authorization of the Board of Appeals as specified in Sections 420 and 460.2., and 470, and as otherwise authorized by this bylaw.

2. Permits for lots with frontage less than, or buildings with heights greater than those otherwise permitted, as provided in Sections 610.2.B. and 620.2.

3. Permits for certain signs and trailers, as provided in Section 710 and 450.3.

C. Authority to Grant Variances
To hear and decide petitions for variances in accordance with Massachusetts General Laws, Chapter 40A, Section 10.

D. Authority to Grant Permits Under C. 40A §6
The Board of Appeals shall be the permit granting authority under General Laws Chapter 40A, Section 6 with regard to pre-existing nonconforming structures and uses. This authority shall be exercised consistent with Section 800 of this bylaw.

**950.3 PROCEDURE UNDER ZONING BYLAW**

In granting any special permit, the Board of Appeals shall assure, in addition to any specific requirements elsewhere in the bylaw, that:

A. The specific site is an appropriate location for the use or structure.

B. The use as developed will not adversely affect the neighborhood.

C. There will not be an undue nuisance or serious hazard to vehicles or pedestrians as a result of the proposed use or structure.

D. Adequate and appropriate facilities will be provided to assure the proper operation of the proposed use or structure.

E. There will not be any significant impact on any public or private water supply.

F. If the subject site is located within the Water Resources Protection District, there will not be any significant or cumulative impact upon municipal water supplies, and the board shall give appropriate consideration of nitrate-nitrogen loading in making this determination. The board shall require the applicant to provide all of the required submittals listed in Section 520.4 F. prior to making such determination.

**950.4 CONDITIONS OF APPROVAL**

In exercising the powers granted by Section 950.2 above, the Board of Appeals may impose such conditions, safeguards and limitations, both of time and use, as it may deem reasonably appropriate to protect the neighborhood or otherwise serve the purpose of the bylaw, such as but not limited to, the following:

A. Requirement of front, side or rear yards greater than the minimum required by this bylaw.

B. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting or other devices as specified by the Board of Appeals.

C. Modification of the exterior features or appearance of the structure.

D. Limitation of size, number of occupants, methods or time of operation, or extent of facilities.

E. Regulation of number, design, and location of access drives or other traffic features.

F. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable bylaws.

**950.5 PROCEDURE FOR APPLICATION SUBMISSION**

Where action by the Board of Appeals is required under this bylaw, a written application therefore shall be submitted by delivery or by registered mail, with return receipt requested to the Town Clerk and to the clerk of the Board of Appeals or to such other person as the board may have authorized to receive such applications. If submission is by delivery, the clerk (or other authorized person) shall give a written notice of receipt, therefore, indicating the date of submission. The Board of Appeals shall hold a public hearing with regard to any such application within sixty-five days of the filing thereof.

## 960 SPECIAL PERMITS

A special permit granted under this bylaw shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause.

## 970 PLANNING BOARD

The Planning Board is hereby established as a Special Permit Granting Authority under the provisions of Massachusetts General Laws, Chapter 40A, Section 1A, as amended.

**970.1 POWERS**

The Planning Board shall have the following powers:

A. To hear and decide in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 9, applications for special permits under those sections of this Bylaw that provide that the Planning Board shall be the Special Permit Granting Authority.

B. To hear and decide applications for Site Plan Review as provided in Section 770 of this bylaw.

### 970.2 PROCEDURE

A. In exercising the powers as Special Permit Granting Authority, in addition to applying the safeguards and standards provided for in this bylaw for specific special permit uses, the Planning Board may impose such conditions, safeguards and limitations, both of time and use, as it may deem reasonably appropriate to protect the neighborhood or otherwise serve the purpose of the bylaw.

B. The Planning Board shall adopt and from time to time amend rules relative to the issuance of such permits and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and approval of such permits.

### 970.3 ALTERNATE MEMBER

As authorized by Section 3-5(a) of the Town Charter, there shall be one alternate member of the Planning Board who shall be elected in accordance with the Charter. This alternate member shall act on particular matters when designated to do so by the Planning Board Chairman, in the case of absence, conflict of interest or other inability to act on the part of any member of the Planning Board, or in the event of a vacancy on the Planning Board.

## 980 INVALIDITY

The invalidity of any section of this bylaw or any portion thereof shall not invalidate any other section or portion thereof.