

TOWN OF

REHOBOTH



ZONING BY-LAWS

Approved April 17, 1984
Amendments through May 9, 2016

Laura L. Schwall
Town Clerk

TOWN OF REHOBOTH
CHAPTER E – ZONING BY-LAW

Approved by Town Meeting and Effective 4/17/1984

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Including Amendments thru May 9, 2016

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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 therefrom, 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: Kennel: A 'commercial boarding or training kennel,' 'commercial breeder kennel,' 'domestic charitable corporation kennel,' 'personal kennel,' or 'veterinarian kennel,' each as defined by Massachusetts General Laws Chapter 140, Section 136A, and each of which may be separately regulated under these bylaws (amended 4/9/79 & 5/11/15).

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)

Medical Marijuana Facilities – A not-for profit entity, as defined by Massachusetts law only, duly registered and/or licensed by the Massachusetts

Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies or educational materials to qualifying patients or their personal caregivers. (Added 5/13/13)

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. (Zoning Map Amended 5/13/13; 5/9/16).

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)
Personal Kennel if approved by the Board of Selectmen (added 5/11/15).
Commercial boarding or training kennel, commercial breeder kennel, or domestic
charitable corporation kennel, if a special permit is first obtained under Article
8.0 (added "Dog Kennel" 4/17/2001- deleted "Dog Kennel" & amended 5/11/15)
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)
Large Wind Electrical Generation Facility with special permit approval as
described in section 4.9; (added 10/26/2009)
Utility Scale Wind Electrical Generation Facility with special permit
approval as described in section 4.9. (added 10/26/2009)
Large-Scale Ground-Mounted Solar Photovoltaic Installations with special
permit approval as described in Section 4.10 (added effective 11/08/2011)

- 4.1.1 Uses specifically prohibited within a Residence/Agricultural District :
(added 4/24/95, 5/13/13)
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
Medical Marijuana Facilities (Added 5/13/13)

- 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

Personal Kennel if approved by the Board of Selectmen . (Deleted "Kennel" added "Personal Kennel & Commercial Boarding or Training Kennel" 5-11-15)

Commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, or veterinarian kennel, if a special permit is first obtained under Article 8.0 (Added 5-11-15)

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, 5/13/13)

Adult Bookstore
Adult Entertainment
Adult Motion Picture Theater
Medical Marijuana Facilities (Added 5/13/13)

- 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)
Large Wind Electrical Generation Facility with special permit approval as described in section 4.9; (added 10/26/2009)
Utility Scale Wind Electrical Generation Facility with special permit approval as described in section 4.9. (added 10/26/2009)
Large-Scale Ground-Mounted Solar Photovoltaic Installations with as of right building permit approval as described in Section 4.10 (added effective 11/8/2011)
Medical Marijuana Facilities (added effective 5/13/13)
Commercial boarding or training kennel, commercial breeder kennel, or domestic charitable corporation kennel, if a special permit is first obtained under Article 8.0 – (added 5-11-15).

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 Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Rehoboth designated as Zone A and AE on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Bristol County FIRM that are wholly or partially within the Town of Rehoboth are panel numbers 25005C0117F, 25005C0118F, 25005C0119F, 25005C0136F, 25005C0137F, 25005C0138F, 25005C0139F, 25005C0143F, 25005C0206F, 25005C0207F, 25005C0208F, 25005C0209F, 25005C0217F, 25005C0226F, 25005C0227F, 25005C0228F, 25005C0229F, 25005C0236F and 25005C0237F dated July 7, 2009; and panel numbers 25005C0216G, 25005C0218G, 25005C0219G, 25005C0238G and 25005C0239G dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission. (amended 4/13/2009 – 6/30/14)
- c. **Use Regulations** – The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR); as well as the Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00); the Inland Wetlands Restriction, DEP (currently 310 CMR 13.00) and the Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5). (amended 6/30/14)

FEMA has recently completed a re-evaluation of flood hazard areas within the town. Preliminary flood maps and the Flood Insurance Study (FIS) were provided to the town in May of 2008. Where a FIS has been completed, there are certain requirements which must be met under Section 1361 of the National Flood Insurance Act of 1968 prior to July 7, 2009. The town must adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the National Flood Insurance Program (NFIP) regulations. The following amendments will meet this requirement and ensure that the town of Rehoboth and its residents are assured of continued eligibility within the National Flood Insurance Program (NFIP) (amended 4/13/2009)

- 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.

b. 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.

c. 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 septage.
- (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 no later than sixty-five (65) days after the filing and may continue a public hearing under this section. The Planning Board shall render a decision within ninety (90) days following the closure of the public hearing. 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, Rehoboth 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 golf course accessory uses in the Residential/Agricultural District to the Special Permit process and to promote the purposes of the Rehoboth Zoning Bylaws as described in Article 1.2.

4.8 Municipal Overlay District (added 11/17/97-amended 4/10/2006)

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: Assessors' Plat 65, Lots 7 and 10 on Peck Street, 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.

4.9 Use of Wind Energy Facilities

1.0 Purpose:

The purpose of this by-law is to provide for the construction and operation of wind energy facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city or town and provide adequate financial assurance for decommissioning.

The provisions set forth in this section shall take precedence overall other sections when considering applications related to the construction, operation, and/or repair of wind energy facilities.

1.1 Applicability

- (a) This Wind Energy Facilities section applies to each of the following after the effective date of this Wind Energy Facilities section
 - i. Every utility-scale wind energy facility,
 - ii. Every on-site wind energy facility,
 - iii. Every small wind energy system
 - iv. Every residential micro wind energy system; and
 - v. Every building integrated wind energy facility
- (b) This Wind Energy Facilities Section applies to each facility or system described in (a) i to v above which is constructed before the effective date of this Wind Energy Facilities Section if such facility or system is to be physically modified after the effective date of this Wind Energy Facilities Section in a manner that materially alters the type, configuration or size of such facility, system, or related equipment.
- (c) This Wind Energies Facilities Section does not apply to off-shore Wind Energy Facilities.

2.0 Definitions

Utility-Scale Wind Energy Facility: A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

On-Site Wind Energy Facility: A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will generate electricity to be used primarily on-site.

Residential Micro-wind Energy System: A wind generating system capable of providing power needs for an individual home and outbuildings with an elevated height of no more than 100 feet.

Height: The height of a:

- (a) Horizontal axis wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.
- (b) Vertical axis wind turbine measured from natural grade to the tip of the vertical turbine shaft upon which the vertical blades rotate or the rotor blade whichever is higher.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Special Permit Granting Authority: The special permit granting authority, for purposes of this section, shall be the Planning Board.

Zoning Board of Appeals: Appeal authority for disagreements on special permit decisions made by the Planning Board

Substantial Evidence: Such evidence as a reasonable mind might accept as adequate to support a conclusion.

Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Wind Monitoring or Meteorological Tower: Temporary towers used to gather wind data necessary for site evaluation and development of wind energy projects. In addition the MET tower can be equipped to record temperature, solar radiation and air pressure if necessary, but are not used for the purpose of generating electricity.

Wind turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body for a horizontal turbine or genset for a vertical turbine, and a rotor with two or more blades.

Building Inspector: The inspector of building or the zoning enforcement officer charged with the enforcement of the zoning ordinance. The building inspector is the permit granting authority for building permits.

Building Permit: A building permit is a required approval of a project by the building inspector which is consistent with the state building codes. In addition, the permit must meet the criteria set forth under the local zoning by-laws regarding small and residential micro-wind energy systems.

Special Use Permit: A permit provided by the special permit granting authority for installation of wind energy facilities or MET towers by business and industrial entities and for large wind /Utility scale facilities.

Micro Wind Energy System: All equipment, machinery and structures utilized in the connection with the conversion of kinetic energy of wind into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access paths. Small micro wind energy facility system may be comprised of one or more wind turbines with a total rated nameplate capacity of not more than 50 kW/.05MW.

Small Wind Energy System: All equipment, machinery and structures utilized in connection with the conversion of kinetic energy of wind into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads. Small wind energy facility system may be comprised of one or more wind turbines with a total rated nameplate capacity of not more than 100kW/ 0.1MW.

Large Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of kinetic energy of wind into electrical power. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads. Large wind energy facility system may be comprised of one or more wind turbines with a total rated nameplate capacity of greater than 100kW/ 0.1MW.

Agriculture: 'Farming' or 'agriculture' shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and 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.

Building Integrated Wind Energy Facility: A wind energy facility shall be considered to be building integrated if it is designed to be permanently mounted on a building or other inhabitable structure. This definition applies to wind turbines of any capacity that are designed to be operated in direct contact with a building. This definition also covers, for the purposes of this zoning provision, other wind energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building.

3.0 General Requirements for all Wind Energy Facilities

The following requirements are common to all wind energy facilities and must be followed in addition to the technology-specific requirements given in sections 4, 5, or 6.

3.1 Required Permits

A permit shall only be granted if the permit granting authority determines that the intent of this bylaw is followed as each of its specific criteria are fully met. The wind energy Technology types listed below determine the number and types of permits needed to implement wind energy facilities:

<u>Technology</u>	<u>Permit Needed</u>
Residential Micro Wind Energy System	Building Permit
Small Wind Energy Systems or MET towers	Building Permit *
Large Wind-Utility scale or on-site wind Energy Facilities	Special Permit and Building Permit
Building Integrated Wind Energy System	Special Permit and Building Permit

*Business/industrial entities as defined in town Zoning By-laws Article 4.2 and 4.3 utilizing wind generation facilities of any size must obtain a special permit.

3.2 Additional Conditions for Granting of Special Permits

No special permit shall be granted for a use which is, in the opinion of the Special Permit Granting Authority, 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 or property values in the neighborhood.

3.3 Compliance with Laws, Ordinances and Regulations

The construction and operation of all such proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

3.4 Proof of Liability Insurance

The applicant shall be required to provide evidence of liability insurance in an amount, and for a duration sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.

3.5 Site Control

At the time of its application for a special or building permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

3.6 Utility Notification

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

3.7 Temporary Meteorological Towers (MET Towers)

Met towers shall be permitted under the same standards as a small wind system, except that the requirements apply to a temporary structure. A permit for a temporary met tower shall be valid for a maximum of 1 year after which an extension may be granted. Small anemometers installed directly on buildings shall not require a building or special permit.

3.8 Design Standards

3.8.1 Appearance, Color and Finish

FAA safety consideration on color and appearance should be respected. Where applicant is seeking a non-standard color in an area not regulated by the FAA, the appropriate permit granting authority has authority to regulate color of turbine and supporting tower.

3.8.2 Exterior Lighting

Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties as approved by the appropriate permit granting authority.

3.8.3 Signage

Signs on the wind energy facility shall comply with the requirements of the town's sign regulations, and shall be limited to:

- (a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
- (b) Educational signs providing information about the wind energy facility and the benefits of renewable energy.

3.8.4 Advertising

Wind energy facilities shall not be used for displaying any advertising except for identification of the manufacturer or operator of the wind energy facility in conformance with section 3.8.3.

3.8.5 Utility Connections

Reasonable efforts shall be made to locate utility connections from the wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3.8.6 Accessory Structures

All accessory structures to such wind energy facilities shall be subject to existing zoning regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers and substations shall be architecturally compatible with each other and shall be contained within the turbine tower(s) **or if separate**, landscaped and screened from view by vegetation, located underground, **or behind berms**, *and/or* clustered to **minimize** visual impacts.

3.9 Safety and Environmental Standards

3.9.1 Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the fire department and inspector of buildings, as designated by the permit granting authority. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind energy facility shall be clearly marked. The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

3.9.2 Unauthorized Access

Wind turbines or other structures part of a wind energy facility shall be designed to prevent unauthorized access. For instance, towers shall be designed and installed so as to not provide step bolts or other climbing means readily accessible to the public for a minimum height of 8 feet above the ground. Electrical equipment access shall be restricted to authorized personnel only.

3.9.3 Shadow/Flicker

Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

3.9.4 Noise

The wind energy facility and associated equipment shall conform with the provisions of the Rehoboth Zoning Bylaw Section 6.6 "Standards" Subsection 3 "Measurement at Lot Line" (b) "Noise".

3.9.5 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

3.10 Monitoring and Maintenance

3.10.1 Facility Conditions

The applicant/owner/operator shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Building Inspector. The Wind Energy Facility owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

3.10.2 Modifications

All material modifications to a wind energy facility made after issuance of the permit shall require approval by the permit granting authority as provided in this section.

3.11 Abandonment or Decommissioning

3.11.1 Removal Requirements

Any wind energy facility or meteorological (MET) tower which has reached the end of its useful life or has been abandoned shall be removed. When the wind energy facility or MET is scheduled to be decommissioned, the applicant/owner/operator shall notify the Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind energy facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind energy facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:

- (a) Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.11.2 Abandonment

Absent notice of a proposed date of decommissioning, the facility or meteorological tower shall be considered abandoned when the wind energy facility fails to operate for more than one year without the written consent of the permit granting authority. The permit granting authority shall determine in its decision what proportion of the wind energy facility is inoperable for the wind energy facility to be considered abandoned. If the applicant fails to remove the wind energy facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the wind energy facility at the applicant/owner/operator's expense.

3.11.3 Expiration

A wind energy facility special permit issued pursuant to this ordinance shall expire if:

- (a) The wind energy facility is not installed and functioning within 24-months from the date the permit is issued; or,
- (b) The wind energy facility is abandoned.

Extensions may be granted for cause by the special permit granting authority.

3.11.4 Violations

It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this bylaw or with any condition contained in a permit issued pursuant to this bylaw. Penalties for violation under this bylaw shall be as described in Article 7.1 "Enforcement" of the Rehoboth Zoning Bylaw. Wind energy systems installed prior to the adoption of this ordinance are exempt.

3.11.5 Exemption

Residential Micro Wind Energy Systems are exempt from all requirements in section 3.11.1, 3.11.2 and 3.11.3.

3.12 Support Towers

Monopole towers shall be used as the support structure for Wind Turbines; this requirement may be waived by the special permit granting authority for good cause shown by the applicant as determined in the discretion of the special permit granting authority.

4.0 Micro Wind and Small Wind Energy Facility Requirements

4.1 Building Permit

No micro wind or small wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the building inspector. All such wind energy systems shall be constructed and operated in a manner that minimizes adverse visual, safety and environmental impacts. The construction of a micro wind or small wind energy facility shall be allowed in any zoning district subject to the issuance of a Permit and provided that the use complies with all requirements set forth in sections 3 and 4.

4.2 Height

Micro wind energy systems shall be no greater than 100 feet above the current grade. Small wind energy systems shall be not greater than 250 feet above the current grade of the land for small wind systems.

4.3 Setbacks

Micro and small wind turbines shall be set back a distance greater than or equal to the total height of the wind turbine from the nearest property line and public way.

4.4 Application Process & Requirements

A building permit shall be required for the installation of either micro or a small wind energy system.

4.4.1 General Required Documents

The building permit application shall be accompanied by deliverables including the following:

- (a) A site plan showing:
 - i. Property lines and physical dimensions of the subject property within 2 times the total height of the wind turbine from the proposed tower location.
 - ii. Location, dimensions, and types of existing major structures on the property
 - iii. Location of the proposed wind energy system tower, foundations, guy anchors and
 - iv. Associated equipment.
 - v. The right-of-way of any public road that is contiguous with the property;
 - vi. Any overhead utility lines
 - vii. Location and approximate height of tree cover;
- (b) Wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
- (c) One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnects and over current devices.
- (d) Foundations for towers must have blueprints or drawings signed by a Professional Engineer Licensed in the Commonwealth of Massachusetts.
- (e) Support towers of any height that are anchored to or mounted on a building must have blue prints with certification signed by a professional engineer that the anchoring building structure is sufficient to withstand the structural loading of the wind turbine equipment and stresses caused by the vibration resulting from rotor rotations at maximum wind speed for the area.
- (f) Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.
- (g) The name, contact information and signature of any agents representing the applicant.
- (h) A plan for maintenance of the small wind energy facility.
- (i) Business and industrial entities must provide an additional eight (8) copies of the required site plan to the Special Permit Granting Authority. At the discretion of the building inspector, a site plan approval application may be required.

5.0 Large Wind Energy Facility Requirements (Utility and On-Site Projects)

Special permits shall only be granted by the Permit Granting Authority for large wind energy facilities that meet the criteria outlined in this section and in section 3 of this zoning provision.

5.1 Special Permit Granting Authority

No wind energy facility over 100 kilowatts of rated nameplate capacity shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the special permit granting authority. The construction of a wind energy facility shall only be allowed subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in sections 3 and 5. All such wind energy facilities shall be constructed and operated in a manner that minimizes adverse visual, safety, and environmental impacts.

5.2 Financial Surety

The special permit granting authority shall require the applicant for utility scale wind energy facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility, of an amount and form determined to be reasonable by the special permit granting authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the special permit granting authority. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

5.3 Height

Large wind energy facilities shall be no higher than 450 feet above the current grade of the land

5.4 Setbacks

Large wind turbines shall be set back a distance greater than or equal to the 1.2 times the total height of the wind turbine from the nearest property line and public way.

5.5 Required Supporting Documentation

The applicant shall provide the special permit granting authority with 20 copies of a description of the proposed project which shall include:

5.5.1 General

All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

- (a) Name, address, phone number and signature of the applicant, as well as all co-applicants and property owners, if any.
- (b) The name, contact information and signature of any agents representing the applicant.
- (c) Documentation of the legal right to use the wind energy facility site.

5.5.2 Technical Documentation

The applicant shall, at a minimum, submit the following technical documentation regarding the proposed wind energy facility to the special permit granting authority.

- (a) Wind energy facility technical specifications, including manufacturer and model, rotor diameter, tower height/type, foundation type/ dimensions
- (b) Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
- (c) Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
- (d) Electrical schematic

5.5.3 Location Map: Utility Scale Projects

The applicant shall submit, to the permit granting authority, a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation by map number and plot number for the subject parcel should be included; however a copy of a zoning plot plan with the parcel identified is suitable.

5.5.4 Site Plan

A one inch equals 40 feet plan of the proposed wind facility site, with contour intervals of no more than 2 feet, showing the following:

- a. Property lines for the site parcel prepared by a Professional Land Surveyor.
- b. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel.
- c. Location of all roads, public and private on the site parcel and adjacent parcels if within the setback distance of 1.2 times the blade tip height, and proposed roads or driveways, either temporary or permanent.
- d. Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels if within the setback distance of 1.2 times the blade tip height.
- e. Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
- f. Location of viewpoints referenced below in 5.6.4 of this section.

5.5.5 Visualizations

The special permit granting authority may select up to four sightlines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the proposed wind energy facility. View representations shall have the following characteristics:

- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind energy facility (e.g. superimpositions of the wind facility onto photographs of existing views or a balloon height simulation test).
- (b) All view representations will include existing, or proposed, buildings or tree coverage.
- (c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

5.5.6 Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind energy facility.

5.5.7 Compliance Documents

The applicant will provide with the application:

- (a) description of financial surety that satisfies 5.2 of this section,
- (b) proof of liability insurance that satisfies Section 3.4 of this section,
- (c) certification of approval from the FAA,
- (d) a statement that satisfies Section 3.8.4, listing existing and maximum projected sound levels from the wind energy facility.

5.5.8 Landscape Plan: (Utility Scale Wind Facility Projects Only)

A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Landscaping proposals shall meet the requirements of Section 6.7 Site Plan Approval subsection 6. Site Plan Review Criteria paragraph “b” of the Rehoboth Zoning Bylaw. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution.

5.6 Independent Consultants - (Utility-Scale Wind Facilities Only)

Upon submission of an application for a special permit, the special permit granting authority will be authorized to hire outside consultants, pursuant to section 53G of chapter 44 of the Massachusetts General Laws, provided that the applicant may appeal the selection of such consultant in accordance with that statute. The applicant will be required to pay 100% of the consultant’s costs.

5.7 Large Wind Energy Facility Requirements (Utility and On-Site Projects)

Special Permit Fee shall be established by the Special Permit Granting Authority.

6.0 Building Integrated Wind Energy Facilities

Special permits shall only be granted by the Special Permit Granting Authority for building integrated wind energy facilities that meet the criteria outlined in this section and in section 3 of this bylaw.

6.1 Special Permit Granting Authority

No building integrated wind energy facility shall only be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the special permit granting authority. The construction of a building integrated wind energy facility shall be allowed subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in sections 3 and 6. All such wind energy facilities shall, where economically feasible, be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.

6.2 Required Supporting Documentation for Building Integrated Wind Energy Facilities

The special permit application submitted to the Special Permit Granting Authority must, at a minimum, include:

- (a) Analysis and design documents, completed by a structural engineer registered to practice in the Commonwealth of Massachusetts, demonstrating that the proposed building is structurally sufficient to support the permanent installation of the proposed building integrated wind energy facility. At a minimum, the analysis should address vibration, wind load, and ice load.
- (b) Elevation drawings of building with building integrated wind energy facility installed, viewed from north, south, east, and west.
- (c) Building schematic detailing point(s) of connection and associated supports for the building integrated wind energy facility.
- (d) Schematic of attachment method for connecting the building integrated wind energy facility to the building.
- (e) Specification sheets for wind turbine and all related components (inverters, controllers, disconnects, etc.)
- (f) One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all NEC compliant disconnect and over current devices.

Article 4.10

Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations for As-of-Right and Special Permit Locations

1.0 Purpose

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

The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

1.1 Applicability

This by-law applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this by-law. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Large-Scale Ground-Mounted Solar Photovoltaic Installations, as defined herein, shall be allowed by right in the Industrial Zoning District in the Town of Rehoboth, and by special permit in the Business and Residence/Agricultural Zoning Districts in the Town.

2.0 Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development shall be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the town building inspector.

As of Right Designated Location: The locations are designated by approval at town meeting, in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground - mounted large scale solar photovoltaic installations may be sited as-of right. Said locations for as of right siting shall be on land designated for industrial use under the zoning by-laws of the Town of Rehoboth. All other

locations in town require a special permit in addition to a standard building permit for constructing a Large-Scale Ground-Mounted Photovoltaic Installation.

Building Inspector: The inspector of building or the zoning enforcement officer charged with the enforcement of the zoning ordinance. The building inspector is the permit granting authority for as of right siting building permits.

Building Permit: A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC. 1

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation, which is located at a commercial, industrial, agricultural, institutional, or public facility that will generate electricity to be used primarily on-site.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Site Plan Review: review by the appropriate authority to determine conformance with local zoning ordinances or bylaws.

Site Plan Review Authority: The site plan review authority for Large-Scale Ground-Mounted Solar Photovoltaic Installations is the Planning Board.

Special Permit: A permit provided by the special permit granting authority for installation of Large-Scale Ground-Mounted Solar Photovoltaic Installations in areas outside of the As-of-Right Zoning Map boundaries.

Special Permit Granting Authority: The special permit granting authority shall be the Planning Board.

Switchgear: All devices used as part of the interconnection between the photovoltaic generating panels, operation and regulation of photovoltaic generating panels, including but not limited to, electrical disconnect switches, reclosers, transformers, power regulating equipment, power monitoring equipment and instrumentation.

Zoning Board of Appeals: Appeal authority for disagreements on special permit decisions made by the Special Permit Granting Authority

Zoning Enforcement Authority is the Town Building inspector

1. Draftsman's comment - As of 2010, the Commonwealth determined that a solar photovoltaic array with a rated name plate capacity of 250 kW (DC) occupies approximately one acre of land.

3.0 . General Requirements for all As of Right Large Scale Solar Power Generation Installations

The following requirements are common to all large-scale solar photovoltaic installations.

3.1 Compliance with Laws, Ordinances and Regulations

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

3.2 Building Permit and Building Inspection

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

3.3 Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit. Upon receipt of an application for site plan approval for a Large-Scale Ground-Mounted Solar Photovoltaic Installation, the Site Plan Review Authority may engage, at the applicant's cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of section 53G of chapter 44 of the Massachusetts General Laws. The authority may direct the applicant to deposit funds with the authority for such review at the time the application is accepted, and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant.

3.4 Site Plan Review

Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Site Plan Review Authority in accordance with Zoning By-law Section 6.7 and the following requirements prior to construction, installation or modification as provided in this section.

3.4.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

3.4.2 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

(a) A site plan showing:

- i.** Property lines and physical features, including structures and roads, for the project site;
- ii.** Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- iii.** Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
- iv.** One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- v.** Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter;
- vi.** Name, address, and contact information for proposed system installer;
- vii.** Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- viii.** The name, contact information and signature of any agents representing the project proponent;
- ix.** How land clearing and construction shall be performed in accordance with Chapter L of the Town of Rehoboth By-Laws governing storm water discharge, land disturbance and post construction storm water runoff; and

- (b) Documentation of actual or prospective access and control of the project site (see also Section 3.5);
- (c) An operation and maintenance plan (see also Section 3.6);
- (d) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- (e) Proof of liability insurance; and
- (f) Description of financial surety that satisfies Section 3.12.3.

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

3.5 Site Control

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

3.6 Operation & Maintenance Plan

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

3.7 Utility Notification

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

3.8 Dimension and Density Requirements

3.8.1 Setbacks

For large - scale ground-mounted solar photovoltaic installations, no portion of the installation shall be any closer than 50 feet to any of the boundaries of the lot on which the installation is located, with the exception of necessary connection equipment to utility transmission facilities.

3.8.2 Accessory Structures

All accessory structures to such large- scale ground –mounted solar photovoltaic installation shall be subject to existing zoning regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. All such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, substations shall be architecturally compatible with each other and shall landscaped and screened from view by vegetation, located underground, or behind berms, and/or clustered to minimize visual impacts.

3.9 Design Standards

3.9.1 Lighting

Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes,

and shall be reasonably shielded from abutting properties. Lighting of the large -scale ground-mounted solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3.9.2 Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with the requirements of the town's sign regulations, and shall be limited to:

- (a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
- (b) Educational signs providing information about the Large-Scale Ground-Mounted Solar Photovoltaic Installation and the benefits of renewable energy.
- (c) Signs shall be limited to 2 dimensions and shall not be electronic or lighted.

3.9.3 Advertising

Solar photovoltaic installations shall not be used for displaying any advertising except for identification of the manufacturer or operator of the Large-Scale Ground-Mounted Solar Photovoltaic Installation in conformance with section 3.9.2.

3.9.4 Utility Connections

Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the large-scale ground-mounted solar photovoltaic installations underground, depending on appropriate soil conditions, shape and topography of the site. Electrical transformers and utility interconnections may be above ground, if required by the utility provided, provided the following is adhered to:

- (a) All Switchgear, including electric utility switchgear, i.e. local electric utility company, shall be installed within the confines of the facility and shall be mounted and screened such that it cannot be observed from both adjacent private property and public property.
- (b) Only one utility pole will be allowed in the street right-of-way for connection purposes; said utility pole shall not have any switchgear mounted on it. The owner/operator of the solar photovoltaic farm shall determine the needs of the utility in advance of construction to ensure that only one utility pole shall be installed. (Amended 11-2-2015)

3.9.5 – Screening

The large-scale ground-mounted solar photovoltaic facility, including all accessory structures and appurtenances, shall be visually screened so as not to be visible from abutting streets and properties. All accessory structures and appurtenances shall be architecturally compatible with each other and the surrounding neighborhood. Structures shall be shielded from view and/or joined and clustered to avoid adverse visual impacts. The adequacy of such screening and shielding shall be determined by the Special Permit Granting Authority in its sole discretion. Methods such as the use of landscaping, natural features, berms and fencing shall be utilized. The Special Permit Granting Authority may, at the applicant's expense, engage the services of a Registered Landscape Architect in order to create a landscaping/screening plan for said facility which satisfies this bylaw, as determined by the Special Permit Granting Authority in its sole discretion. (Amended 11-2-2015)

- (a) Tree plantings shall be six (6') feet in height at the time of planting and shall be a minimum of eight (8') feet in height within five (5) years of planting. Shrubs shall be a minimum of four (4') feet in height at time of planting;
- (b) The owner and/or operator shall be responsible for replacement of all landscape plantings over the course of the operation of the facility. Should any plantings die or not meet the requirements of Sec. 3.9.5(a) above, they shall be replaced by the owner and/or operator of the facility;
- (c) Landscaping shall consider deer and disease resistant species;

(d) The applicant shall provide the Special Permit Granting Authority with a Landscaping and Maintenance Bond (separate from the Decommissioning Bond) in an amount satisfactory to the Special Permit Granting Authority in order to secure compliance with Sec. 3.9.5; (Amended – 11/2/2015)

3.10 Safety and Environmental Standards

3.10.1 Emergency Services

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

3.10.2 Land Clearing

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

3.11 Monitoring and Maintenance

3.11.1 Solar Photovoltaic Installation Conditions

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

3.11.2 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require prior approval by the Site Plan Review Authority.

3.12 Abandonment or Decommissioning

3.12.1 Removal Requirements

Any large- scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 3.12.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3.12.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may, to the extent it is otherwise duly authorized by law, enter the property and physically remove the installation.

3.12.3 Financial Surety

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

4.0 . Additional Requirements for all Large Scale Solar Power Generation Installations sited outside of the As-of-Right Large-Scale Ground-Mounted Solar Photovoltaic Installation Zone
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All Large Scale Ground Mounted Solar Photovoltaic Installations to be constructed in areas outside of the As-of-Right Large-Scale Ground-Mounted Solar Photovoltaic Installation Zone must meet all the requirements listed in Section 3 of this by-law (except subsection 3.4.2) and the special permit requirements listed in this Section 4 and in Section 8.2 of the Zoning By-law. Subsection 4.2 replaces subsection 3.4.2 as a listing of required supporting documents for Large-Scale Ground-Mounted Solar Photovoltaic Installation in the special permitting zone.

4.1 Special Permit Requirements

If the site of the installation is outside of the “**As of Right Designated Location**”, a special use permit application and fee must also accompany the building permit application.

4.2 Special Permit Required Supporting Documentation

The applicant shall provide the special permit granting authority with 20 copies of a description of the proposed project which shall include:

4.2.1 General

All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts. Included in the application shall be:

- (a) Name, address, phone number and signature of the applicant, as well as all co-applicants and property owners.
- (b) The name, contact information and signature of any agents representing the applicant.
- (c) Documentation of the legal right to use the Large-Scale Ground-Mounted Solar Photovoltaic Installation site.

4.2.2 Technical Documentation

The applicant shall, at a minimum, submit the following technical documentation regarding the proposed facility to the special permit granting authority.

- (a) Large-Scale Ground-Mounted Solar Photovoltaic Installation technical specifications, including manufacturer and model, foundation type/dimensions
- (b) Large-Scale Ground-Mounted Solar Photovoltaic Installation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.
- (c) Electrical schematic

4.2.3 Location Map: Utility Scale Projects

The applicant shall submit, to the permit granting authority, a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed installation site, including the Large-Scale Ground-Mounted Solar Photovoltaic sites, and the area within at least two miles from the facility. Zoning district designation by map number and plot number for the subject parcel should be included; however a copy of a zoning plot plan with the parcel identified is suitable.

4.2.4 Site Plan

A one inch equals 40 feet plan of the proposed the Large-Scale Ground-Mounted Solar Photovoltaic Installation site, with contour intervals of no more than 2 feet, showing the following:

- a. Property lines for the site parcel prepared by a Professional Land Surveyor.
- b. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel.
- c. Location of all roads, public and private on the site parcel and proposed roads or driveways, either temporary or permanent.
- d. Existing areas of tree cover, including average height of trees, on the site parcel.
- e. Proposed location and design of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, including Photo Voltaic panels, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
- f. Location of viewpoints referenced below in 4.2.5 of this section.
- g. Location of wetland resource areas as defined in 310 CMR 10.00.

4.2.5 Visualizations

The special permit granting authority may select up to four sightlines, including from the nearest building with a view of the Large-Scale Ground-Mounted Solar Photovoltaic Installation, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation. View representations shall have the following characteristics:

- (a) View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the Large-Scale Ground-Mounted Solar Photovoltaic Installation (e.g. superimpositions of the Large-Scale Ground-Mounted Solar Photovoltaic Installation onto photographs of existing views.)
- (b) All view representations will include existing, or proposed, buildings or tree coverage.
- (c) Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

4.2.6 Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the Large-Scale Ground-Mounted Solar Photovoltaic Installation.

4.2.7 Compliance Documents

The applicant will provide with the application:

- (a) description of financial surety that satisfies 3.12.3 of this by-law and
- (b) proof of liability insurance that satisfies Section 3.4.2 (e) of this by-law.

4.2.8 Landscape Plan:

A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures. Landscaping proposals shall meet the requirements of Section 6.7 Site Plan Approval subsection 6. Site Plan Review Criteria paragraph “b” of the Rehoboth Zoning Bylaw as well as section 3.9.5 in this by-law. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

4.3 Independent Consultants -

Upon receipt of an application for a special permit for a Large-Scale Ground-Mounted Solar Photovoltaic Installation, the Special Permit Granting Authority may engage, at the applicant’s cost, professional and technical consultants, including legal counsel, to assist the authority with its review of the application, in accordance with the requirements of section 53G of chapter 44 of the Massachusetts General Laws. The authority may direct the applicant to deposit funds with the authority for such review at the time the application is accepted, and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant.

Upon approval of a special permit for a Large-Scale Ground-Mounted Solar Photovoltaic facility, the Special Permit Granting Authority may engage, at the applicant’s expense, the services of a Clerk of the Works, in order to conduct site visits and generate field reports during the construction phase of project in order to guarantee that construction is being completed per the approved plan. The authority may direct the applicant to deposit funds within an escrow account for such review at the time the permit application is approved, and to add additional funds as needed upon notice. Upon satisfactory completion of the project, any excess amount in the account attributable to the project, including any interest accrued, shall be repaid to the applicant. (Added second paragraph 11-2-15).

4.4 Large-Scale Ground-Mounted Solar Photovoltaic Installation Special Permit Fee- Special Permit Fee shall be established by the Special Permit Granting Authority.

4.5 Additional Conditions for Granting of Special Permits

No special permit shall be granted for a use which is, in the opinion of the Special Permit Granting Authority, 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 or property values in the neighborhood.

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. The structure limitation in Section 5.0 and lot coverage restrictions limit, listed in sub-sections 5.1, 5.2, and 5.3 of this bylaw, shall not apply to Large-Scale Ground Mounted Solar Photovoltaic Installation as described in Article 4.10 of the Rehoboth Zoning Bylaws. (Amended/Effective 4/16/2002)(Amended/Effective 11/7/2011)

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%
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(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 side 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 at 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 buildings 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 judgement 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)

9.0 Planning Board Associate Member

The Planning Board, when acting as the Special Permit Granting Authority (SPGA), shall have one (1) Associate Member. The Associate Member shall be appointed by the Planning Board for a term of one (1) year, beginning July 1 and ending on June 30. The Associate Member shall act in the case of absence, an inability to act, or a conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board. Prior to commencement of a Special Permit (does not include Site Plan approval, Subdivision hearings or ANR meetings) public hearing only, the Chair shall designate the Associate Planning Board Member to sit in the event that, as stated above, any member is absent, unable to act or has a conflict of interest. When acting on any permit, there shall be no more than seven Board members voting on any Special Permit application.

In the case of resignation of an Associate Member, the Planning Board may immediately appoint a new Associate Member for a term to end June 30 of that year, or take any other action relative thereto.

