

TOWN OF
REHOBOTH



ZONING BY - LAWS

**Approved April 17, 1984
Amendments through Nov. 2008**

**Kathleen J. Conti
Town Clerk**

TOWN OF REHOBOTH
CHAPTER E – ZONING BY-LAW

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Including Amendments thru 04/14/2008

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Article 1.0 Authority and Purpose

- 1.1 This by-law shall be known and may be cited as the “Zoning By-Law of the Town of Rehoboth, Bristol County, Massachusetts”.
- 1.2 Purpose – This by-law is created to promote the health, safety, convenience, and welfare of the inhabitants of the Town of Rehoboth, Massachusetts, to regulate properly the location, size and use of buildings and the use of premises in the Town; to lessen the dangers from fire, congestion and confusion, and to improve and beautify the Town as provided by Chapter 40A of the General Laws, amendments and additions thereto.
- 1.3 Scope – Where the Provisions of this by-law impose greater restrictions upon land, buildings or structures than required by other regulations or laws, the provisions of this by-law shall prevail.
- 1.4 Validity – If any section, paragraph or provision of this by-law is judged invalid, the same shall not affect the validity of the by-law as a whole.

Article 2.0 Definitions – For the Purpose of this by-law, certain terms and words are herein defined as follows: Words used in the present tense include the future and the plural includes the singular; the word “lot” includes the word “plot”; the word “structure” includes the word “building”; the word “shall” is intended to be mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”. The word “person” includes a corporation, trust, partnership, association, or other similar entity, as well as an individual.

Accessory Building or Use: A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 30% of the lot are is occupied by such use, it shall no longer be considered accessory.

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films, videos or other matter which is distinguished or characterized by its emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of Chapter 272 of the Mass. General Laws. (added 4/18/95)

Adult Entertainment: Activity which takes place in a location or establishment for which a license (whether temporary or longer term) has been issued by any governmental office or body permitting the serving of alcoholic beverages, and which involves a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the pubic hair, anus, genitals, or cleft of the buttocks or any portion of the female breast below the top of the areola. (added 4/18/95)

Adult Motion Picture Theater: A facility used for assembly for presenting material depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of Chapter 272 of the Mass. General Laws. (added 4/18/95)

Agricultural or Animal Show: A show or event whose primary purpose, activity, and source and disbursement of funds is related to the display, competition, judging, or exhibition of equine (including without limitation polo), cats, dogs, agricultural animals or agriculturally grown products. (added 4/18/95)

Bed and Breakfast Establishment: A private owner-occupied house where four or more rooms are let on a temporary or transient basis and a breakfast is included in the rent. (added 4/18/95)

Bed and Breakfast Home: A private owner-occupied house where three or fewer rooms are let on a temporary or transient basis and a breakfast is included in the rent. (added 4/18/95)

Boarding or Rooming House: A building or premises, other than a hotel, inn, or motel, tourist court or lodging house, where rooms are rented and where meals may be regularly served by prearrangement for compensation; not open to transient guest.

Camper: A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses but for permanent residence. Includes equipment commonly called travel trailers, pick-up coaches or campers, motorized campers, and tent trailers, but not mobile homes.

Camp Ground: Premises used, for the primary purpose of generating an income, for travel trailers, campers or tenting for temporary overnight use that have any of the following features: (a) site improvements for access by campers, (b) sanitary facilities for campers, (c) utilities available to campers, (d) food and supplies available for sale or (e) fees charged for the use of the premises by a camper. (amended 4/18/95)

Child Care Facility: A Day Care Center, a Family Day Care Home or a School Age Child Care Program. (added 4/18/95)

Commercial Recreational Activity, Commercial Amusement or Commercial Assembly: Any activity consisting of recreation, amusement or assembly which contains any three or more of the following features: (a) is operated for an economic gain by other than a non-profit organization, (b) awards cash prizes or cash awards to any participants, (c) is expected to attract more than 25 people unrelated to the participants, (d) involves a fee charged to spectators, (e) involves the use of mechanized rides for amusement and/or enjoyment or (f) involves the use outdoors of more than five motorized vehicles and/or devices during any calendar day by the participants; but excluding an Agricultural or Animal Show. (added 4/18/95)

Corner Lot: A lot frontage on two (2) intersecting roadways which form a interior angle of one hundred and twenty (120) degrees or less. (added 4/18/95)

Customary Home Occupation: A business or profession customarily engaged in, on residential premises, by a resident thereof as a use accessory thereto. (amended 4/18/95)

Day Care Center: A "daycare center" as such term is defined in M.G.L., Chapter 28A, section 9, as the same may be amended from time to time.(added 4/18/95)

Development: Means any man made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations. (added 10/17/88)

District: Means floodplain district. (added 10/17/88)

Dwelling: A building or part of a building used exclusively as the living quarters for one or more families, but not mobile homes.

Dwelling, Multi-Family: A building with three or more dwelling units on a single lot, irrespective of structure type, ownership, or tenure but not as mobile homes.

Dwelling Unit: Living quarters for a single family, with cooking, living, sanitary and sleeping facilities independent of any other unit, but not mobile homes.

Duplex: A building divided into two (2) dwelling units.

Family: One or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

Family Day Care Home: "Family day care home" as such term is defined M.G.L. Chapter 28A, section 9, as the same may be amended from time to time. (added 4/18/95)

Farm: "Agricultural" and "farming" shall include farming in all its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural, floricultural or horticultural commodities, the raising of live stock, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any practices, including any forestry or lumbering operations, performed by a farmer who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including, preparations for market, delivery to storage or to market or to carriers for transportation to market.

Federal Emergency Management Agency (FEMA): Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study for communities as well as regulatory standards for development in the flood hazard areas.

Flood Hazard, Area of Special: Is the land in the floodplain within the municipal boundaries of the Town of Rehoboth subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A, A1, A2, A3, A4, A6, or A7 on the FIRM dated September 1, 1977. (added 10/88)

Fur-bearing Animals: Animals kept or raised commercially primarily or exclusively for their fur or pelts and the products manufactured therefore, including without limitation, mink, beaver, chinchilla.

Home Occupation: A business or profession engaged in, on the premises, by a resident thereof as a use accessory thereto.

Hotel, Inn, Motel, Tourist Court or Lodging House: A building, or portion thereof of a group of buildings on a single lot, intended to be used for the more or less temporary occupancy of more than five (5) individuals who are lodged, with or without meals, and in which major provisions for cooking may be made in a central kitchen but may not be in the individual rooms or suites.

In – Law Apartment: An appendage to a single family dwelling unit consisting of facilities to provide for sleeping, eating, bathing and living; such appendage to be an extension of the single family use which shall provide a code compliant means of egress through the main dwelling living area. A garage or service area may not be used to provide the primary means of egress. The total livable area of such a unit shall not exceed 750 square feet of living area. Said in-law apartment may not be rented as a separate or independent unit from the main dwelling unit. Only one in-law apartment shall be allowed in a single family dwelling unit.

Prior to issuance of a building permit, the owner(s) must send a notarized letter with proof of recording stating that:

- A) the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences, and
- B) the unit is an extension of the single family use and not an independent unit for rent.

The notarized letter must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property. (Added 4/10/2006)

Kennel: One pack or collection of dogs on a single premise, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sales, and also including every pack or collection of more than three (3) dogs, three (3) months old or over, owned or kept on a single premise irrespective of the purpose for which they are maintained. (amended 4/9/79)

Lot: An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings.

Lot Area: The horizontal area of a lot exclusive of any area in a public way or street which is accepted, proposed, or dedicated to be open to the public use. At least 90% of the lot area used for zoning compliance shall be land other than that under water for nine (9) months or more in a normal year.

Lot Frontage: That portion of a lot fronting upon and having access to a public way(s) or a way(s) in a definitive subdivision plan endorsed by the Planning Board. The minimum frontage must be continuous. The length of continuous frontage shall be the sum of all the straight line and curved segments of the street right-of-way between the sidelines of the lot. (Amended/Effective 4/16/2002)

Membership Club: A private organization, building or grounds, to include specifically country clubs and fraternities and other organizations to which membership is limited or controlled.

Mobile Home: A movable or portable dwelling unit built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living.

Non-Conforming Use: Any lawfully existing use of land or buildings which does not conform to the regulations for the district in which such use of land or building exists.

One-half Story: That portion of a building under a sloping roof that cubic contents of which are never more than two-thirds ($2/3$) of that of the story below. If cubic contents are greater, it shall be deemed a story.

One-Hundred (100) Year Flood: Means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. (Amended 4/18/95)

Organized Recreation: Recreational activity which does not involve the use outdoors of more than five motorized vehicles or devices at any time and which has three or more of the following: (a) league or organization name or other identification, (b) set teams or groups to participate in the activity, (c) requires the use of an established field, facility or course (d) has a schedule of games or events, (e) has officials such as umpires, referees, timekeepers or the like, (f) participants pay a fee to register, play or participate, or (g) the activity starts before 8:00 AM or ends after 9:00 PM. (added 4/18/95)

Overlay District: Means a set of zoning requirements that is imposed in addition to those of the underlying district. (Added 10/17/88, amended 4/18/95)

Piggery: Any facility or place where more than three (3) swine are kept.

Premise(s): A piece of real estate in one ownership recorded by deed or plan including, without limitation, a house and its accessory buildings and the land on which they are situated. (amended 4/18/95)

School Age Child Care Program: A “school age child care program” as defined in M.G.L., Chapter 28A, section 9, as the same may be amended from time to time. (added 4/18/95)

Sign: Any privately owned permanent or temporary device, billboard, placard, letter, painting, word, poster, banner, pennant, insignia, drawing, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction which is on a public way or on private property within public view of a public way, public park, or reservation. A Standing Sign is any sign that is not attached to a building. The area of a sign shall be considered to

include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle or triangle which encompasses all of the letters and symbols. The area of a sign consisting of a three (3) dimensional object shall be considered to be the area of the largest vertical cross-section of that object. Only one side shall be counted in computing the area of a double-faced sign.

Special Hazard Area: Means an area having special flood and/or flood-related erosion hazards, and shown on the FHBM or FIRM as Zone A, A1, A2, A3, A4, A6, or A7. (added 10/17/88)

Stables: Premises used for the shelter and feeding of horses and ponies.

Street or Way: Shall include a public way or a way shown on a definitive subdivision plan which has been approved in accordance with the sub-division control law, or on a way in existence when the sub-division control law became effective in the Town of Rehoboth, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby.

Structure: Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including buildings, swimming pools, tanks or the like or part thereof.

Substantial Improvement: Means any repair, reconstruction, or improvement of a structure, the cost of which includes or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred (added 10/17/88)

Yard: A required open space, unobstructed by structures more than 30” high, other than fences or other customary yard accessories.

Yard, Front: A yard extending between lot side lines across the part of a lot adjacent to each street it adjoins.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line adjacent to the lot side lines.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines.

Article 3.0 Districts

- 3.1 For the purpose of this by-law the Town of Rehoboth is hereby divided into types of districts, designated as follows:

Residence/Agricultural Districts

Business District

Industrial District

Flood Plain District – an overlay district

Groundwater Protection District – an overlay district (added 4/24/95)

Municipal Overlay District (added 11/17/97)

- 3.2 Zoning Map – Section 3. The boundaries of the various districts are shown on a map entitled “Proposed Zoning Map for the Town of Rehoboth, Massachusetts,” dated February 2, 1956 and amendments filed with the Town Clerk and said map and all explanatory matter thereon are hereby made a part of this by-law. Where boundary lines are located outside of street lines and shown approximately parallel to such street lines, the figures placed upon said map between such boundary lines from the street lines. Such distances are measured at right angles to such street lines unless otherwise indicated.

Article 4.0 Use Regulations: Except as provided otherwise in this by-law, no dwelling, building or structure shall be constructed or moved onto a lot, and no building, structure or land or part thereof shall be used for any purpose, or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such dwelling, building, structure or land is located, or set forth as permissible by special permit in said district and so authorized, and such accessory uses customarily incidental to a permitted principal use on the same premises.

4.1 Within Residence/Agricultural Districts a building or structure may be erected, altered or enlarged and a building, structure or premises may be used for any of the following purposes and for no other, except as provided under Articles II and VIII: (amended 4/25/94,4/24/95,7/24/95,4/12/99, 4/17/01)

Agricultural or Animal Show,
Single Family Dwelling,
In-Law Apartment, (added 4/9/2007)
Two Family Dwelling,
Farm, and the raising of Equine,
Churches and associated facilities, schools, libraries and municipal buildings, parks, playgrounds, recreational areas, water towers and reservoirs,
Cemeteries, philanthropic institutions, office of a doctor, dentist or other member of a recognized profession residing on or renting the premises,
Taking of boarders or leasing of rooms by a family residing on the premises,
Customary home occupations, such as dressmaking or radio and television repairing,
Temporary roadside stands for farm products raised on the premises,
Organized Recreation which is (i) held on property owned or managed by the Town of Rehoboth or (ii) a charitable event which take place no more than three days in any calendar year and which is sponsored by a recognized charity qualified under section 501 c or (d) of the Internal Revenue Code; Organized Recreation which is not covered by clauses (i) and (ii) in the first part of this sentence is permitted in a Residence/Agricultural District if a special permit is first obtained under Article 8.0 (added 4/24/95)
Golf Course (added 4/17/2001)
Dog Kennel if a special permit is first obtained under Article 8.0 (added 4/17/2001)
Accessory uses customarily incidental to one of the foregoing permitted Principal Uses, shall be permitted on the same lot with said Principal Use, except that those Accessory Uses defined in Article 4, Section 4.6 shall be subject further to the provisions of that article. (Amended 4/25/94,4/12/99)

- 4.1.1 Uses specifically prohibited within a Residence/Agricultural District:
(added 4/24/95)
Any recreational activity which involves the use outdoors of more than five motorized vehicles (excepting golf carts) at any time.
Adult Bookstore
Adult Entertainment
Adult Motion Picture Theater
- 4.1.2 The following uses are specifically prohibited within a Residence/Agricultural District: (added 7/24/95)
- a. Storage or sale of hazardous materials, including without limitation gasoline, oil, diesel fuel and Liquefied Petroleum Gas, except storage for buildings which the product will heat and except storage for consumptive uses on the premises or by the residents of the premises (provided such uses are otherwise permitted in the district), but only in customary and normal quantities associated with such buildings and uses.
- 4.2 Business District - Use Regulations (amended 4/24/95, 7/24/95, 4/17/2001)

Within any Business District a building or structure may be erected, altered or enlarged and a building structure or premises may be used for any of the following purposes and for no others:

Any use permitted in Residence/Agricultural Districts, subject to obtaining a special permit or license, if required in such district.

Apartment or multi-family dwelling, subject to special permit under Article 8.0
Bed and Breakfast establishment
Firing range
Funeral Home
Golf driving range
Hotel, or motel, inn, tourist court or lodging house, subject to special permit under Article 8.0
Hospitals
Indoor sports facility
Kennel, subject to special permit under Article 8.0
Lawn and garden equipment sales and repair
Motor vehicle dealership
Recreational activities involving the use of motorized vehicles or devices by the participants
Theater, entertainment, assembly, exhibition, gallery, fair, carnival, commercial recreation activity
Veterinarian
Welding Shop (excluding motor vehicle repair or body shop)

Woodworking Shop

Commercial amusement or commercial assembly, provided however that such uses which involve the participation of more than 100 persons at any one time, shall require a special permit under Article 8.0

Animal hospitals

Automobile and other motor vehicle sale and rental facilities

Banks

Barber shops

Beauty shops

Building contractor

Campground, if a special permit is first obtained under Article 8.0

Car wash

Civic administration

Clinic, outpatient

Computer services

Electronic data processing

Florist

Gasoline filling station, if a special permit is first obtained under Article 8.0

Laboratories, testing and research

Laundries

Motor Vehicle repair or body shop, including welding, if a special permit is first obtained under Article 8.0

Offices

Organized recreation

Parking lot or parking garage making parking spaces available for a fee, if a special permit is first obtained under Article 8.0

Post Office

Print Shop

Professional services: attorney, dentist, doctor, engineer, surveyor, accountant, counselor

Radio and telephone stations, but not towers

Real estate brokers

Nursing home

Retail and wholesale stores, shops and salesrooms (but not wholesale warehouses) involving the display and sale of stocks of goods, wares or merchandise incidental thereto

Restaurants and fast food facilities, provided that drive through facilities shall require a special permit under Article 8.0

Accessory uses to the above

4.2.1 Uses specifically prohibited in a Business District: (added 5/1/95)

Adult Bookstore
Adult Entertainment
Adult Motion Picture Theater

- a. Storage, distribution or sale of gasoline, heating oils, liquefied petroleum gas, diesel fuel or waste oil in excess of the following amounts: gasoline-165 gallons, heating oils-500 gallons, liquefied petroleum gas-2,000 gallons, diesel fuel-500 gallons, waste oil-500 gallons unless authorized by special permit issued under Article 8.0 hereof. (added 7/24/95)

4.3 Industrial District – In the Industrial District, no building or structure shall be erected or used for any purpose other than those set forth in the table of use regulations herein and in accordance with the following notations:

Auto body, soldering, or welding shop
Wholesale office or showroom including indoor warehouse facilities
Light industrial uses including manufacturing, storage, processing, fabrication, packaging and assembly
Church or other places of worship, parish house, rectory, convent, or other religious institutions
Schools, public, religious, sectarian or private colleges and buildings accessory thereto
Public buildings and premises for government use Library, museum and civic center
Telephone exchange, transformer station, distribution lines, transmission lines, substations, pumping station, or other public utility
Bus station and Taxicab Company
Trucking terminal and other commercial vehicle storage
Adult bookstore, Adult entertainment or Adult motion picture theater, provided that any such use shall require a special permit under Article 8.0 and provided further that any such use must be no closer than 500 feet from any Residence/Agricultural District (added 5/1/95)

4.4 Flood Plain District (amended effective 10/17/88)

- a. Purpose – The purpose of the Flood Plain District is to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the floodplain, and to preserve and maintain the groundwater table and groundwater recharge areas within the floodplain.

- b. District Delineation – The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Rehoboth Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program dated September 1, 1977 as Zone A, A1, A2, A3, A4, A6, and A7. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM dated September 1, 1977, and as may be amended from time to time. The FIRM is incorporated herein by reference and is on file with the Town Clerk, Planning Board and Building Inspector.
- c. Use Regulations – The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code, Section 744 as of July 1988 and as may be amended from time to time, pertaining to construction in the floodplain.
- d. Permitted Uses:
 - 1. The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:
 - (a) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
 - (b) Forestry and nursery uses
 - (c) Outdoor recreational uses, including fishing, boating, play areas etc
 - (d) Conservation of water, plants, wildlife
 - (e) Wildlife management areas, foot, bicycle, and/or horse paths
 - (f) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises
 - (g) Buildings lawfully existing prior to the adoption of these provisions.
- e. Special Permitted Uses
 - 1. All uses allowed by right in the underlying zoning district may be allowed in the Flood Plain District by special permit issued by the Zoning Board of Appeals. The general requirements and procedures set forth in Sections 8.1, 8.2, 8.3 and 8.4 of the Rehoboth Zoning By-law shall apply to all special permits issued in the Flood

Plain District. In addition, in all cases, electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service utilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. If the structure is not located in a 100-year flood zone as identified by FIRM, and the building official has information indicating that the structure would be flooded during a 100-year flood event, then the requirements of this section shall apply.

f. Prohibited Uses

1. The following uses are prohibited in all cases within the Flood Plain District.

- (a) The manufacture, storage or disposal of hazardous or toxic materials
- (b) Sanitary landfills, dumps, junkyards or disposal of solid waste, sludge or commercial seepage.
- (c) The storage or disposal of hazardous wastes, as defined by the Hazardous Waste Regulations promulgated by the Division of Hazardous Waste under the provisions of Chapter 21C of the Massachusetts General Law, as may be amended from time to time.

4.5 Groundwater Protection District (effective 4/17/90)

1. Purpose of District – The purpose of the Groundwater Protection District is to:

- a. To promote the health, safety, and general welfare of the community;
- b. To protect, preserve, and maintain the existing and potential water supply and groundwater recharge areas within the town;
- c. To preserve and protect present and potential sources of water supply for the public health and safety;
- d. To conserve the natural resources of the town; and
- e. To prevent the pollution of the environment.

The Groundwater Protection District is delineated on the basis of the location of aquifers and aquifer recharge zones, as defined in subsection 2, within the Town. A copy of the overlay map, as may be amended from time to time, showing the boundaries of the Groundwater Protection District is held at the Town Offices by the Town Clerk. It is intended that this bylaw will serve as a framework whereby additional such areas may be identified for mapping and inclusion within the protection of this bylaw. (Amended 4/24/95)

2. Definitions:

- a. Animal Feedlot – A plot of land on which 25 livestock or more per acre are feed on a regular basis.
- b. Aquifer – An area of permeable deposits of rock or soil, containing significant amounts of potentially recoverable potable water.
- c. Groundwater – All the water found beneath the surface of the ground. In this bylaw, the term refers to the subsurface water present in aquifers and recharge areas.
- d. Aquifer Recharge Zone – Those geologic deposits providing significant groundwater recharge to an aquifer or aquifers but which are not composed of aquifer material.
- e. Impervious Surface – Material covering the ground, including, but not limited to, macadam, concrete, pavement and buildings, that does not allow surface water to penetrate into the soil.
- f. Leachable Wastes – Waste materials, including, but not limited to solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing pollutants to the surrounding environment.
- g. Hazardous Waste – A waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to 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.
- h. Mining of Land – The removal or relocation of geologic materials, such as topsoil, sand and gravel, metallic ores, or bedrock.
- i. Pollutant – Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, which is or may be discharged, drained or otherwise introduced into any surface of subsurface disposal or conveyance system, or water of the Commonwealth.
- j. Process Liquids – Liquids used in cooling, cleaning or in manufacturing processes which contact raw materials, products, wastes, or machinery and which, because of that contact, may contain pollutants as defined in subsection 2.i above.
- k. Radioactive Materials – Any of the materials which have a concentration that exceeds the limits set forth in Appendix B, Table II, of 10 CFR Part 20 (Standards for Protection Against Radiation) or any other applicable provisions of federal or state law or regulation.
- l. Solid Wastes – Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, combustion residues, garbage, scrap materials, junk, fill material; demolition debris, construction wastes, and refuse.
- m. Toxic or Hazardous Materials – Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant

actual or potential hazard to water supplies, environmental quality, or human health if such substance or mixture were discharged to land or waters of this town. Toxic or hazardous material include, without limitation, petroleum products, (provided however that Liquefied Petroleum Gas shall be deemed not to be a toxic or hazardous material or a petroleum product for the purposes of Article 4.5 entitled “Groundwater Protection District”), heavy metals, radioactive materials, pathogenic or infectious wastes, solvents, thinners, and other materials which are listed as toxic, hazardous, or a priority pollutant by the United States Environmental Protection Agency under any of the following laws: (1) Toxic Substances Control Act 15 United States Congress (U.S.C.), s.2601 seq.; (2) Federal Insecticide, Fungicide, and Rodenticide Act 7 U.S.C. s.136 et seq.; (3) Resource Conservation and Recovery Act of 1976 42 U.S.C. s.6901 et seq.; (4) Comprehensive Environmental Response, Compensation, and Liability Act of 1982 42 U.S.C. s.9601 et seq.; and (5) Federal Water Pollution Control Act 33 U.S.C. s 1251 et seq. (amended 7/24/95)

- n. Disposal – The deposit, injection, dumping, spilling, leaking, incineration of, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.
 - o. Non-Conforming Use – Any use that does not conform to the intent of this bylaw whether specified or inferred herein.
3. Scope of Authority – The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses in a portion of one the underlying zoning districts which fall within the Groundwater Protection District must additionally comply with the requirements of this district. (amended 4/24/95)
4. Delineation of Groundwater Protection District – The Groundwater Protection District is hereby defined as an overlay district within the Town of Rehoboth. The district boundaries have been delineated based upon development potential for groundwater resources within subsurface geologist deposits. Changes to the overlay district may be made by vote to amend by the town provided sufficient proof of “no adverse impact” to the groundwater resources is provided by the applicant. If any land designated as lying within the Groundwater Protection District is proved not to possess the characteristics by which the district is delineated and which this bylaw seeks to protect, the Planning Board may permit uses of the land otherwise prohibited or requiring a special permit under this section if it finds that such use will not be detrimental to the environment or the health, safety, and general welfare of the community. The burden of proof in such cases concerning the proposed designation of land at issue shall

be upon the owner(s) of the land in question. At the request of the owner, the Planning Board may engage a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology for the purpose of determining whether the land in question possesses the characteristics by which groundwater protection districts are delineated. The Planning Board may charge the owner for the cost of making such determination. The Planning Board shall provide the owner with a statement of work performed and the cost thereof when charging an owner hereunder.

5. Use Regulations – All uses currently permitted under the Rehoboth Zoning Bylaws are permitted in the Groundwater Protection District subject to the provisions of this Article. Uses not permitted in the underlying zoning district overlaid by the Groundwater Protection District shall not be permitted in the Groundwater Protection District. Notwithstanding any other provision herein, a nonconforming use within the Groundwater Protection District may be continued and maintained so long as it remains otherwise lawful. No such use shall be enlarged, altered, extended, or operated in any way, which increases its threat to groundwater quality or otherwise contravenes the purpose and intent of this Article. (amended 4/24/95)

In the event that a nonconforming use has ceased for a consecutive period of two (2) years, such nonconforming use may not be resumed. (amended 4/24/95)

Within the Groundwater Protection District these regulations shall apply:

- a. The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained.
 1. Conservation of soil, water, plants, and wildlife;
 2. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
 3. Foot, bicycle, and/or horse paths and bridges;
 4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply, and conservation devices;
 5. Farming, gardening, nursery, golf courses, conservation, forestry, harvesting, or grazing.
- b. The following uses, except those lawfully maintained pre- existing uses, are specifically prohibited within the Groundwater Protection District:

1. Solid waste disposal facilities, including, without limitation, landfill, junk yards, and salvage yards that require a site assignment from the Board of Health under Massachusetts General Laws Chapter 111, Section 150A, (the landfill assignment law), and regulations adopted by the Department of Environmental Quality Engineering, 310 Code of Massachusetts Regulations CMR 19.00;
2. Storage of petroleum or petroleum products, (excluding, Liquefied Petroleum Gas), including, without limitation, gasoline, waste oil, heating oils, diesel fuels, and any other liquid hydrocarbons, except storage within buildings in quantities for normal consumptive use upon such premises and except for replacement or upgrading of existing storage vessels without increasing capacity provided there is compliance with all local, state, and federal laws. (amended 7/24/95)
3. Storage of road salt or other de-icing chemicals in quantities greater than for normal individual household use;
4. Dumping of snow, containing road salt or other de-icing chemicals, which is brought in from outside the district;
5. Manufacture, use, storage, or disposal of toxic or hazardous materials, excluding normal household activities;
6. Storage or disposal of hazardous waste, including, without limitation, chemical wastes, radioactive wastes, and waste oil other than in the course of normal household activities;
7. Industrial uses which discharge process liquids on-site;
8. Disposal of liquid or leachable wastes, except by individual on-site domestic sewage disposal systems serving one or two-family residences or serving business, industrial, or institutional uses discharging not more than 1,000 gallons per day per 60,000 square feet of lot area in compliance with Title V of the State Environmental Code;
9. Permanent removal or regrading of the existing soil cover resulting in a finished grade at a level less than five (5) feet above the high groundwater level as determined by a licensed Soil Site Evaluator and demonstrated to the satisfaction of the Board of Health; (amended 7/24/95)

The following shall be exempt from this subsection:

- (i) agricultural tillage, maintenance and improvements allowed by the General Laws and CMR's of the Commonwealth of MA;
- (ii) swimming pools;
- (iii) foundations for residential or business or industrial structures;

(iv) below original grade spaces underneath residential or business structures which have a cement floor, the bottom of which is at least eighteen inches above the high groundwater level as determined by a licensed Soil Site Evaluator and demonstrated to the satisfaction of the Board of Health;

(v) wells;

(vi) septic tanks;

(vii) utility tanks;

(viii) non-leaching drainage structures;

(ix) regrading of existing roads and existing driveways, construction and regrading of new public ways, new subdivision roads, and new driveways, so long as the resulting grade is no lower than before the regrading or construction;

(x) regrading of existing lawns and gardens, so long as the existing soil cover is not disturbed to a depth of more than six (6) inches and so long as the resulting grade is no lower than before the regrading.

10. Boat or motor vehicle service or repair shops, car washes, heliports, electronic manufacturing, metal plating, commercial or bacteriological laboratories, and establishments conducting dry cleaning activities on the premises; (amended 4/24/95)
11. Mining of land, except as incidental to a permitted use.

c. The following uses, except lawfully maintained pre-existing uses, are permitted by special permit within the Groundwater Protection District, subject to the approval of the Special Permit Granting Authority under such conditions as they may require. Agriculture in all its forms shall be exempted.

1. The application of agricultural chemicals, including, but not limited to, pesticides, herbicides, fertilizers and soil amendments for non-domestic or nonagricultural uses provided that all necessary precautions shall be taken to prevent any adverse impact on the Groundwater Protection District and the interests to be protected thereunder. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water and the prevention of volatilization, lateral displacement or deposition of agricultural chemicals; and
2. Those businesses, be it commercial or industrial and any institutional activities permitted in the underlying district pending review and approval of a detailed site plan which provides adequate protection against adverse impacts on the Groundwater Protection District and the interests to be protected thereunder.

3. Construction of dams or other water control devices, including the temporary alteration of the water level for emergency or maintenance purposes and periodic cleaning upon demonstration that said dams or other water control devices will not adversely affect the quantity or quality of water available in the Groundwater Protection District.
4. Ponds, pools, or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or drainage improvements upon demonstration that they will not adversely affect the quantity or quality of water available in the Groundwater Protection District.

6. Procedures of Issuance of Special Permit

- a. Special Permit Granting Authority – The Special Permit Granting Authority under this Groundwater Protection District bylaw shall be the Planning Board. Such special permit shall only be granted if the Planning Board determines that the intent of this bylaw as each of its specific criteria are fully met. In making such determination, the Planning Board shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency. The Planning Board may impose such conditions, safeguards, and limitations, as it deems appropriate. The Planning board shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.
- b. Rules and Regulations – The Special Permit Granting Authority (Planning Board) may adopt, and from time to time amend, Rules and Regulations consistent with the provisions of Chapter 40A.
- c. Application Fee – An application fee of \$500 shall accompany each application for a special permit
- d. Technical Assistance
 1. To assist its review of applications for special permits, the Planning Board may engage a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology to review the application for completeness and accuracy and shall charge the applicant for the cost of such review. The Planning Board may retain a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer hereunder only for reviewing the applicant’s projections of the impact of the proposed activity on the purposes of the district described in subsection 4.5, verifying information contained in the application, and verifying the

inclusion of the subject land within the Groundwater Protection District.

2. If an application submitted to the Planning Board does not contain adequate data, including field and laboratory measurement results and fully documented calculations, performed or certified by a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or water supply information submitted in support of the application and inclusion of the subject land, whichever is proposed, the Planning Board may engage a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology to perform analyses and prepare data necessary to provide information required by subsection 6.D.3 of article 4.5 and shall charge the applicant for the cost of providing such information. The Planning Board shall engage such professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology, only if the application is not in compliance with said subsection 6.D.3, and not until the Planning board provides the applicant an opportunity to supplement the application with information prepared by a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology or is notified by the applicant that the applicant will not supplement the information. The cost of such service will be borne solely by the applicant.
- e. Application Contents – In addition to the requirements of Massachusetts General Laws, Chapter 40A, Section 9, and the Rules and Regulations of the Special Permit Granting Authority (Planning Board), the following additional requirements will apply:
1. Each application for a Special Permit shall be filled with the Planning Board and shall comply with the Rules and Regulations of the Planning Board. The application, including any plans and accompanying text, shall be sufficient to allow full evaluation of the proposed use on the Groundwater Protection District;
 2. The Application shall be prepared in accordance with the data requirements of the proposed developed site plan review, erosion and sedimentation control plan, etc.;
 3. The application shall include an analysis by a professional geologist, hydrologist, soil scientist, or licensed Massachusetts engineer experienced in groundwater evaluation or hydrogeology to demonstrate that the proposed activity will not be detrimental to the purpose of the district as set forth in subsection 1. At a minimum, the analysis shall fully describe the seasonal profile of volumes and directions of groundwater and surface water flows with and without the proposed use, the location and use of all historical, present, and potentially

suitable future drinking water supplies that could be affected by use, and the location and use of any surface, and/or groundwater that could be affected by the proposed use. The application shall contain adequate data, including field and laboratory measurement results and fully documented calculations.

4. A full profile of potential events, which could adversely affect the normal range of quantity or quality of water leaving the site. Such events shall include any which could reasonably be expected to occur at least once in the lifetime of the proposed use.
- f. Review by other Town Board or Agencies – Upon receipt of the special permit application, the Planning Board shall transmit forthwith a copy of the application and plan to the Board of Health, Conservation Commission, Town Planner, Rehoboth Water Commission, and such other boards, departments, or committees as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall make recommendations or submit such reports as they deem appropriate and shall send a copy thereof to the Planning Board and the applicant within thirty-five (35) days of receipt of the application by such board or agency. Failure of such board or agency to make a written recommendation or submit a written report within thirty-five (35) days of receipt of the application shall be deemed a lack of opposition. (amended 4/9/07)
- g. Public Hearing and Decision – The Planning Board shall hold a public hearing on later than sixty-five (65) days after the filing and may continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application, The Planning Board shall act within ninety (90) days after the filing. Failure by the Planning Board to take final action upon an application for a special permit within said (90) days shall be deemed to be a grant of the permit applied for. The Planning Board shall make detailed record of its proceedings, a copy of which shall be filed within fourteen (14) days of such proceedings, in the office of the Town Clerk. Notice of such decision shall be mailed forthwith to the applicant, to the parties in interest designated by law, and to every person present at the hearing who requested that notice be sent to him and stated the address to which the notice was to be sent. Said notice shall specify that appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing of such notice in the office of the Town Clerk
- h. Special Permit Approval Criteria – After notice and public hearing, and after due consideration of the reports and recommendations of the other town boards or agencies, the Planning Board may grant such a special permit provided that it finds that the proposed use:

1. Will not cause the groundwater quality to fall below the standards established in 314 CMR 6.00, Massachusetts Groundwater Quality Standards or for parameters where no standards exist, below standards established by the Board of Health and, where existing upon determination that the proposed activity will result in no further degradation;
 2. Is in harmony with the purpose and intent of the bylaw and will promote the purpose of the Groundwater Protection District;
 3. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
 4. Will not, during construction or thereafter, have a adverse environmental impact on any water body or course in the district; and
 5. Will not adversely affect an existing or potential water supply.
7. Design and Operation Guidelines – At a minimum the following design and operation guidelines shall be observed within Groundwater Protection District:
- a. Fill – Fill material used in the Groundwater Protection District shall contain no solid waste, toxic or hazardous materials, or hazardous waste. Adequate documentation shall be provided to the Planning Board to guarantee the chemical quality of the fill. Laboratory analysis at the applicant’s expense.
 - b. Drainage – All runoff generated on the site shall be recharged on-site in a manner demonstrated to assure full protection of the water quality in the Groundwater Protection District. The Planning Board may require off-site discharge if on-site discharge is not feasible because of site conditions or is undesirable because of risks to water quality from such recharge.
8. Violations – Written notice of any violation of this bylaw shall be given by the Zoning Enforcement Officer to the responsible person within forty-eight (48) hours of detection of a continuing violation, specifying the requirement or restriction violated, the actions necessary to remove or remedy the violations, preventive measures required for avoiding future violations, and schedule of compliance. A copy of such notice shall be submitted to the Zoning Board, Town Selectmen, the Planning Board, Water Commission and to the Department of Environmental Protection. The cost of containment, cleanup, or other action of compliance shall be borne by the owner and operator of the premises.
9. Severability – The invalidity of any portion or provision of this subsection 4.5, Groundwater Protection District, shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

4.6 Accessory Uses (added 4/25/94)

1. General

The following Accessory Uses shall be subject to a Special Permit unless otherwise provided in this Article.

2. Residential Accessory Uses

a. Common Driveway (CD)

(i) Definitions: Common Driveway

A private way, extending from a public way, serving as common vehicular access to more than two (2) but not more than six (6) residential lots is common driveway. A common driveway which serves from three (3) to six (6) residential lots is hereinafter called a "CD" for the purpose of this by-law.

(ii) Prohibition:

A Common driveway which would serve more than six (6) residential lots is prohibited.

(iii) Purpose:

The purpose of this by-law is to enhance the safety and welfare of residents of CD's and to clarify the rights and responsibilities of builders and residents of CD's and of the Town of Rehoboth, in order to minimize negative impacts on natural resources, to improve the public safety along public ways by reducing the number of curb cuts, and/or to preserve and enhance rural character by reducing the negative visual impact of multiple driveways exiting upon a public way. The powers of the Planning Board shall be exercised with due regard for the foregoing.

(iv) Scope:

CD's shall be allowed by Special Permit and Plan Approval by the Planning Board, for single- and two-family residential uses only, in the Residential/Agricultural and Business Districts. Where the proposed development constitutes a subdivision, under the Subdivision Control Law; MGL Ch 41, s. 81-K et seq., this by-law shall not apply. Individual driveways originating from CD's shall be subject to all requirements for driveways and off-street parking to which driveways originating from public ways are subject.

A Common driveway which is in existence and use at the time of adoption of this by-law will be allowed to continue; however, if it is expanded, extended, or otherwise substantially changed, it shall be

subject to this by-law and shall be brought into compliance with the by-law. A CD shall not become a public way, The Town of Rehoboth shall not be required to provide maintenance, snowplowing, school bus pickup or police patrols along a CD.

(v) Lot and Frontage Requirements

All lots to be served by a CD must meet the requirements of a lot as defined in the definition of a “lot” in Article 2.0 “Definitions” of the Town of Rehoboth Zoning By-Law.

CD’s may never be used to satisfy zoning frontage requirements. Each lot served shall have frontage on a public way, which serves to satisfy frontage requirements under Zoning By-Law of the Town of Rehoboth.

All dimensional requirements, as defined in the Zoning By-Law of the Town of Rehoboth, for lots served by a CD, including, but not limited to, setback and dimensions of front, side and rear yards, as measured in relation to the public way serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a CD.

(vi) Design and Construction Standards

Design and construction standards such as width of driveway, curb radii, pavement thickness, and other such dimensions shall comply with the “Driveway and Site Work Design/Construction Regulations” adopted by the Planning Board, as such standards may be amended from time to time.

3. Golf Course Accessory Uses (added effective 4/12/2004)

The purpose of this amendment is to subject gold course accessory uses in the Residential/Agricultural District to the Special Permit process and to promote the purpose of the Rehoboth Zoning Bylaws as described in Article 1.2.

4.8 Municipal Overlay District (added 11/17/97)

Purpose of the District. To facilitate the Town's compliance with the Federal Telecommunications Act of 1996 which mandates the siting of telecommunications towers, antenna and support structures within communities. The Municipal Overlay District will support the following objectives:

Limit telecommunications tower proliferation. The Town desires that carriers collocate (antenna/equipment) where technologically and practically possible.

Minimize visual pollution for site abutters and adjacent street traffic by appropriate adjustment of the tower location within the site.

Provide for the future potential use of the tower/equipment bay by the Town for municipal department radio communications antennae and equipment.

The geographic distribution should enable telecommunications carriers to position their tower/antennae so as to provide acceptable service.

Delineation of the Municipal Overlay District. This district is comprised of the following parcels of municipally owned land, popularly identified by the government function/facility thereon: Town Office, North Fire Station, South Fire Station, Public Safety Building, Highway Department, and the Martin Street fields/landfill site which represent land throughout the Town already designated for government operations. A map depicting the location of the parcels will be maintained in the Town Offices.

In the Municipal Overlay District wireless telecommunications facilities will be permitted. Wireless telecommunications facilities shall be prohibited in all other districts.

The parcels designated may be modified and new use designation for the district may be added only by vote of the Town Meeting.

Any new construction requires site plan approval by the Planning Board in an advertised public hearing. All existing overlay districts and other local bylaws and permits, and state laws must be fully complied with in the process to place an antenna or tower.

Severability. The invalidity of any portion or provision of this Municipal Overlay District shall not invalidate any other portion or provision thereof, nor shall it invalidate any lease/use arrangements previously issued thereunder.

Section 5.0 Intensity Regulation – No dwelling or principal structure hereafter erected, altered, or placed in any district shall be located on a lot having less than the minimum requirements set forth in the table below, and no more than one principal structure shall be built upon any such lot except as provided otherwise in this by-law. The one principal structure limitation shall not apply to structures placed on land owned by the Town of Rehoboth. No existing lot shall be changed as to size or shape so as to result in the violations of the requirements set forth below. (Amended/Effective 4/16/2002)

5.1 Residence/Agricultural Districts*

Minimum Lot Dimension	
Area in square feet.....	60,000
Frontage in feet.....	200
Minimum Setback Dimension	
Front yard in feet.....	30
Side yard in feet.....	25
Rear yard in feet.....	25
Maximum Height of Buildings	
Number of stories.....	2 ½
Height in feet.....	
Maximum Percentage Coverage (amended 4/24/95)	
Dwelling.....	10%
Accessory Buildings.....	10%
Maximum Height.....	2 ½
	Stories, not counting basement

*One duplex residence permitted on a lot with minimum size of 120,000 square feet and minimum frontage of 300 feet. (effective 5/77)

5.1.01 Retreat Lot – The purpose of this By-Law is to lessen building density and to maintain open space while allowing for single-family use on larger tracts of land. A residential, single-family lot need not have the specified amount of street frontage providing ALL of the following apply: (Amended/Effective 04/22/2003)

- a.) The area of the lot exceeds by no less than six (6) times the minimum single-family lot area required (360,000 square feet / 8.264 acres) and the area of said lot shall contain at least 90,000 square feet / 2.066 acres of contiguous uplands. (Amended/Effective 04/22/2003)
- b.) The lot has contiguous street frontage of not less than fifty (50) feet on a public way(s). The width of the lot shall not be less than fifty (50) feet at any point between the street frontage and the dwelling, (Amended/Effective 04/22/2003)
- c.) No two retreat lots may have abutting street frontage. Required retreat lot frontage may only be located between legal conforming lots, legal non-conforming single-family buildable lots or a combination of the two. (Amended/Effective 04/22/2003)

- d.) A Declaration of Restriction must be executed, stating that ‘no further subdivision will be permitted,’ and recorded at the Registry of Deeds contemporaneously with the recording of the Approval Not Required (ANR) Plan, as a condition to receiving a Building Permit. (Amended/Effective 04/22/2003)
- e.) All structures must be at a minimum of one hundred and fifty (150) feet from the street frontage of such lot.
- f.) Means of ingress and egress must be from the required frontage of the retreat lot. (Amended/Effective 04/22/2003)
(Section 5.1.01 Added/Effective 4/16/2002)

Gerrymandered Lots – No pork chop, rat tail, or excessively funnel-shaped or otherwise unusually gerrymandered lots shall be allowed if their shape is caused solely by the attempt to meet the lot size or frontage requirements of these by-laws while evading the by-laws’ intent to regulate building site density; such a lot being, for example, a pork chop or rat tail lot which does not contain a rectangular building area which is a least 100’ by 150’ and in which the principal structure is to be located. (added 10/19/87, amended 4/24/95, 4/17/2001)

5.2 Business Districts (2*), (3*)

Minimum Lot Dimension	
Area in square feet.....	60,000
Frontage in feet.....	200
Minimum Setback Dimensions	
Front yard in feet.....	30
Side yard in feet.....	25
Rear yard in feet.....	25
Maximum Height of Building (amended 4/24/95)	
Number of stories.....	3
Height in feet.....	30 (ft)
Maximum Percent Coverage (amended 4/24/95)	
Accessory Buildings.....	10%
Dwelling.....	10%
Principal Business Building.....	15%

Gerrymandered Lots – No pork chop, rat tail, or excessively funnel-shaped or otherwise unusually gerrymandered lots shall be allowed if their shape is caused solely by the attempt to meet the lot size or frontage requirements of these by-laws while evading the by-laws’ intent to regulate building site density; such a lot being, for example, a pork chop or rat tail lot which does not contain a rectangular building area which is a least 100’ by 150’ and in which the principal structure is to be located. (added 10/19/87, amended 4/24/95, 4/17/2001)

5.3 Industrial District (3*)

Minimum Lot Dimensions	
Area in square feet.....	60,000
Frontage in feet.....	200
Minimum Setback Dimension	
Front yard in feet.....	50
Side yard in feet.....	25
Rear yard in feet.....	25
Maximum Height of Building (amended 4/24/95).....	30 (ft)
Maximum Percentage Coverage of lot	
Including Accessory Buildings.....	50%

(2*) multi-family dwellings

Minimum lot size 60,00 square feet per dwelling

Minimum lot frontage: 3 units - 400 feet per dwelling

4 units – 450 feet per dwelling

5 units – 500 feet per dwelling

6 units – 550 feet per dwelling

Maximum units per building: six (6)

Setbacks (building and parking areas) from property lines – 100 feet

Minimum space between buildings – 100 feet

(3*) In Business Districts and Industrial Districts, accessory buildings must be setback the same distance from the street line as the main buildings as desired. A thirty (30) foot buffer or greenstrip planted with live shrubs or trees, predominantly evergreen, the major portion of which are over four (4) feet in height, is maintained between the street frontage and the sue and where a commercial lot abuts a residential district or property unless the existing natural growth is adequate to provide equivalent buffer. Such planting shall be designed so as not to create a hazard upon entrance to or exit from the lot. Exterior lighting shall be shielded from all adjoining residential property and the highway, so as not to create a driving hazard.

Gerrymandered Lots – No pork chop, rat tail, or excessively funnel-shaped or otherwise unusually gerrymandered lots shall be allowed if their shape is caused solely by the attempt to meet the lot size or frontage requirements of these by-laws while evading the by-laws' intent to regulate building site density; such a lot being, for example, a pork chop or rat tail lot which does not contain a rectangular building area which is a least 100' by 150'. (added 10/19/87, amended 4/24/95)

Article 6.0 General Regulations

6.1 Non-Conforming Uses

- (a) **Non-conforming Buildings and Uses:** Nothing in this by-law shall apply to lawful non-conforming buildings and uses created by the initial enactment of this by-law or by any subsequent amendments thereto.
- (b) **Applicability:** This by-law or any amendment thereto shall apply to any change or substantial extension of a lawfully existing non-conforming use; to a building or special permit issued after the first notice of a public hearing on this by-law or any amendment thereto; to any reconstruction, extension or structural change of a lawfully existing non-conforming building; and to any alteration of a lawfully existing non-conforming building which is begun after the first notice of the public hearing on this by-law or any amendment thereto provide for its use for a substantially different purpose or the same purpose in substantially different manner or to a substantially greater extent.
- (c) **Single or Two-Family Uses:** This by-law or any amendment thereto shall not apply to any alteration, reconstruction, extension or structural change to a lawfully existing non-conforming single or two family residential building if such alteration, reconstruction, extension or structural change does not increase the non-conforming nature of said building.
- (d) **Extension, Alteration, Changes:** Pre-existing non-conforming buildings or uses may be extended, altered or changed, provided, that no such extension, alteration or change shall be permitted unless the Board of Appeals issues a special permit after a public hearing and a finding that such extension, alteration or change shall not be substantially more detrimental than the existing non-conforming use or building.
- (e) **Reconstruction:** Any non-conforming building or any building occupied by a non-conforming use, which is destroyed by fire or other cause may be rebuilt on its original foundation according to original floor area limitations and used for the same or lesser non-conforming use. Otherwise it shall not be rebuilt, except in accordance with provisions of this by-law.
- (f) **Permits:** Construction or operations under a building or special permit shall conform to any subsequent amendment of this by-law unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless such construction is continued to completion as continuously and expeditiously as is reasonable.
- (g) **Discontinuance:** A non-conforming use when discontinued for two years shall not be resumed.

6.2 Uses Under Permits and Special Permits

The construction of a building or operation of a land use under a building permit or a special permit shall conform to any subsequent amendment to this by-law adopted after the issuance of the permit or special permit unless construction or operation commences within a six month period beginning with the issuance of the building or special permit.

6.3 Off-Street Parking

In any district where otherwise permitted, no use of premises shall be authorized or extended, and no building or structure shall be erected, unless there is provided for such erection, extension, or enlargement, off-street automobile parking space within three hundred feet of the principal building, structure, or use of the premises, in accordance with the following schedule of off-street parking requirements. An area of three hundred (300) square feet of appropriate dimensions for the parking of an automobile, including maneuvering area and aisles, shall be considered as one off-street parking space.

Schedule of Minimum Off-Street Parking Requirements (amended 4/24/95)

<u>Land Use</u>	<u>Minimum Number of Off-Street Parking Spaces</u>
a) Dwelling, single family and two-family	2 per dwelling
b) Dwelling, multi-family (three or more units)	1.5 per unit in Business District; 2 per unit in all other Districts
c) Hotel, motel, tourist court, bed & breakfast	1 per sleeping room
d) Automobile repair garage	1 for each 200 sq. ft. of gross floor area
e) Liquor store	1 for each 200 sq. ft. of gross floor area
f) Theater, Gymnasium, Auditorium, church meeting rooms, or similar place of public assembly with seating facilities	1 for each four seats of total seating capacity (20 linear inches of bleacher or benches deemed equal to 1 seat)

g) General business or commercial less than 25,000 sq. ft. e.g., personal services, department store, drug store, variety store, medical center, bank, professional offices	1 for each 200 sq. ft. of gross floor area
h) General business or commercial over 25,000 sq. ft.	3.5 for each 1,000 sq.ft. of gross floor area
i) Manufacturing and warehousing and office incident thereto	1 per employee on the largest operating shift
j) Restaurant	1 per four seats
k) Any use permitted by this by-law not specifically listed in the foregoing schedule	The number of spaces required for closest similar use listed in the schedule

6.4 Off Street Loading

1. Basic Requirement

In any district where otherwise permitted, no use of premises shall be authorized or extended and no building or structure shall be erected or enlarged, unless there is provided for such extension, erection, or enlargement off-street-loading facilities located entirely on the same lot as the building or use to be served, and with immediate and direct ingress to the building to be served in accordance with the following minimum specifications. An area of a least 400 square feet of appropriate dimensions, exclusive of drives and maneuvering space, shall be considered one off-street loading bay.

2. Minimum Standards

One (1) loading bay for each 5,000 square feet or portion thereof in excess of one-half of the gross floor area for any retail goods, wholesale, storage distribution, manufacturing, public utility, or like establishment. One (1) loading bay for each 10,000 square feet or portion thereof in excess of one-half of gross floor area of any consumer service establishment, office, building, hotel, motel, or school.

6.5 Signs

1. Basic Requirements

No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure except as specifically permitted herein.

2. In Business or Industrial Districts, the following exterior signs are permitted:

(a) Non-flashing signs attached flat against the wall of a building without limitation on the number. In no case shall a sign project above a wall. Total area of all signs shall not exceed 20% of wall area where attached.

(b) One other sign not to exceed forty square feet in area on the premises for each 100 feet of lot frontage on a street.

3. Only one non-flashing exterior sign with an area not exceeding nine square feet shall be erected on any non-conforming building or use.

4. No freestanding or projecting sign or advertising device shall be erected unless a Certificate of Occupancy and Building Permit has been issued by the Inspector of Buildings.

5. No sign or advertising device shall project above the tallest building on the premises.

6. In all districts, the following are permitted:

(a) professional signs of resident occupant or to identify a customary home occupation of a resident occupant – not over 2 square feet.

7. Real estate signs advertising the sale, rental or lease of the premises on which they are located must not exceed twelve square feet in area.

6.6 Standards (amended 4/24/95, 7/24/95)

1. Basic Requirements

No land or building shall be used or occupied in any district in any manner as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration; smoke, dust, or other form of air pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; contamination of groundwater or the pollution of streams, condition

conducive to the breeding of rodents, or insects; or other substance, condition or element in a manner or in an amount as to affect adversely the surrounding area.

2. Measurement at Point of Emission

The existence of the following dangerous or objectionable elements shall be determined at the point of emission or any point beyond.

(a) Fire and Explosive Hazards

All activities and all storage of flammable and explosive materials, at any point, shall be provided with adequate fire fighting and fire-suppression equipment and devices as determined by the Fire Chief of his designate.

(b) Radioactivity or Electrical Disturbance

No activities that emit dangerous radioactivity, at any point; no electrical disturbance (except from household appliance and equipment subject to the control of the Federal Communication Commission) adversely affecting the operation, at any point, of any equipment other than that of the creator of such disturbance is permitted.

(c) Smoke

No emission at any point of smoke of a shade darker than No.1 on the Ringlemen Smoke Chart, as published by the U.S. Bureau of Mines, for more than five minutes in any hour is permitted.

(d) Fly Ash, Dust, Fumes, Vapors, Gasses and Other Forms of Air Pollution

No emission which can cause any damage to health of animals or vegetation, or which can cause excessive soiling and in no event any emission of any solid or liquid particles in concentration exceeding 0.3 grains per cubic foot of the conveying gas or air, at any point is permitted.

(e) Liquid or Solid Wastes

No discharge at any point into any private sewage-disposal system, stream, or the ground of any materials in such a way or of such nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements is permitted. No accumulation of wastes conducive to the breeding of rodents or insects is permitted.

3. Measurement At Lot Line

The existence of the following dangerous and objectionable elements shall be determined at the Lot Line of the use or at any point beyond.

(a) Vibration

No vibration which is discernible to the human sense of feeling for three minutes or more in any one hour between 7:00 a.m. and 7:00 p.m., or of 30 seconds or more in any one hour from 7:00 p.m. to 7:00 a.m., shall be permitted. No vibration at any time shall produce an acceleration of 0.1g or shall result in any combination of amplitudes and frequencies beyond the “safe” range of Table 7, U.S. Bureau of Mines Bulletin No. 442.

(b) Noise (amended 4/24/95)

(i) Definitions (added 4/24/95)

- (a) “Activity” shall mean any construction, demolition, entertainment or sporting event, recreation, freight handling, land clearing, equipment, machinery, or vehicle operation, property or vehicle maintenance, or combination thereof.
- (b) “dBA” shall mean the noise level in decibels as measured on the A-weighted scale of a noise level meter.
- (c) “Noise” shall mean any undesired or unwanted sound that has been the subject of one or more complaints from the same general area of town.
- (d) “Normal ambient noise levels” shall mean those levels of sound that can normally be heard in the background at the time of day and in the general area of town that an activity on which there have been complaints is occurring.
- (e) “Person” shall mean any individual, association, group business, proprietor, partnership, corporation, firm, trust or unit of government.

(ii) Noise thresholds and exclusions

- (a) Between the hours of 11:00 p.m. and 7:00 a.m., no person shall engage in any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, vehicle or any other man-made source if that noise exceed normal ambient noise levels by five (5) dBA.
- (b) At other times of day, no person shall engage in any continuous, intermittent, recurring, scheduled or seasonal activity which generates noise from a building, device, explosive, machine, vehicle or any other man-made source if that noise, when recorded at a distance of fifty (50) feet from its source, exceeds a level of

eighty-five (85) dBA, or, when recorded from the boundary of the property of one or more complainants, exceed normal ambient noise levels by more than ten (10) dBA.

(c) These restrictions shall not apply to emergency response, cleanup or repair work or the use of emergency generators that is necessary to ensure the protection of public health, safety or welfare, including but not limited to the operation of fire, police and rescue apparatus. These restrictions also shall not apply to routine household, lawn and garden maintenance nor to agricultural operations.

(iii) Right of entry

The Zoning Enforcement Officer and his agent(s) may enter upon privately owned property, with notice reasonable in the circumstances, for the purpose of measurements and ensuring compliance with this subsection C on Noise.

(iv) Measurement of noise levels

The Zoning Enforcement Officer or his agent(s) will perform or oversee all noise level measurements, which shall employ appropriate equipment that is properly calibrated to industry standards. Noise levels shall be measured on the A-weighted scale of a noise level meter and shall include measurement of pure tone. The location(s) of the measurement site(s), as well as date, time, duration of the noise(s) and noise level(s) measured will be recorded in a manner that is acceptable to the Zoning Enforcement Officer and will be made part of the Zoning Enforcement Officer's records.

(v) Violations

Any noise level measured in excess of one or more of the thresholds prescribed in subsection (ii) above shall constitute evidence of a noise violation. Any person who commits a noise violation may be penalized by a noncriminal disposition as provided in MGL c. 40, section 21D, by a fine of \$25.00, imposed by the Zoning Enforcement Officer. Each day during which there occurs a noise violation shall constitute a separate offense.

(vi) Variance from the subsection (b) entitled "Noise"

The Zoning Board of Appeals ("ZBA") may vary the application of any provision of this subsection (b) entitled "Noise", unless otherwise prohibited by law, in any case when, in the opinion of the ZBA, enforcement will do manifest injustice. Variances from this subsection (b) entitled "Noise" may be formally requested by any party affected hereby and shall be subject to a public hearing before the ZBA, with at least ten days prior notice by certified mail by the applicant to all abutters. Any variance granted by the ZBA and any denial of a

variance by the ZBA shall be in writing and shall contain a statement of the reasons therefor.

Corner Lots

A corner lot shall maintain front yard requirements for each street frontage, and at least one of the remaining yards shall be a rear yard.

Appurtenant Open Space

No yard or other open space required for a building by the by-law shall, during the existence of such building, be occupied by or counted as open space for another building.

Projections

Nothing herein shall prevent the projection of steps, stoops (not exceeding thirty square feet in area), eaves, cornices, window sill or belt courses into any required yard.

Visual Corner Clearance

No structure, fence, planting, or off-street parking (except a transparent fence in which the solid area is not more than 5% of the total area) shall be maintained between horizontal parallel planes 2-1/2 feet and 8 feet above street level, within the triangular area prescribed by the 2 street lines and a straight line connecting points on such lines 25 feet distant from the point of intersection.

Location of Accessory Buildings

No accessory building shall be closer to any principal building or any lot line than a distance equal to the height of such accessory building. No structure enclosing animals shall be within 50 feet of any lot line.

4. Outdoor storage of solid refuse or waste shall not be allowed on any land unless it is enclosed in a container or screened from public view. Solid wastes shall include any useless, unwanted, or discarded solid materials with insufficient liquid content to be free flowing; this includes, but is not limited to, rubbish, combustion residues, garbage, scrap materials, junk, fill material, demolition debris, construction wastes, refuse, discarded appliances, discarded motor vehicles and discarded motor vehicle parts. (added 4/24/95)
5. Mobile Homes and Trailers. No area in any district shall be occupied or used by a trailer or mobile home for habitation unless a special permit has been issued by the Board of Selectmen and unless such use is necessitated on a temporary basis by an involuntary destruction in whole or in part to the home

of the applicant such as a fire or flood, to such extent as to render the home virtually unlivable. Such permit shall be for a period of six months and may be renewed only for two consecutive six month intervals, the total time period not to exceed eighteen consecutive months. Any such use of a trailer or mobile home for habitation shall conform to the applicable Board of Health requirements. (added 7/24/95)

6.7 Site Plan Approval: (effective 4/30/90, amended 4/12/99)

1. Projects Requiring Site Plan Approval:

No special permit or building permit shall be issued for any of the following uses:

- (a) the construction or exterior alteration of a commercial structure;
- (b) the construction or exterior alteration of an industrial structure;
- (c) any other use specified in Section 4.0, Use Regulations, which indicates Site Plan Approval is required.

Unless a site plan has been endorsed by the Planning Board, after consultation with other board, including but not limited to the following: Building Inspector, Board of Health, Conservation Commission, Highway Department, Fire Department, and Police Department. The Planning Board may waive any or all requirements of site review for external enlargements of less than 25% of the existing floor area.

2. Purpose:

The purpose of site plan approval is to further the purpose of this bylaw and to ensure that the new development is designed in a manner which reasonably protects visual and environmental qualities and property values of the Town, and to assure adequate drainage of surface water and safe vehicular access.

3. Application:

.01 Each application for Site Plan Approval shall be submitted to the Planning Board by the current owner of record, accompanied by eight (8) copies of the site plan. The Planning Board shall, within five (5) days, transmit one copy each to the Inspector of Buildings, Board of Health, Conservation Commission, Board of Selectmen, Highway Superintendent, Fire Chief, and Police Chief.

.02 The Planning Board may hire professional assistance to review plans and inspect improvements, all at the cost of the Developer.

.03 A fee of \$500 plus \$0.50 per square foot of gross building area will accompany the application and site plan to exclude submission of residential site plan.

4. Required Site Plan Contents:

.01 All site plans shall be prepared by a registered architect, landscape architect, or professional engineer unless this requirement is waived by the Planning Board because unusually simple circumstances. All site plans shall be on standard 24" x 36" sheets and shall be prepared at a sufficient scale to show:

- a. locus plan;
- b. location of structures within 100 ft. of the property lines;
- c. existing and proposed buildings, showing setbacks from property lines;
- d. building elevations (elevations in relationship to mean sea level) of the lowest floor (including basement or cellar) of all structures;
- e. existing and proposed contour elevations in two-foot increments;
- f. parking areas, driveways and facilities for pedestrian movement;
- g. the location and description of all proposed septic systems, water supply, storm drainage systems, utilities, and refuse and other waste disposal methods;
- h. lighting;
- i. loading and unloading areas;
- j. existing and projected traffic volumes from the site and effect on the local road network;
- k. drainage calculations and soil tests for the location of the building(s), parking areas and drainage facilities;
- l. proposed landscape features including the location and a description of screening, fencing and plantings;
- m. other information as may be deemed necessary to determine compliance with the provisions of this by-law;
- n. the location, dimension, height and characteristics of proposed signs;
- o. the location and a description of proposed open space or recreation areas.

.02 The Planning board may waive any information requirements it judges to be unnecessary to the review of a particular plan.

5. Procedure for Site Plan Review:

.01 The Planning Board shall refer copies of the application within five (5) days to the Conservation Commission, Board of Health, Inspector or Buildings, Highway Superintendent, Police Chief and Fire Chief who shall review the application and submit their recommendations and comments to the Planning Board. Failure of Boards to make recommendations within thirty-five (35) days of the referral of the application shall be deemed to be lack of opposition.

.02 The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of the application, and after due consideration of the aforementioned recommendations, shall take final action within 90 days from the date of filing.

.03 The period of review for a special permit requiring site plan approval shall be the same as any other special permit and shall conform to the requirements of Chapter 40A, Sec. 9 “Special Permits”. Specifically, a joint public hearing to address the Special Permit application and Site Plan Approval application shall be held within sixty-five (65) days of the filing of a special permit application with the Planning Board or Board of Appeals. The Planning Board shall then have 90 days following the date of application in which to act.

6. Site Plan Review Criteria:

.01 The following criteria shall be considered by the aforementioned Boards in the review and evaluation of a site plan, consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:

- a. If the proposal requires a special permit, it must conform to the special permit requirements as listed in Section 8.0 of this by-law.
- b. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect properties and community amenities. Building sites, shall to the extent feasible, a) minimize use of wetlands, steep slopes, floodplains, hilltops; b) minimize obstruction of scenic views from publicly accessible locations; c) preserve unique natural historical features; d) minimize tree, vegetation and soil removal and grade changes, e) maximize open space retention; and f) screen objectionable features from neighboring properties and roadways.
- c. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
- d. The development shall be served with adequate water supply and waste disposal systems. For structures to be served by on-site waste disposal systems, the applicant shall submit a septic system design prepared by a Certified Engineer and approved by the Board of Health.
- e. The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site in relation to adjacent ways. The plan shall describe estimated average daily and peak hours vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.
- f. The site plan shall show adequate measures to prevent pollution of surface or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased run-off and potential flooding. Drainage shall be designed so that run-off shall not be increased,

groundwater recharge is maximized, and neighboring properties will not be adversely affected.

- g. The development will not place excessive demands to Town services and infrastructure.
- h. Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.
- i. Expose storage area, machinery, service areas, truck-loading areas, utility buildings and structures and other unsightly uses shall be setback or screened to protect the neighbors from objectionable features.
- j. The site plan shall comply with all zoning requirements for parking, loading, dimensions, environmental performance standards, and other provisions of this bylaw.

.02 Before approval of a site plan, the reviewing board may request the applicant to make modifications in the proposed design of the project to ensure that the above criteria are met.

7. Final Action:

.01 The Planning Board's final action shall consist of either:

- a. A determination that the proposed project will constitute a suitable development and is in compliance with the criteria set forth in this bylaw.
- b. A written denial of the application stating the reason for such denial; or
- c. Approval subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary.

8. Enforcement:

.01 The Planning Board may require the posting of a bond to assure compliance with the plan. The Inspector of Buildings may suspend a building permit when work is not performed as required.

.02 Any special permit with site plan approval issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced sooner except for good cause.

.03 The Planning Board may adopt and amend Regulations consistent with Article 6.7 of this By-law. These regulations may establish or amend submission requirements and administration of Article 6.7. These regulations may, in addition, establish performance standards, and design guidelines or standards, consistent with the purpose of Article 6.7 as stated in Article 6.7.2, namely, "visual and environmental qualities, drainage of surface water, and safe vehicular access". These regulations shall address only those issues and activities already regulated under Section 6.7.6.01, as it may be amended from time to time.
(amended 4/12/99)

6.8 Scheduled Development (added 10/17/88)

1. The objective of this bylaw is to regulate the timing of development in residential subdivisions in a manner that promotes the health, safety, convenience and welfare of the inhabitants of the Town of Rehoboth. This bylaw has the following purposes:
 - (a) To prevent the development of traffic conditions that are hazardous to pedestrian and vehicular travel,
 - (b) To coordinate the timing of land development in Rehoboth with the provision of public services,
 - (c) To preserve unique natural features,
 - (d) To allow development to proceed in a manner that allows a proper evaluation of soil conditions.
2. While this bylaw is in effect, the Inspector of Buildings shall issue building permits for construction of new dwellings in a subdivision (or contiguous parcels, including without limitation Form A Lots, shown on a plan endorsed by the Planning Board 'approval under the Subdivision Control Law not required' which have been in the same ownership at any time subsequent to the adoption of this bylaw), given final approval after passage of this bylaw, only if permit issuance will not result in authorizing construction within a 24 month period of more than 15 units or 40% of the units potentially allowed in each subdivision, whichever is greater. The same formula shall apply to issuance of occupancy permits for mobile homes, if, and only if, mobile homes are specifically permitted by another section of the zoning by-law. (amended 5/1/95)
3. Permits shall be issued hereunder for each specific subdivision lot after the date so designated for the lot on a development schedule, which has been approved by the Planning Board and recorded with the subdivision plan, which created the lot. Planning Board approval of a development schedule shall provide that:
 - (a) The schedule designations for building not more than 15 units or 40% of the potential dwelling units in the subdivision, whichever is greater, within the first two years following definitive plan endorsement;
 - (b) In each year thereafter, the schedule permits construction of not more than 10 units or 20% of the total number of potential units of the subdivision, whichever is greater;
 - (c) In the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable.

4. Units designated for low income residents of all ages and units receiving or eligible to receive state or federal subsidies, shall be exempt from this scheduling bylaw.
5. Insofar as the subdivision is not exempted by M.G.L. Ch. 40A and 6 from the provisions of this bylaw, the period of time provided under M.G.L. Ch. 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this bylaw, so as to protect such subdivisions against further changes in use and density requirements.

6.9 External Solid Fuel Burning Boilers

The placement of any externally located solid fuel burning boiler, requiring a building permit as provided by 780 CMR, the State Building Code, shall be located a minimum distance of 150 feet from any neighboring dwelling units or occupied business uses and a minimum of 50 feet from any abutting property line. Additionally that said applicant for a building permit for such installation shall be required to furnish all documentation as the Inspector of Buildings may require to determine that such installation will not create a health hazard, nuisance or discomfort to the occupancy of neighboring properties, and that the use of such boiler in compliance be allowed to burn all year long with no special permit allowed. (added 4/9/2007)

Article 7.0 Administration

7.1 Enforcement

This by-law shall be enforced by the Inspector of Buildings (from time to time in this by-law called the “Zoning Enforcement Officer”) as provided in Chapter 40A of the General Laws. (amended 5/1/95)

In addition, whoever violates any provision of this Zoning By-law may be penalized by noncriminal disposition as provided in the General Laws, Chapter 40, section 21D, that is, a fine of \$25.00 for each violation, imposed by the Zoning Enforcement Officer, each day on which any violation exists shall be deemed to be a separate offense. (added 5/1/95)

(a) Any person who undertakes or authorizes or causes work to be done without first applying for and obtaining the appropriate building permit as set forth in the Massachusetts State Building Code Article 1, Section 113.1 shall be subject to a fine in the amount of three (3) times the then current fee charged for said permit as established by the Board of Selectmen, not to exceed \$300.00 per offense; each day of violation shall be a separate offense. (added 1986, effective 5/5/86, amended 5/5/95)

7.2 A Zoning Board of Appeals of five members and three associate members to be appointed by the Board of Selectmen, is hereby created under the provision of Chapter 40A of the General Laws and any and all amendments and additions thereto.

7.3 Powers of the Zoning Board of Appeals

(a) Appeals

To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A, General Laws, or any appeal by any appeal officer of the Board of the Town, or any person aggrieved by any other administrative official under the provisions of Chapter 40A, General Laws, or any person aggrieved by any order or decision of the Inspector of Buildings or any other administrative official in violation of any provision of Chapter 40A, General Laws, or of this by-law.

(b) Special Permits

To grant a special permit as provided in this by-law.

(c) Variances

To authorize upon appeal, or upon petition with respect to a particular parcel of land or structure thereon a variance from the terms of this by-law where the Zoning Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or the location of structures especially affecting such land or structures but not generally the district in which it is located, a literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise to the appellant or petitioner and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this by-law. No variance may be authorized for a use or activity not otherwise permitted in the district where the land is located. The Zoning Board of Appeals may impose conditions, safeguards and limitations both of time and use, but may not impose a condition based upon the continued ownership of land by any owner. The rights authorized by such variance shall lapse if not exercised within one year of the date of the grant.

(d) Rules and Regulations

The Zoning Board of Appeals shall adopt rules and regulations for the conduct of business and for the purpose of this by-law and Chapter 40A of the General Laws, and shall file a copy of such rules with the Town Clerk.

Article 8.0 Uses by Special Permit

The uses set forth in Section 8.5 hereof shall only be permitted in the districts specified in Section 8.5 hereof upon the issuance of a special permit hereunder. Extension or enlargement of a use beyond that granted by an existing special permit shall require a new special permit. The purpose of this special permit portion of the zoning by-law (Section 8.0 to 8.5) is to facilitate more effective and sensitive application of the zoning by-law by allowing the Zoning Board of Appeals (“ZBA”) grant, deny or condition approval on the basis of the facts and circumstances pertaining to specific site and development proposals, consistent with the provisions here of. (amended 5/1/95)

8.1 Special Permit Granting Authority (amended 5/1/95)

The special permit granting authority shall be the ZBA

8.2 General Requirements for Special Permits

Special permits may be issued only for uses, which are in harmony with the general purpose and intent of the zoning by-law, and shall be subject to the provisions set forth therein. No special permit shall be granted for a use, which is not otherwise permitted in the zoning district in which the use is proposed. No special permit shall be granted hereunder for a use which is, in the opinion of the ZBA, injurious, noxious, offensive, detrimental or inappropriate to adjacent properties or to the neighborhood or for a use which does not substantially serve public health, safety, convenience, welfare and property values in the neighborhood. Furthermore, no special permit shall be granted hereunder for a use, which derogates from the intent and purposes of this zoning by-law because: (amended 5/1/95)

- a) it appears that the intent of the performance standards or other requirements of this by-law cannot be or are unlikely to be met, or
- b) traffic generated or patterns of access and egress would cause congestion, hazard or substantial change in established neighborhood character, or
- c) the current or permitted use of adjacent property, as defined in the zoning by-law would be adversely affected by the nature of the proposed use, or (amended 5/1/95)
- d) nuisance or hazard would be created.

Such permits may also impose conditions, safeguards and limitations on time or use as the ZBA may require in furtherance of the purpose and provisions of the zoning by-law. (added 5/1/95)

8.3 Public Hearing

No special permit shall be issued except following a public hearing held within sixty-five (65) days after the filing of the application with the Town Clerk. Failure of the ZBA to act within ninety (90) days following said public hearing shall be deemed a grant of the application. (amended 5/5/95)

8.4 Lapse of Special Permit

A special permit granted under this section shall lapse if a substantial use thereof or construction has not begun within two years, except for good cause.

8.5 Specific Uses by Special Permit

The following uses in the specific districts require a special permit from the ZBA and shall be subject to the stated conditions. (amended 5/1/95)

Accessory Uses: in connection with scientific research or development in any district: such use must be determined to be necessary for the principal permitted use, but need not be located on the same parcel of land.

Adult Bookstore, Adult Entertainment or Adult Motion Picture Theater in an Industrial District. (added 5/1/195)

Gasoline filling station in business or industrial district; motor vehicle repair shop (which shall include, without limitation engine and body work), in business or industrial district; parking lot or parking garage which makes parking space available for a fee in business or industrial district. (amended 5/1/95)

Conditions: No portion of the front or side lines of a public garage, motor vehicle repair shop, greasing station, storage battery service station, or gasoline filling station, or any of their appurtenances or accessory uses shall hereafter be placed within 100 feet of any abutter's residence or 75 feet from any lot line whichever is greater. (amended 10/19/87, 5/1/95)

No such premises shall have any driveway entrance or exit for motor vehicle within 300 feet of the property used by any public or private school, library, church, playground, or institution for the aged, sick, or dependent children under 16 years of age. (amended 10/19/87, 5/1/95)

Every filling station pump in a Business District or Industrial District shall hereafter be located not less than 30 feet inside the boundary line of the lot on which it is located (added 5/1/95)

Hotel, motel, or lodging house in a Business District provided that: (amended 5/1/95)

1. They be so located and designed that the egress does not create hazard or create substantial increase in traffic on any public way.
2. They be permitted only where site conditions for on-site sewage disposal are proven to be adequate by an registered engineer or sanitarian and approved by the Board of Health and where the increased rate of storm water runoff following development is engineered to prevent harm to the environment.
3. The site shall be designed so that visibility of parking areas from public ways is minimized; lighting of parking area avoids glare on adjoining properties; major topographical changes or removal of existing trees are avoided; and effective use is made of topography, landscaping, and building placement to maintain to the degree feasible, the character of the neighborhood.
4. The minimum lot area required in square feet shall be determined by multiplying the number of persons the facility is designed to accommodate by 5,000 – but in no case shall the lot are be less than 60,000 square feet.

The approval of such a permit shall be based upon satisfaction that said use is appropriate and that it will not create an adverse impact on the neighborhood by virtue of noise, odor, smoke, vibration, traffic generation or unsightliness.

Multi-family dwellings in Business District or Industrial District (amended 5/5/95)

Conditions:

1. Multi-family dwellings shall be so located and designed that egress does not create hazard or create substantial increase in the traffic on any public way.
2. Multi-family dwellings shall be permitted only where site conditions for on-site sewage disposal are proven to be adequate by a registered engineer or sanitarian and approved by the Board of Health; and where the increased rate of storm water runoff following development is engineered to prevent harm to the environment.
3. The site shall be so designed that visibility of parking areas from public ways is minimized; lighting of parking area avoids glare on adjoining properties; major topographical changes or removal of existing trees are avoided; and effective use is made of topography, landscaping and building placement to maintain to the degree feasible, the character of the neighborhood.
4. Multi-family dwellings shall have a lot area of not less than sixty thousand (60,000) square feet per dwelling unit. There shall be not less than one hundred (100) feet from multi-family dwellings to the nearest property line or from the parking area to the nearest property line. Minimum frontage shall be four hundred (400) feet for three dwelling units; each additional unit in excess of three shall require an additional fifty (50) feet of additional, continuous frontage per unit.

5. No individual building is to contain more than six (6) dwelling units.
6. A minimum of one hundred (100) feet shall be maintained between multi-family buildings on a lot.
7. Multi-family dwellings shall be erected, altered as to the exterior, or enlarged, only in conformity with a site plan, which shall be submitted with the application for a Special Permit. (amended 5/1/95)

Upon receipt of site plan for multi-family dwellings, the ZBA shall submit said plan to the Planning Board which shall, within thirty-five (35) days, return to the ZBA a report and determination accompanied by any materials, maps or plans that will aid in the judgment of the special permit application. The ZBA shall not process the application until said report and determination have been received and considered, or until forty-five (45) days have elapsed, without the receipt of the report and determination. The ZBA may submit the site plan to the Inspector of Buildings for his review. (amended 5/1/95)

Campground in Business Districts (amended 5/1/95)

Private Clubs in Residence/Agricultural Districts (amended 5/1/95)

Restaurant or fast food facility drive through in Business District (added 5/1/95)

Commercial Recreational Activity, Amusement or Assembly in Business District, if involving more than 100 persons at any one time (added 5/1/95)

Accessory uses for which a special permit is required under section 4.6 of this by-law (added 5/1/95)

Storage, distribution or sale of certain quantities of hazardous materials in a Business District (see section 4.2.1) (added 5/1/95)

Storage, distribution or sale of gasoline, heating oils, Liquefied Petroleum Gas, diesel fuel or waste oil in excess of certain amounts as set forth in Article 4.2.1 hereof. (added 7/24/95)