

Town of Chatham
Commonwealth of Massachusetts
Protective By-Law
CHATHAM

As amended through May 2005

ARTICLE 9
CHATHAM ZONING BYLAW

As amended through May 2000

Effective December 6, 1993 and includes amendments and changes as follows:

Bylaw adopted 1954; totally amended 1957; additional amendments 1958, 1959, 1961, 1962, 1963, 1964, 1965; totally amended 1969; additional amendments 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986; totally amended 1987; additional amendments 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2004, 2005 ATM

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Attest:

Julie Smith
Town Clerk

ATM denotes Annual Town Meeting
STM denotes Special Town Meeting

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SECTION I GENERAL PROVISIONS

A. Authority

This Zoning Bylaw is adopted pursuant to Chapter 40A, 40B and 41 of the Massachusetts General Laws as amended.

B. Purpose and Intent

The purpose of this Bylaw is to manage growth and development in the Town so as to insure the appropriate use of land, encouraging those qualities which distinguish Chatham as a desirable community for year-round and seasonal residence, commerce, tourism and recreation including:

- health, welfare and quality of life;
- safety from fire, flood and other dangers;
- provision of adequate light, clean air, adequate public and private water supply, effective sewage and solid waste disposal, transportation and parking, schools, parks and open space, public access to waterways, and other public service requirements;
- provision of housing for persons of all income levels;
- prevention of overcrowding of land, undue concentration of population, traffic congestion, blight and pollution of the environment;
- preservation of the value of land and buildings;
- protection of natural resources, particularly beaches, dunes, wetlands, fresh and saltwater ponds, inlets, harbors and bays;
- preservation for the citizens of their rights to their customary means of earning a living;
- preservation for present and future inhabitants of Chatham of the natural, architectural and historic assets of the community.

C. Applicability

All buildings or structures hereafter erected, altered, reconstructed, demolished, enlarged or moved, or use of premises in the Town shall be in conformity with the provisions of this Bylaw.

No building, structure, land or water area shall be used for any purpose or in any manner other than as permitted within the district in which such building, structure, land or water area is located. Any use not specifically enumerated in a district herein shall be deemed to be prohibited except that the Zoning Board of Appeals, may, upon application for a Special Permit, determine whether a use not specifically listed as a permitted use in any district should be authorized.

In making this determination the Zoning Board of Appeals shall consider whether the proposed use is substantially different in size, operations, impacts, and other characteristics from uses permitted in the same district. If the proposed use is found to be similar to permitted uses specifically listed in the district, the Zoning Board of Appeals may authorize a special permit to locate the use in the district.

SECTION II DEFINITIONS

- A. Except where specifically defined herein, all words in this Bylaw carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "**lot**" includes "**plot**"; the word "**structure**" includes "**building**"; the word "**shall**" is mandatory; "**occupied**" or "**used**" are considered as though followed by "**or intended, arranged or designed to be used or occupied**"; "**person**" includes individual, partnership, association, corporation, company or entity.
- B. When used in this Bylaw, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:
1. "**ACCESSORY USE OR BUILDING**" means a use or building customarily subordinate to the principal use or building located on the same lot except as provided in Footnote 3 of Appendix I. (5/14/90 ATM)
 2. "**ADULT USE ESTABLISHMENTS**" shall be defined as follows:

"ADULT LIVE ENTERTAINMENT ESTABLISHMENT" means an establishment which features live entertainment which consists of entertainers engaging in sexual conduct or nudity as defined in Section thirty-one of Chapter two hundred and seventy-two of the General Laws of the Commonwealth of Massachusetts (M.G.L., Ch.272, Sect.31).

"ADULT MOTION PICTURE THEATER" means a place of assembly either inside of or outside of an enclosed building which is used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Section thirty-one of Chapter two hundred and seventy-two of the General Laws of the Commonwealth of Massachusetts (M.G.L., Ch.272, Sect.31).

"ADULT STORE OR BOOKSTORE" means an establishment having as a substantial or significant portion of its stock in trade, printer matter, books, magazines, motion picture films, video cassettes or other matter for sale, rental, lease or barter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Section thirty-one of Chapter two hundred and seventy-two of the General Laws of the Commonwealth of Massachusetts (M.G.L., Ch.272, Sect.31).(5/11/98 ATM)
 3. "**AFFORDABLE**", used in reference to dwelling units means intended for rental or sale to low or moderate income people and in conformance with the requirements of this Bylaw in regard to price and income level of tenant(s). (5/10/04 ATM)

"AFFORDABLE APARTMENT INCIDENTAL TO A SINGLE FAMILY DWELLING" means a dwelling unit subordinate to a one-family dwelling approved on the condition that the requirements of this Bylaw are met for affordable price and income eligible tenants. (5/10/04 ATM)

"AFFORDABLE PRICE", used in reference to a dwelling unit, means a monthly rent or mortgage payment which does not exceed 30% of the gross monthly income of a household whose income is 70% of the median income for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD). (5/10/04 ATM)

"INCOME ELIGIBLE" means that the household income of a person or family does not exceed 80% of the median income, adjusted for household size, for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD). (5/10/04 ATM)

"TEN PERCENT" used in reference to the mandatory provision of affordable dwelling units, shall mean one tenth rounded to the nearest whole number. For example, any number below 1.5 would be rounded to 1, while any number between 1.5 and 1.9 would be rounded to 2. (5/9/05 ATM)

4. **"AGRICULTURAL USE"** means the commercial raising of agricultural crops and/or livestock, horticultural and floricultural products, except where such is an accessory garden to a principal residential use on the same lot. The term includes necessary structures and storage of equipment used on the premises.
5. **"ANIMAL HOSPITAL"** means a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to hospital use.
6. **"APARTMENT"** means a separate dwelling unit being one of two or more in a single building, including separate kitchen facilities and separate bath for each unit, designed and used for occupancy on the basis of rental of not less than two weeks.
7. **"APARTMENT, INCIDENTAL TO A COMMERCIAL USE"** means a dwelling unit located either within a commercial structure, or on a commercial lot where at least 51% of the total floor area of the building(s) above finish grade is utilized for commercial purposes.
8. **"BANK, COASTAL"** means the seaward face or side of any elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach, land subject to tidal action or flooding, or other coastal wetland.
9. **"BANK, COASTAL, TOP OF"** means the upper boundary of a bank, or the first major break in the face of the bank, any minor discontinuity notwithstanding, above the relevant one hundred (100) year flood plain elevation, or the point above the one hundred (100) year flood plain elevation where the incline of the landform becomes less than 4:1. (5/10/99 ATM)

10. **"BANK, INLAND"** means a landform which normally abuts and confines a water body. It occurs between a water body and a vegetated bordering wetland and adjacent flood plain or, in the absence of these, it occurs between the water body and an upland.
11. **"BANK, INLAND, TOP OF"** means the upper boundary of a bank or the first major break in the face of the bank, any minor discontinuity notwithstanding, higher than the two (2) feet above the Natural High Water Mark of a fresh water body or the point above this elevation where the incline of the landform becomes less than 4:1. (5/10/99 ATM)
12. **"BAR"** or **"TAVERN"** means a business establishment licensed to serve alcoholic beverages and designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as complementary attractions.
- 12a. **"BARN"** means a structure used or intended to be used for the storage of animals, farm equipment or other chattel. (10/24/89 STM).
13. **"BOATHOUSE"** means a structure used for the storage of recreational vessels and associated equipment and which is located within 100 feet of Mean High Water (MHW) or the Natural High Water Mark. (5/10/99 ATM)
14. **"BOATYARD"** means a commercial facility whose primary function is for the construction, repair, and maintenance of boats and may include provisions for boat storage and docking. (10/9/97 STM)
15. **"BOARDING OR ROOMING HOUSE"** means a dwelling or part thereof, in which rental living quarters are provided with or without meals by the owner occupant for a limited number of lodgers according to the requirements of the specific zoning district. The term shall not include **"tourist homes"** or **"bed and breakfast's"** which provide transient accommodations to overnight guests for a fee.
16. **"BUFFER STRIP"** means a land area used to separate one use from another or to shield or block noise, lights or other nuisances.
17. **"BUILDING"** means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.
18. **"BUILDING AREA"** means the total ground floor area as measured on a horizontal plane at the main grade level between exterior faces of walls of the principal building and all buildings exclusive of decks, terraces and steps.
19. **"BUILDING COVERAGE"** means the buildable upland portion of a lot which is covered by buildings, including porches but excluding parking areas, pools, decks and any other permanent structures which do not have roofs.
20. **"BUILDING HEIGHT"** means the vertical distance measured from the grade plane to the highest point of a structure or roof surface. Height limitations shall not apply to television antennas, chimneys, spires, cupolas or extensions of structures normally carried above roof lines and which are strictly ornamental in nature. (10/9/97 STM)

21. **"BUILDING PERMIT"** means a document of authorization to construct, repair, alter, demolish, enlarge or change any structure.
22. **"BUSINESS VEHICLE"** means a vehicle equipped with any business appurtenances, including non-removable signs, or a specialized vehicle meant for use in a business. (5/11/98 ATM)
23. **"CAMPING VEHICLE"** means a vehicular structure without permanent foundation which can be towed, hauled or driven, and is primarily designed for temporary living accommodations for recreation, camping and/or travel use.
24. **"CATWALK"** means an elevated structure, usually located within a Conservancy District, used as a pedestrian walkway to traverse fresh or salt meadow, marsh, meadow bank, dune or beach. The term shall include **PLANK WALK**. (5/12/97 ATM)
25. **"CHANGE OF USE"** means the establishment in an existing commercial or industrial space of a business from a different use category than the existing business; the establishment in an existing commercial or industrial space of a business with a larger customer area than the existing business; or the establishment in an existing commercial or industrial space of a business which the Zoning Officer determines may require more parking than the existing business. (5/10/99 ATM)
26. **"CLUB, PRIVATE NOT FOR PROFIT"** means an organization catering exclusively to members and their guests, or premises and buildings for recreational, social and/or fraternal purposes, which are not conducted primarily for gain, providing there are no vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. There shall be no sleeping accommodations provided for members or their guests. Sleeping accommodations for club employees may be allowed by Special Permit.
27. **"CLUSTER DEVELOPMENT"** means a residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open land.
28. **"COMMERCIAL ENTERTAINMENT ESTABLISHMENT"** means places of amusement or assembly including but not limited to theaters, bowling alleys, dance halls, skating rinks, etc.
29. **"CONGREGATE LIVING FACILITY"** means a non-institutional, shared living environment which integrates shelter and service needs of functionally impaired and/or socially isolated persons who are otherwise in good health and can maintain a semi-independent life style and who do not require constant supervision or intensive health care as provided by an institution. Each resident shall have an individual bedroom and may have a separate living room, kitchen, dining area or bathroom and may share living, dining, and bathroom facilities with other residents, such as in a common dining facility. (10/9/97 STM)

30. "**CONDOMINIUM**" means land, buildings, structures, and/or all easements, rights and appurtenances belonging thereto which have been submitted to the provisions of Chapter 183A of the Massachusetts General Laws.
31. "**CONDOMINIUM HOTEL/MOTEL**" means a condominium operated as a hotel in which each room or unit is individually owned and in which the units are available to transients for rent.
32. "**COTTAGE COLONY**" means a group of two or more detached rental dwellings located on a parcel of land under one ownership, used seasonally.
33. "**CUL-DE-SAC**" means a way which commences at a through street and terminates at a turnaround.
34. "**DORMITORY**" means a building used as living quarters for a group of six (6) or more unrelated individuals.
- 34.a. "**DWELLING, GROUP**" means a one-family dwelling used a living quarters for a group of not more than five (5) unrelated individuals.
35. "**DWELLING, MULTIPLE-FAMILY**" means a building housing two (2) or more dwelling units used as living quarters by two (2) or more families independently of each other.
36. "**DWELLING, ONE-FAMILY**" means a building housing a single dwelling unit designed to be used as living quarters by one (1) family.
37. "**DWELLING UNIT**" means one or more rooms designed to be used as separate living quarters, with cooking, sleeping and sanitary facilities for one family.
38. "**FAMILY**" means one or more individuals occupying a dwelling unit and living as a single household unit.
39. "**FISHING USE**" means the use of land or structures for the storage of commercial fishing vessels and equipment (including lobster traps), shellfish opening (including scallop shanties), and aquaculture.
40. "**FLEXIBLE MULTIPLE-FAMILY DEVELOPMENT**" means a residential project approved by the Planning Board in which apartments and/or apartments incidental to a commercial use are permitted.
41. "**FLOOD**" means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters and/or unusual accumulation of run-off of surface waters.
42. "**FLOOD HAZARD AREA**" means the land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. It includes those areas shown on the Flood Insurance Rate maps (dated January 1998) prepared by the Federal Emergency Management Agency as Zones A, AO, AH, A1-A30, A99, V and V1-V30. (5/11/98 ATM).

43. **"GARAGE"** means a structure used or intended to be used for the parking and storage of vehicles. (10/24/89 STM).
- 43a. **"GARAGE, PRIVATE RESIDENTIAL"** means a structure which is accessory to a residential building and which is used for the parking and storage of vehicles or other chattel owned by the residents thereof, and which is not a separate commercial enterprise available to the general public. (10/24/89 STM).
- 43b. **"GARAGE/PARKING LOT, COMMERCIAL"** means a structure or designated area used for the parking and storage of vehicles which is operated as a business and open to the public for a fee. (10/24/89 STM).
44. **"GASOLINE STATION"** means any area of land, including structures thereon, that is used or designated to be used for the retail sale of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities for cleaning or servicing such motor vehicles, but not including painting or body repairs.
45. **"GRADE PLANE"** means a reference plane representing the average of finished ground levels adjoining a building or structure at all exterior walls. Where the finished ground slopes away from the exterior walls, the reference plane shall be established by averaging the lowest points within the area between the building and the lot line or, where the lot line is more than 20 feet from the building at a point 20 feet from the building. (10/9/97 STM)
46. **"GREEN AREA"** means an open area of grass, trees, shrubs or other plantings.
47. **"GUEST HOUSE"** means a subordinate dwelling unit located on the same lot as a principal one-family dwelling, owned and maintained by the owner of the principal dwelling.
48. **"HEAVY EQUIPMENT"** means any vehicles, truck, tractor, loader, or lifting device with a rated carrying/lifting capacity of greater than a ton or a gross vehicle weight (GVW) of 10,000 lbs. or greater. (12/6/93 STM).
49. **"HOME OCCUPATION"** means an occupation or profession conducted in a residential zone as an accessory use in a dwelling (or accessory building) by a principal resident. The use shall be clearly secondary to the use of the land for residential purposes and not change the character of the neighborhood. Home occupations may not include the operation of a retail store, the display to the passing public of goods, or the storage of heavy equipment on the premises.
50. **"HOSPITAL"** means an institution providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury and other abnormal physical or mental conditions, and including related facilities such as laboratories, outpatient or training facilities.
51. **"HOTEL-INN"** means a building or complex of buildings providing transient lodging, food and other related services. Such buildings shall accommodate rooms for occupancy;

rooms may not provide for cooking facilities; such buildings shall provide interior common corridors and stairways which lead to common exits and entrances.

52. **"INCOME ELIGIBLE"** means that the household income of a person or family does not exceed 80% of the median income, adjusted for household size, for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD). (5/10/04 ATM)
53. **"INDEPENDENT LIVING FACILITY"** means a facility that provides residential accommodations for senior adults. These residences may include common areas, a common dining facility, and space for provision of social, psychological, and educational programs. Home health care or other community based services may be used on an individual basis. Meals, linen, and housekeeping services may be offered. There may be a maintenance staff, but there is no medical or supervisory staff. (10/9/97 STM)
54. **"JUNK YARD"** means a lot, land or structure, or part thereof, used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.
55. **"KENNEL"** means an establishment for the raising, boarding, breeding and/or training of dogs.
56. **"LIGHT INDUSTRY AND MANUFACTURING"** means any use which involves the processing, assembly, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause: Excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater.

The following uses are indicative of those which are intended to be permitted:

1. Manufacture of small machinery.
2. Fabrication of metal, paper or wood products.
3. Boat building or repair.
4. Food and associated industries such as: wholesale bakeries, bottling of food and beverages, and food processing.
5. The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of nuclear or radioactive products, toxic waste chemicals is specifically excluded from the intent of the above.
6. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabrication incidental thereto.

7. Other uses which, in the opinion of the Zoning Board of Appeals are similar in nature and scale to those permitted above.
57. **"LOADING SPACE"** means the area required for loading and unloading of a service vehicle; such space shall be not less than 12 feet in width, 35 feet in length and 14 feet in height.
58. **"LOT"** means a designated parcel, tract or area of land established by deed, by plan, subdivision, or as otherwise permitted by law.
59. **"LOT AREA"** means the total area within the property lines of a lot. When used for building purposes, lot area means the contiguous area excluding water bodies, any land below mean high water or within the layout of ways. The panhandle portion of any lot shall not be included in the lot area.
60. **"LOT CORNER"** means a lot or parcel of land abutting upon two or more streets at their intersection.
61. **"LOT COVERAGE"** means the buildable upland portion of a lot which is covered by buildings, driveways, parking areas (regardless of surface materials), pools, tennis courts, decks and any other permanent structures.
62. **"LOT FRONTAGE"** means a continuous distance measured either along the boundary line of a way or ways on which the lot abuts and to which the owner has a right of access, or along the street setback line. When lot frontage is measured at the setback line, the distance along the way shall not be less than 80% of the required frontage. Approved panhandle lots shall be deemed to have the required lot frontage.
63. **"LOT, PANHANDLE"** means a lot approved by the Planning Board under the Subdivision Control Law which has less than the required frontage on a public or private way. The access to such lot shall be not less than 20 feet in width, and there shall be no more than one panhandle lot in any one tract of land when divided, whether or not said division is a subdivision.
64. **"LOT WIDTH"** means the distance between the side lines of a lot measured at the setback line.
65. **"LUNCH ROOM"** means restaurant with a maximum seating capacity of forty (40) people and with no dancing, entertainment or sale of alcoholic beverages, except the serving of beer and wine with meals.
66. **"MARINA"** means a facility providing for storing, servicing fueling, berthing and securing of ten or more boats, and marine supplies.
67. **"MOBILE HOME"** means moveable or portable dwelling unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be used for residential purposes without a permanent foundation. A trailer or mobile home, when used for dwelling purposes and affixed to land, shall still be considered a mobile home for all purposes of this Bylaw.

68. **"MOTEL"** means a building or complex of buildings providing transient lodging accommodations with separate outside entrances for each unit. Rooms may not provide cooking facilities.
69. **"NONCONFORMING BUILDING"** means a building or structure which does not conform to the requirements for location or dimension of such building or structure in the district in which it is situated as regards minimum setbacks, maximum building height or maximum building coverage.
70. **"NONCONFORMING LOT"** means a lot of record existing on the effective date of this Bylaw or its applicable amendment, that does not meet the minimum area or dimensions required for a lot in the district in which it is located.
71. **"NONCONFORMING USE"** means a use of land or structure which does not comply with all regulations for the district(s) in which it is located.
72. **"NURSING HOME"** means an extended or intermediate care facility licensed or approved to provide convalescent or chronic care to individuals who by reason of advanced age, illness or infirmity are unable to care for themselves.
73. **"OPEN SPACE"** means a parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment. Within an Open Space Residential Development (ORSR), the term "Open Space" shall mean land which is set aside in perpetuity for common open space, recreation, or agriculture, and which is not used for parking, roadways, or leaching/sewer systems except as specified in this Bylaw. All land within the Developments with (4) or more lots, common open space shall be provided equivalent to at least 10,000 square feet per lot shall contain a minimum of fifty (50%) percent buildable upland. (5/10/04 ATM)
74. **"PIER"** means an elevated structure located within a Conservancy District, used to access fresh or salt water or traverse fresh or salt meadow, marsh, meadow bank, dune or beach and which extends beyond Mean Low Water (MLW) or beyond the Natural High Water Mark of a fresh water body. (5/12/97 ATM)
75. **"PARKING SPACE"** means the area required for parking one vehicle which is held to be a designated and improved area consisting of a compacted, stabilized surface measuring a minimum of nine (9) feet in width and eighteen (18) feet in length, not including any required maneuvering aisle or any way, but having direct access to same.
76. **"PERSONAL AND HOUSEHOLD SERVICES"** means a business or commercial activity involving primarily the application of a technical skill or trade to one's personal or household effects, and not involving primarily the sale of merchandise or stock-in-trade. Personal and household services include but are not limited to laundry and drycleaning establishments, shoe repairs, hairdressers, etc.
77. **"PROFESSIONAL OFFICE"** means the office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to doctors, dentists, attorneys, architects, engineers, land surveyors, planners, landscape architects, accountants, real estate brokers, insurance brokers, builders, psychologists and chiropractors.

78. **"PUBLIC UTILITY BUILDING OR FACILITY"** means a structure, use or land designed and maintained as a public or private utility or service facility which qualifies as a public service corporation under M.G.L. Chapter 40A, Section 3 for the provision of services like gas, electric, telephone, radio, television, water, and sewer or a municipal utility or service facility. (5/11/98 ATM)
79. **"RECREATION FACILITY, COMMERCIAL"** means a facility designed and equipped for the conduct of sports and other leisure time activities which is operated as a business and open to the public for a fee.
80. **"RESTAURANT"** means a business establishment designed for the preparation and serving of food and beverage primarily on the premises, including seating accommodation for all patrons to be served at any one time.
81. **"RESTAURANT, FAST FOOD OR TAKE-OUT"** means an establishment for the sale of on-premises, prepared food or drink packaged for take-out, whether for consumption on premises or not, unless such sales are wholly incidental to a conventional restaurant or other use defined in this Bylaw, and including all premises providing in-car service, or window service, or service at two or more take-away stations within the building.
82. **"RETAIL SALES AND SERVICE"** means an establishment engaged in selling goods or merchandise to the general public and rendering services incidental to the sale of such goods.
83. **"RETAINING WALL"** means a wall designed to resist the lateral displacement of soil or other material. Retaining walls whose exposed faces are oriented toward abutting properties (facing outward) and are greater than seven (7) feet in total height as measured from the bottom of the footing to the highest point of the wall or which have an exposed face exceeding three (3) vertical feet at any point, must meet the setback requirements of Appendix II. Walls-in-series or terraced walls whose exposed faces are oriented toward abutting properties do not qualify for the setback exemption. (5/11/98 ATM)
84. **"ROADSIDE STAND"** means a structure where fresh produce grown on the premises, such as flowers, fruits and vegetables, may be displayed and sold.
85. **"SEASONAL USE"** means the use of a lot or structure for one hundred and eighty (180) days or less per year on the average. An applicant may show use for more than 180 days per year by providing evidence such as utility bills, U.S. Post Office records, sworn affidavits from three abutting year-round residents or other evidence satisfactory to the Zoning Enforcement Officer.
86. **"SETBACK LINE"** means the required minimum distance from any property line that establishes the area within which the buildings and structures must be located on a lot.
87. **"SETBACK, STREET"** means the required distance from the street or way upon which a lot has right of access.
88. **"SETBACK, ABUTTERS"** means the required distance from any abutting property boundary.

89. **"SITE PLAN"** means a development plan for one or more lots, on which is shown the existing and proposed design and use of the property.
90. **"SPECIAL CONDITION USE"** means a use which is specifically permitted in a zoning district, provided that it meets the general and individual standards and conditions set forth for that use in Section VII of this Bylaw.
91. **"SPECIAL PERMIT USE"** means a use which is authorized by the Special Permit Granting Authority after a public hearing, provided that it meets the general and specific standards and conditions set forth in Chapter 40A of Massachusetts General Laws and Section VII of this Bylaw.
92. **"STORY"** means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Basement" means that portion of a building which has more than one-half ($\frac{1}{2}$) of its height, measured from finished floor to finished ceiling, above the grade plane of the ground adjoining the building. For purposes of Appendix II of this Bylaw, a basement is not considered to be a story except where the finished surface of the floor above the basement is:

1. More than 6 feet above the grade plane;
1. More than 6 feet above the finished ground level for more than 50 percent of the total building perimeter; or
2. More than 12 feet above the finished ground level at any point.

"Cellar" means that portion of a building, partly or entirely below grade, which has more than one-half ($\frac{1}{2}$) of its height, measured from finished floor to finished ceiling, below the grade plane of the ground adjoining the building. As cellar is not considered a story.

"Half Story" means the uppermost story with a legally occupiable floor area not exceeding one half ($\frac{1}{2}$) the area of the floor next below.

93. **"STREET"** means a public way; or a private way established by a subdivision plan approved under the provisions of the Subdivision Control Law; or a way in existence when the Subdivision Control Law became effective in the Town which is determined by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular and pedestrian traffic in relation to the proposed use of the land abutting hereto and for the installation of municipal services to serve such land and buildings erected or to be erected thereon. For the purpose of this By-Law, the terms **"STREET"**, **"ROAD"**, and **"WAY"** bear the same meaning. (5/12/97 ATM)
94. **"STREET LINE"** means the line denoting the extent of a street layout, which line separates the street layout and property fronting on such street.
95. **"SUBMERGED LANDS"** means fresh waters in ponds and salt waters within the territorial limits of the Town, and all submerged lands under ponds and between the mean highwater line and the outermost Town boundary.

96. **"STRUCTURE"** means any combination of materials assembled or maintained at a location on or in the ground or attached to something located on the ground, including but not limited to buildings, tennis courts, swimming pools, and retaining walls.
97. **"SWIMMING POOL"** means a pool designed and built for swimming purposes as an accessory use to a principal permitted use, for use primarily by the occupants or tenants of said property. The term includes any permanent under or above-ground pool and any portable pool more than two (2) feet in height or depth and fifteen (15) feet in length or diameter.
98. **"TAVERN"** (see **"BAR"**)
99. **"TEN PERCENT"** used in reference to the mandatory provision of affordable dwelling units, shall mean one tenth rounded to the nearest whole number. For example, any number below 1.5 would be rounded to 1, while any number between 1.5 and 1.9 would be rounded to 2. (5/9/05 ATM)
100. **"TOURIST HOME"** means a building housing a dwelling unit in which overnight rooming accommodations are provided or offered for transient guests for compensation. The term includes **"bed and breakfast"** and similar transient lodging establishments operated within a residence.
101. **"TOWNHOUSE DWELLING"** means a one family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more fire resistant walls.
102. **"UPLAND, BUILDABLE"** means a contiguous area of land, exclusive of any land in a Conservancy District as defined herein, and which is not less than four (4) feet above the water table. Ground water elevations shall be determined by on-site investigations conducted by a licensed engineer or land surveyor, and shall be adjusted for seasonal fluctuations using the U.S.G.S. procedure set forth in **Estimating Highest Groundwater Levels for Construction and Land Use Planning - Cape Cod, Massachusetts.**
103. **"VARIANCE"** means a grant of relief from the terms of this Bylaw which is authorized by the Board of Appeals.
104. **"WAY"** (See **"STREET"**)
105. **"WETLANDS, COASTAL AND INLAND"** means those areas that are inundated by surface or ground water with a frequency sufficient to support, and, under normal circumstances, does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas such as sloughs, potholes (kettle holes), wet meadows, river overflows, mud flats and natural ponds.

SECTION III DISTRICT REGULATIONS

A. Types of Districts

For the purpose of this Bylaw, the Town of Chatham is divided into the following basic districts:

Residential: R20, R20A, R30 (5/12/97 ATM), R40,R40A (5/16/01ATM), R60
Small Business: SB
General Business: GB1, GB2, GB3
Industrial: I
Residence-Seashore Conservancy: RC3
Municipal: M
Municipal Conservancy: M/C (11/7/95 STM)

In addition the following overlay districts are established:

Conservancy
Flood plain
Airport Hazard Area
Water Resources Protection (5/12/96 ATM)
Flexible Development

The specific locations and definitions of the overlay districts are set forth in Section IV of this Bylaw.

B. Locations of Districts

The basic zoning districts are shown, defined and bounded on the map accompanying this Bylaw entitled "**Town of Chatham - Zoning Map,**" dated August 1, 1995 and on file with the Town Clerk. Said map and all explanatory matter thereon is hereby made a part of this Bylaw.

C. District Use Regulations

No building or structure shall be erected, altered or extended and no premises shall be used for any purpose or in any manner other than as set forth in the Schedule of Use Regulations, Appendix I which is hereby made a part of this Bylaw, and in accordance with the following:

1. **R60, R40,R40A (5-16-01 ATM), R30, R20 - Residential Districts**
 - a. Standard Permitted Uses
 1. Agricultural use
 2. Fishing use
 3. One-family dwelling
 4. Public educational use
 5. Religious and municipal use

6. Roadside stand

ACCESSORY USES: Barn, boathouse, garage, swimming pool, tennis court, private residential garage, and similar accessory structures (10/24/89 STM).

b. Special Condition Uses (see Section VII)

1. Boarding or rooming house
2. Guest house
3. Home occupation
4. Tent, trailer, camping vehicle and mobile home
5. Tourist home

c. Uses requiring a Special Permit (see Sections VII and VIII)

1. Group dwelling
2. Kennel
3. Marina/boatyard
4. Private educational use
5. Private not-for-profit club
6. Public utility building and facilities
7. Affordable Apartment Incidental to a Single Family Dwelling
8. Open Space Residential Development

2. **R20A Residential (Apartment) District**

a. Standard Permitted uses

1. Agricultural use
2. Fishing use
3. One-family dwelling
4. Public educational use
5. Religious and municipal use
6. Roadside stand

ACCESSORY USES: Barn, boathouse, garage, swimming pool, tennis court, private residential garage, and similar accessory structures (10/24/89 STM).

b. Special Condition Uses (see Section VII)

1. Boarding or rooming house
2. Guest house
3. Home occupation
4. Multiple-family dwelling
5. Tent, trailer, camping vehicle and mobile home
6. Tourist home

c. Uses Requiring a Special Permit (see Sections VII and

VIII)

1. Group dwelling
2. Marina/boatyard
3. Private educational use
4. Private not-for-profit club
5. Public utility building and facilities
6. Affordable Apartment Incidental to a Single Family Dwelling
7. Open Space Residential Development

3. **SB Small Business District**

a. Standard Permitted Uses

1. Agricultural use
2. Fishing use
3. One-family dwelling
4. Public educational use
5. Religious and municipal use
6. Roadside stand

ACCESSORY USES: Barn, boathouse, garage, swimming pool, tennis court, Private residential garage and similar accessory structures (10/24/89 STM).

b. Special Condition Uses (see Section VII)

1. Antique shop
2. Art Gallery
3. Boarding or rooming house
4. Conversion of existing dwelling to multiple dwelling
5. Gift shop
6. Guest House
7. Home occupation
8. Tent, trailer, camping vehicle and mobile home
9. Tourist home

c. Uses Requiring a Special Permit (see Sections VII and VIII)

1. Dormitory
2. Flexible multiple-family development*
3. Lunch room
4. Marina/boatyard
5. Private educational use
6. Private not-for-profit club
7. Professional office
8. Public utility building and facilities
9. Group dwelling
10. Affordable Apartment incidental to a Single Family Dwelling

*In FD Overlay District only

4. **GB General Business Districts GB1, GB2, GB3**

a. Standard Permitted Uses

1. Agricultural use
2. Bank
3. Fishing use
4. Marina/boatyard
5. Outdoor vending machine: food and beverage (except in GB1)
6. Personal and household service
7. Private educational use
8. Professional Office
9. Public educational use
10. Religious and municipal use
11. Retail sales and service (including but not limited to antique or gift shop, art gallery)
12. Roadside stand

b. Special Condition Uses (see Section VII)

1. Boarding or rooming house
2. Conversion of existing dwelling to multiple dwelling
3. Lunch room
4. Restaurant
5. Tent, trailer, camping vehicle and mobile home
6. Tourist home

c. Uses Requiring a Special Permit (see Sections VII and VIII)

1. Adult Use Establishment
2. Animal Hospital
3. Apartment incidental to a commercial use
4. Arts and crafts production
5. Bar/Tavern
6. Bus terminal
7. Commercial entertainment establishment
8. Commercial recreation facility
9. Dormitory
10. Flexible multiple-family development*
10. Gasoline station
12. Guest house
13. Hospital, sanatorium, or nursing home
13. Kennel
15. Light industry and manufacturing
16. Lumber and feed establishment
17. Medical clinic
18. Motel, Hotel and Inn
19. New and used car sales

20. Private not-for-profit club
21. Public utility building and facilities
22. Radio/television broadcasting
23. Wholesale businesses or storage
24. Group dwelling
25. One-family dwelling
26. Commercial Garage/Parking Lot
27. Affordable Apartment incidental to a Single Family Dwelling

ACCESSORY USES: Barn, boathouse, garage, swimming pool, tennis court, private residential garage, and similar accessory structures (10/24/89 STM).

*In FD Overlay District only

5. **I Industrial District**

a. **Standard Permitted Uses**

1. Apartment incidental to a commercial use
2. Agricultural use
3. Arts and Craft Production
4. Auto body and repair
5. Boat building or repair
6. Boat Storage
7. Fishing use
8. Fuel establishment
9. Landscaping business
10. Lumber and feed establishment
11. Incidental car sales
12. Religious and municipal use
13. Incidental retail sales
14. Wholesale business or storage
15. Woodworking Shop

(5/10/99 ATM)

b. **Special Condition Uses**

None

c. **Uses Requiring a Special Permit (see Sections VII and VIII)**

1. Bus and trucking terminal
2. Fast food or take-out restaurant
3. Gasoline station
4. Light industry and manufacturing
5. Public utility building and facilities

6. **RC3 Residence Seashore Conservancy District**

The Seashore Conservancy District is intended to protect Strong Island and to further preserve the Cape Cod National Seashore in accordance with purposes of the Act of Congress of August 7, 1961 (75 Stat. 284,-291); to prohibit commercial and industrial uses therein; to preserve and increase the amenities of the Town; and to conserve natural conditions, wildlife and open spaces for the education, recreation and general welfare of the public.

a. Standard Permitted Uses

1. Conservation of land, water, wildlife, vegetation, and other natural features and values.
2. Facilities deemed by the Secretary of the Interior to be necessary on Federally-owned property for administration and enjoyment of the Cape Cod National Seashore, provided that, to the extent possible within the purposes of the Act of Congress of August 7, 1961, (75 Stat. 284-292), plans for such facilities are coordinated with the objectives of the Chatham Planning Board.
3. Fishing use
4. Public educational use
5. Public utility structure
6. Recreation related and uses indigenous to conservation and the natural resources of the Seashore such as hunting, fishing, swimming and boating.
7. Religious and municipal use

b. Special Condition Uses

1. Moving, alteration, enlargement, maintenance, or repairs of "existing"* one-family residential dwellings or the erection of customary structures which will be accessory to the "existing" principal residential use provided that such improvements to "existing" dwellings and the erection of accessory structures will afford not less than a 50-foot setback from all boundary lines and further do not alter the essential character of the dwelling as a residence. In appropriate cases, the Board of Appeals may approve lesser setback requirements for improvements to "existing" dwellings or for the erection of accessory structures, provided they do not alter the residential character of the premises.

* "existing" - in accordance with the requirement for construction of "improved property" contained in the Act of August 7, 1961 (75 Stat. 284-290)

2. One-family dwellings and accessory structures, provided that no lot may be used for their construction which has a frontage of less than 150 feet on a way approved in accordance with the Subdivision Control Law and the Rules and Regulations of the Chatham Planning Board, and an area of less than 3 acres of upland, and no dwelling or building may be located in such manner as to provide less than a 50 foot setback from all ways, measured at a right angle with street line and a 50 foot distance

from abutters property lines, and further, provided that no dwelling shall be erected below 20 feet above mean high water.

- c. Special Permit Uses
- 1. Affordable apartment incidental to a Single Family Dwelling
- d. Prohibited Uses

Except as provided above, there shall be in the Seashore Conservancy District:

- 1. No burning of cover unless permitted and supervised by the Fire Chief in accordance with Section 13, Chapter 48 of the General Laws.
- 2. No filling of land, dumping, nor removal of soil, loam, sand or gravel except for the maintenance and protection of existing* dwellings.
- 3. No cutting timber except: (a) by an owner for the purpose of reasonably controlling brush or trees; (b) maintenance cutting in pastures; and (c) cutting or clearance or maintenance on rights-of-way.
- 4. No building or structures.
- 5. No commercial or industrial ventures or activities or signs.
- 6. No drainage, damming, or relocation of any water course except by a publicly authorized agency for the purpose of pest control.
- 7. No continuous storage of materials or equipment.
- 8. No other uses unless specifically permitted as enumerated above.

* "existing" - in accordance with the requirement for construction of "improved property" contained in the Act of August 7, 1961 (75 Stat. 284-290).

7. **M Municipal District**

a. Standard Permitted Uses

- 1. Agriculture
- 2. Conservation of land, water, wildlife, vegetation and other natural features
- 3. Fishing use
- 4. Public education use
- 5. Government offices and facilities
- 6. Parks, beaches, and active recreation facilities, including related buildings
- 7. Public utility buildings and facilities

(11/7/95 STM)

8. **M/C Municipal Conservancy District**

a. Standard Permitted Uses

- 1. Agriculture
- 2. Conservation of land, water, wildlife, vegetation and other natural features

3. Low intensity recreational use such as walking, biking, fishing and picnicking.
4. Structures and improvements related to low intensity recreational use, conservation and agriculture.)

(11/7/95 STM)

5. Structures and improvements related to municipal water supplies.
(5/12/97 ATM)

D. **District Area Regulations**

1. **General Requirements**

Subject to the provisions of Sections V and VIII of this Bylaw, a dwelling or structure hereafter erected shall be located on a lot having not less than the minimum requirements set forth in Appendix II, Schedule of Dimensional Requirements. No lot occupied by a dwelling or structure shall be reduced, divided or changed so as to make said lot nonconforming or more nonconforming with respect to any part of the Bylaw (5/10/99 ATM) No more than one single family dwelling shall be located on a property. (5/12/97 ATM)

2. **Schedule of Dimensional Requirements**

The chart entitled "Appendix II, Schedule of Dimensional Requirements" and the notes appended thereto are hereby made part of this Bylaw. The regulations listed for each district are hereby adopted and prescribed for such districts, and unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

3. **Specific Requirements**

a. **Minimum Lot Conditions**

1. **Upland Requirements**

The minimum required area of a lot, when used for building purposes shall not include land under any water body, below mean high water or within the layout of ways. A buildable lot in any zoning district shall contain not less than 20,000 square feet of buildable upland, as defined in Section II of this Bylaw, excepting that lots created for building purposes prior to May 1, 1984 shall contain not less than 10,000 square feet of such buildable upland or the minimum lot area required in that district if less than 10,000 square feet. No lot shall be filled to conform with the minimum upland square foot requirement.

2. **Lot Shape**

All lots created for building purposes shall be shaped so that they can contain within the buildable upland area a circle of a diameter not less than the frontage requirements of the zoning district within which the lot is located. In addition, any portion of a lot which is narrower in

width than thirty feet shall not be counted towards the required lot area. (5/14/90 ATM).

3. Panhandle Lots

Panhandle lots may be approved by the Planning Board under the Subdivision Control Law provided that the following conditions are met:

- a. The lot shall be large enough to contain the minimum square foot area required, exclusive of the panhandle portion, and shall comply with the lot shape requirement of Subsection 3. a. 2. above.
- b. Suitable access by a driveway to such lot is provided within the panhandle and, in the opinion of the Board, the access is wide enough and otherwise satisfactory for a driveway. Such access shall be no less than twenty feet (20') in width.
- c. There shall be no more than one panhandle lot in any one tract of land when divided, whether or not said division is a subdivision.

b. Parks and Open Space

Any lot acquired or dedicated (or to be acquired or dedicated) in perpetuity for use as a park, open space, watershed protection or similar conservation purpose, whether by the Town or by a qualified non-profit organization, shall be exempt from the lot area, frontage and access requirements of this Bylaw but shall be provided with such access as the Planning Board deems necessary, and the Planning Board shall so designate any such lot on any plan approved under the Subdivision Control Law and the Chatham Subdivision Regulations.

c. Corner Lot Road Setbacks

A corner lot shall maintain road setback requirements for each street frontage except as provided in Appendix II, footnotes 1 and 5.

d. Corner Lot Visual Clearance

In any district no fence, wall, hedge or other structure or planting more than 2½ feet in height above the surface of the road shall be erected or maintained within the triangular area formed by the two street sidelines and a straight line connecting points on such lines twenty-five (25') from the point of intersection. This requirement shall not apply to buildings in the **GB1** and **Industrial Districts**.

e. Coverage and Required Open Space

No part of a yard or open space required for any lot shall be included as part of a yard or open space for another lot. The outdoor display of goods, except living plant material, roadside stands and new and used vehicles in approved lots, shall be within the setback requirements of the relevant zoning district. For the purpose of outdoor display of goods only, the setback requirement shall be five (5) feet in the area between the rotary and Mulford Howes Lane along Main Street. (ATM 5/16/01)

f. Projections

Steps and stoops not exceeding thirty (30) square feet in area, eaves and cornices, and fences of less than six feet (6') in height from existing grade are specifically excluded from the setback requirements of this Bylaw.

g. Accessory Buildings and Structures

All structures accessory to a residential use, including buildings over one hundred (100) square feet in area, swimming pools and tennis courts and their enclosures, shall be set back from the road and abutters as required for buildings and structures in Appendix II, Schedule of Dimensional Requirements.

There shall be impassable fencing at least four feet (4') in height, around all private, in-ground swimming pools. Buildings accessory to the operation of such swimming pools shall be secured at the discretion of the Building Inspector.

h. Lots in More than One District

Where a district boundary line divides a lot in existence at the time such line is adopted, each portion of the lot shall comply with the use and area requirements for the applicable zoning district. No area in a more restrictive district shall be counted towards the requirements for a use allowed only in the less restrictive district. However, if a person wishes to use all of a lot so divided for a use permitted only in the less restrictive district, he or she may apply to the Zoning Board of Appeals for a Special Permit to authorize such use. In granting such a Special Permit request, the Zoning Board of Appeals must find that the proposed use will not be detrimental to the established or future character of the neighborhood and the Town, and is in harmony with the purpose and intent of the Bylaw, utilizing the considerations outlined in Section VIII of this Bylaw. If approved, such use shall comply with the most stringent area requirements of the applicable zoning districts.

i. Green Space/Buffer Requirements: Business and Industrial Districts

In the Business and Industrial Districts the following percentage of each lot shall be reserved for Green Area:

GB1 - 10% SB - 50%

GB2 - 30% **I - 20%**
GB3 - 40%

Such area shall be free of permanently hardened surfaces but may be used for public utilities, sewer, water, drainage and landscaping purposes. There shall be a buffer strip of not less than twenty-five feet (25') in width maintained on any business lot where it abuts a residential zone.

Industrial - there shall be a buffer strip of planting of not less than fifty (50') feet in width and a minimum of eight feet (8') in height, abutting Route 137 (Meetinghouse Road) or any residential district. Said buffer strip shall not be used for any purpose except plantings or access roads.

j. Erosion Controls

If the Building Inspector determines that erosion controls are necessary, erosion controls adequate to prevent damage to a Conservancy District shall be required for any project, building or structure which will alter in any manner land within three hundred feet (300') of a Conservancy District. Erosion controls shall be adequate to prevent eroded material from entering, or siltation of wetlands within, a Conservancy District. Erosion control measures shall be taken prior to the commencement of work and shall remain in place until the disturbed areas have been stabilized permanently.

SECTION IV OVERLAY REGULATIONS

A. Conservancy Districts

1. Purpose

Conservancy Districts are overlay districts intended to:

- a. preserve and maintain the ground water supply on which the inhabitants depend;
- b. protect the purity of coastal and inland waters for the propagation of fish and shellfish and for recreational purposes;
- c. protect the public health and safety;
- d. protect persons and property from the hazards of flood and tidal waters which may result from unsuitable development in or near swamps, ponds, bogs and marshes, along water courses or in areas subject to flooding, extreme high tides and the rising sea level;
- e. preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public.

2. Permitted uses

Notwithstanding any other provision of this Bylaw the following uses and activities are permitted in Conservancy Districts:

- a. Fishing, cultivation and harvesting of shellfish, worms for bait, and the excavation and construction of areas for the cultivation and harvesting of shellfish and other marine foods. Salt marsh haying, dune or marsh grass planting, and the manual harvesting (without use of machinery) of marine algae, Irish moss, wild shrub fruits and seeds.
- b. Outdoor recreation activities including, hiking, boating, trapping, hunting, fishing, horseback riding, skeet and trap shooting, and shooting preserves, provided any structures related thereto do not destroy the beneficial character of the conservancy district.
- c. The installation of floats, provided they are located below mean low water, or the Natural High Water Mark on fresh water ponds, and are permitted by the Harbormaster.
- d. The enlargement to minimum legal and practical width and the maintenance of raised roadways which exist on the effective date of this Bylaw.

- e. The installation, operation and maintenance of underground and overhead utilities limited to electrical, communication, sewer, potable water and gas lines, provided the surface vegetation is restored substantially to its original condition.
- f. The use or improvement of land or water for agricultural purposes provided, however, that any subsequent non-agricultural uses of land which was altered for agricultural purposes may be regulated, restricted or prohibited in accordance with any condition stated herein.
- g. The dredging of navigational channels or mooring basins by the Town, State or Federal government.
- h. The construction and maintenance of Town Landings, public boat launching ramps, public beaches, including beach nourishment of Town owned beaches and landings, except on salt marsh and land containing shellfish as identified by the Shellfish Warden and the Division of Marine Fisheries.
- i. Mosquito control as approved and carried out by the Cape Cod Mosquito Control Project.
- j. Maintenance dredging of existing private channels and marine facilities provided that such maintenance dredging shall not increase the scope of the original dredge project licensed under MGL Ch. 91.
- k. Expansion dredging of existing private channels or marine facilities with the approval of the Shellfish Warden, Conservation Commission, Division of Marine Fisheries, the Division of Waterways, and the U. S. Army Corps of Engineers. Said expansion shall be accomplished without dredging in marsh areas or land containing shellfish as identified by the Shellfish Warden and the Division of Marine Fisheries.
- l. Beach nourishment except on salt marsh areas or productive shellfish tidal flats as identified by the Division of Marine Fisheries or the local Shellfish Department; dune nourishment; non-structural bank and dune stabilization; and coastal engineering structures which are otherwise approved under MGL c. 131 Sec. 40 and the Town of Chatham Wetlands Protection Bylaw, and not prohibited by a restriction filed in the Barnstable County Registry of Deeds pursuant to MGL c. 130 Sec. 105. (10/24/89 STM).

3. **Special Permit Uses**

Notwithstanding any other provision of this Bylaw the following uses and activities in a Conservancy District require a special permit from the Zoning Board of Appeals.

- a. The construction of catwalks, piers*, ramps, stairs, unpaved trails, boathouses, boat shelters, roadside stands, fences, wildlife management shelters, foot bridges, observation decks or shelters, tennis courts, and structures used in conjunction with a fishing use. Structures shall conform to

the street setback and abutters setback for the district in which the lot is located, and shall be constructed so as to permit the reasonably unobstructed flow of water and preserve the natural contour of the area. Structures shall not exceed twenty feet (20') in height. Provided there is no expansion, those dwellings which existed prior to January 16, 1992 and are required by the Building Inspector to be elevated in accordance with FEMA Regulations, shall not be required to conform to the twenty foot (20') height restriction. (5/11/92 ATM).

- b. Construction of a structure or building used in conjunction with a marina or boatyard. Buildings shall conform to the street setback and abutters setback for the district in which the property is located.
- c. The construction and maintenance of a driveway or roadway of minimum legal and practical width where no alternative means of access from an established way is available. Plans for such construction shall be submitted to the Planning Board and Conservation Commission prior to the Zoning Board of Appeals hearing. Such driveway or roadway shall be constructed in a manner which permits the unobstructed flow of water.
- d. The construction and maintenance of private boat launching ramps and beaches, except on marsh areas and land containing shellfish as identified by the Shellfish Warden and the Division of Marine Fisheries, providing that no natural vegetation is destroyed.
- e. The installation of submerged pipes or cables used for swimming pools or commercial fishing operations.

*See specific requirements of Section IV, A. 6. c. below.

4. **Prohibited Uses**

All activities, except those needed to accomplish the above permitted uses, shall be prohibited, including:

- a. No person shall fill, place or dump in a conservancy district any soil, loam, peat, sand, gravel, rock or other material substance, refuse, trash, rubbish, debris or dredged material.
- b. No person shall drain, excavate or dredge in a conservancy district or remove therefrom loam, peat, sand, soil or other material substance.
- c. No person shall discharge hazardous substances, effluent from a sewage treatment facility, or thermal effluent from a power plant or other industrial source.
- d. No person shall construct a residential dwelling unit, or use a houseboat or barge designed or used as a dwelling unit in the Conservancy District.

- e. No person shall construct any building in Zones V and V1-30, as defined on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Chatham, dated June 20, 1998. (5/11/98 ATM)
- f. No person shall construct any pipeline designed to carry crude oil or unprocessed natural gas in the Conservancy District.
- g. No person shall perform any act or use said conservancy district in a manner which would destroy the natural vegetation of the Conservancy District, substantially alter the existing patterns of tidal flow, or otherwise alter or permit the alteration of the natural beneficial character of the Conservancy District.
- h. No person shall remove or destroy natural growth essential to the prevention of erosion and storm damage.
- i. No person shall drain, dam or relocate any water course or other drainage works, except as incidental to aquaculture, or establish agricultural use, flood control, or mosquito control.

5. **Location**

- a. The Coastal Conservancy Districts shall consist of all the submerged lands along the coast of Town, and areas subject to flooding including:
 - 1. Areas delineated as the 100-year flood plain (Zones A, AO, AH, A1-30, A99, V and V1-30 on the Flood Insurance Rate Maps, prepared by the National Flood Insurance Program for the Town of Chatham dated June 20, 1998 or as most recently amended.)
(12/2/91 STM)
 - 2. When a coastal bank exceeds the elevation of the relevant 100-year flood plain, the Coastal Conservancy District boundary shall be the top of the bank.
- b. The Inland Conservancy District shall consist of submerged lands in and under all ponds, wetlands as defined in Section II of this Bylaw, and those areas lying below two feet (2') above the Natural High Water Mark of any fresh water pond, lake or water course, including:
 - 1. Those areas identified by number with corresponding elevations for the water levels of the Inland Conservancy Districts as shown on maps filed in the Town Clerk's office, entitled "Conservancy Districts, Chatham, Massachusetts", as most recently amended.

2. Any area not identified by number shall be established by topographic data, to be provided by the applicant, at the request of the Zoning Agent.
3. When an inland bank of a pond, lake, or water course exceeds two feet (2') in height, the Inland Conservancy District boundary shall be the top of the bank.

6. Procedures

a. General Provisions

All uses and activities located within Conservancy Districts shall comply with the general administrative procedures set forth in Section VIII of this Bylaw. The Conservation Commission may also have jurisdiction over activities in Conservancy Districts.

b. Special Permit Uses

The Zoning Board of Appeals shall act as the Special Permit Granting Authority, utilizing the procedures set forth in Chapter 40 A section 9 of M.G.L. and Section VIII of this Bylaw. However, any special permit use in a Conservancy District shall be referred to the Conservation Commission for review and recommendation prior to the Board of Appeals hearing. In evaluating a Special Permit request, the Board of Appeals shall consider both the general purpose and intent of the Bylaw and the stated purposes of the Conservancy Districts.

c. Private Piers (Commercial and Residential)

The Zoning Board of Appeals may authorize a Special Permit for the construction of a private pier if it is found that the proposed structure will not be detrimental to safety on waterways, preservation of water quality, ease of access to and on waterways, equity of interest in utilizing waterways, the protection of the natural environment, and the protection of the aesthetic values of the Town. The Zoning Board of Appeals shall consider, in assessing the potential impact of a proposed pier or pier extension, the distance of the pier and its approach area from designated or customary navigation channels, from designated or customary mooring areas, from areas traditionally used for sailing, and from public swimming areas. The Zoning Board shall also consider whether the proposed pier or pier extension is consistent with locally adopted plans, including the comprehensive plan, any applicable harbor plan, and any applicable resource management plan. The construction of private piers or the extension of existing piers shall be specifically prohibited in the following locations:

- . In Pleasant Bay from the Town Line at Jackknife Harbor to the southerly property line of 4 Minister's Lane, including Crows Pond, Ryders Cove, Frost Fish Creek, and Bassing Harbor; and

In Chatham Harbor from the southerly property line of 4 Minister's Lane to Cow Yard Landing.

Maintenance of existing piers in the above locations is permitted provided no work is done beyond the existing, licensed footprint.

All new pier requests shall be referred to the Town Harbor master for written comment on the potential impact of the proposed pier or pier extension on existing, customary or planned boating channels or mooring areas, to the Shellfish Warden for written comment on the potential impact of the proposed pier or pier extension on shellfish beds or shellfish habitat, and to the Conservation Commission for written comment on, at a minimum, the potential impact of a pier or pier extension on fish runs, marine and shoreline ecology, marsh, and eel grass beds.

In addition, all new residential piers shall comply with the following requirements:

1. Location

- a. No new pier or float system shall be located closer at any point than 25 feet to a property line, except, for a pier jointly owned and used by two or more contiguous shorefront properties, the 25-foot setback shall be measured from the outermost property lines of the applicable properties.
- b. No new pier or float system shall be located closer at any point than 250 feet to another pier.
- c. No new pier shall be located closer at any point than 100 feet to a boat ramp.
- d. No new pier or float system shall be located closer at any point than 100 feet to a public swimming area.

2. Construction - All private residential piers shall be seasonal. Permanent piers shall not be permitted.

2. Size

- a. No pier shall exceed eighty feet (80') in overall length (including stairs, ramps and floats) measured from the Mean High Water (MHW) line.
- b. No stairs, pier or ramp shall exceed four feet (4') in width, measured outside the support structure (pilings, posts, railings).
- c. The total area of any and all floats associated with a pier shall not exceed three hundred (300) square feet, except a greater total area may be allowed for a pier jointly owned and used by two or more contiguous shorefront properties, and there shall be no floats above the Mean Low Water (MLW).

d. The height of the deck (walkway) shall not exceed four feet (4') above Mean High Water (MHW) unless in the interest of preserving marsh growth, a greater height is required; in which case the height above the marsh shall not exceed 1.5 times the width of the dock.

3. Depth of Water - At Mean Low Water (MLW) there shall be , without benefit of dredging, at least two and a half feet (2 ½ feet) of water at the end of the pier and/or float system. (5/9/89 ATM).

4. Access - At all normal levels of the tide, alongshore pedestrian passage shall be provided. A flight of stairs on each side of the pier may be provided for this purpose.

(5/8/00 ATM)

d. Pre-existing Structures and Uses

1. Pre-existing nonconforming structures and uses in a Conservancy District shall be subject to the nonconforming use provisions of Section V of this Bylaw. Any alterations or expansions of pre-existing conforming structures and uses shall comply with the Conservancy District regulations set forth herein, including the specific locations where extensions of existing piers are prohibited. This prohibition shall not apply to commercial boating facilities with Chapter 91 licenses in existence as of November 21, 1998. (5/8/00 ATM)

2. Any expansion or enlargement of a pre-existing nonconforming pier shall satisfy the criteria set forth in the first paragraph of Section IV. A. 6. c. above and the Zoning Board of Appeals shall, in the granting or denial of any Special Permit to extend or enlarge such a pier, make findings of fact on each criteria in assessing the impact on the neighborhood.

3. Notwithstanding the above, nonconforming private piers may be extended seaward with a Special Permit to minimum length required to gain the required depth of water described in subsection (c)(3) above, provided said length does not exceed 80 feet measured from the Mean High Water (MHW) line. (5/10/99 ATM).

e. Catwalks

The Zoning Board of Appeals may authorize a Special Permit for the construction of a catwalk if it is found that the proposed structure will not be detrimental to safety on waterways, preservation of water quality, ease of access to waterways, equity of interest in utilizing waterways, and the protection of the aesthetic values of the Town. In addition, all new catwalks shall comply with the requirements listed below.

1. Construction - Catwalks shall have no more than one (1) handrail.

2. Size

- a. The height shall not exceed the lowest elevation allowed by current Wetland Regulations (State and Town). The Conservation Commission shall state this maximum allowable height in their recommendation to the Zoning Board of Appeals.
 - b. No catwalk shall exceed three (3) feet in width.
3. Length - Catwalks shall not extend beyond the most seaward point of the salt or fresh meadow, marsh, etc.; beyond Mean High Water (MHW); or beyond the point where a horizontal plane two (2) foot above the Natural High Water Mark of a fresh water body intersects the landform.

(5/12/97 ATM)

B. **Flood Plain District**

1. **Purpose**

The purposes of the Flood Plain District are 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 flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

2. **Definitions**

In the Flood Plain Overlay District the following definitions shall apply:

- a. **"Base Flood"** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- b. **"Development"** means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- c. **"Functionally dependent use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- d. **"Lowest floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of State and local regulations.
- e. **"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the

required utilities. For flood plain management purposes the term "**manufactured home**" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "**manufactured home**" does not include park trailers, travel trailers, and other similar vehicles.

- f. "**New construction**" means, for the purpose of determining insurance rates, structures for which the "**start of construction**" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. For flood plain management purposes, "**new construction**" means structures for which the "**start of construction**" commenced on or after May 12, 1980.
- g. "**Structure**" means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. "**Structure**" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on a foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.
- h. "**Substantial improvement**" means repair, construction or alterations costing fifty percent (50%) or more of the market value of the structure before improvement, or, if damaged, before damage occurred. (5/11/93 ATM).

3. District Location

The Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Flood Insurance Rate Maps (FIRM) for the Town of Chatham dated June 20, 1998 (or as most recently emended) (5/11/98 ATM) as Zones A, AE, AH, AO, A1-30, A99, V and V1-30. These maps, as well as the accompanying Town of Chatham Flood Insurance Study are incorporated herein by reference and are on file with the Planning Board, Town Clerk and the Building Inspector.

4. Development Regulations

- a. All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:
 - 1. Chapter 131, Section 40 of the Massachusetts General Laws. (See Wetlands Protection, 310 CMR 10.00, Department of Environmental Quality Engineering)

2. The State Environmental Code - Title V, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, Department of Environmental Quality Engineering
 3. The Flood-Resistant Construction requirements of the Massachusetts State Building Code. (5/11/98 ATM)
- b. New construction or substantial improvement of residential structures shall have the lowest floor (including basement) elevated to not less than one (1) foot above the base flood elevation. New construction or substantial improvement of non-residential structures shall either be similarly elevated or together with attendant utility and sanitary facilities be flood proofed to not less than base flood elevations. Incremental improvements shall be considered substantial improvements (see definitions) if within a five-year period, they cumulatively meet the definition of "substantial improvement." (ATM 5/11/93)
 - c. Where flood proofing is utilized a registered engineer or architect shall certify that the flood proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.
 - d. In unnumbered A zones, in the absence of Federal Insurance Administration data, the base flood elevations shall be determined by obtaining, reviewing and reasonably utilizing any existing base flood elevation data from federal, state or other sources.
 - e. Electrical heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - f. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
 - g. In all new construction and substantial improvements within Zones V1-30, VE and V, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a

registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 2. the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values to be used in this determination shall each have a one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval). Such enclosed space shall be usable solely for parking of vehicles, building access or storage.
- h. No land within areas designated as V (Velocity) zones of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. Incremental improvements shall be considered substantial improvements (see definitions) if within a five-year period, they cumulatively meet the definition of "substantial improvement." (ATM 5/11/93)
- i. New or replacement water and/or sewer systems shall be designed to avoid impairment to them or contamination from them during flooding.
- j. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to assure that:
1. the proposal is designed consistent with the need to minimize flood damage, and
 2. all public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage, and
 3. adequate drainage systems shall be provided to reduce exposure to flood hazards, and
 4. base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, for that portion within the Flood Plain District.

5. **Administration**

- a. The Building Inspector shall review all proposed development within the flood district to assure that all necessary permits have been received from those government agencies from which approval is required by Federal or State law.

- b. The Building Inspector shall obtain and maintain records of elevation and flood-proofing levels for new construction or substantial improvement within the flood district.
- c. Zoning Board of Appeals
 - 1. The Board of Appeals may grant a variance from these requirements only upon:
 - a. a showing of good and sufficient cause, and
 - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, and
 - d. a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 2. A variance shall not be issued within any designated regulatory flood way if any increase in flood levels during the base flood discharge would result.
 - 3. If a variance is granted, the Board of Appeals shall notify the applicant in writing over their signature that:
 - a. the issuance of such variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and
 - b. such construction below the base flood level increases risks to life and property.
 - 4. The Board of Appeals will maintain a record of all variance actions, including justification for their issuance and report such variances issued in the Annual Report submitted to the Federal Insurance Administration.
 - 5. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or on State Inventory of Historic Places, without regard to the procedures set forth above.
 - 6. Variances for functionally dependent uses will be considered for those docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building repair facilities, but does not include long-term storage or related manufacturing facilities.

C. **Water Resource Protection District**

1. **Purpose**

The purpose of the Water Resources Protection District (WRPD) is:

- a. to promote the health, safety, and general welfare of the community by ensuring an adequate and quantity of drinking water for the residents, institutions, and businesses of the Town of Chatham.
- b. to preserve and protect existing and potential sources of drinking water supplies:
- c. to conserve the natural resources of the Town; and
- d. to prevent temporary and permanent contamination of the environment.

2. **Definitions**

- a. Impervious: Any material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.
- b. ZONE I: The protective radius around a public water supply well or well field that must be owned by the water supplier, or controlled through recorded conservation restriction. In most cases, it is a 400 foot radius around the well (less for wells pumping less than 100,000 gallons per day (gpd).
- a. Zone II: The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined by 310 CMR 22.00 and as approved by the Massachusetts Department of Environmental Protection (DEP).

3. **Location**

The Water Resource Protection District (WRPD) shall encompass specifically designated Zone I and Zone II recharge areas (as defined above) for the municipal wells of the Town of Chatham and Harwich and professionally estimated Zone I and Zone II recharge areas to potential future municipal wells of the Towns of Chatham and Harwich. The WRPD shall also include the entire area of any lots intersected by the Zone II boundaries; except in the industrial zoning districts, the WRPD shall include lots located in the two hundred (200) foot Zone II buffer for existing wells. The WRPD is shown on the "Water Resource Protection Overlay District Map," dated October 2004 (5/9/2005 ATM). The regulations for this overlay district shall apply to all new construction, reconstruction or expansion of existing buildings and new or

expanded uses. Activities or uses which are permitted in the underlying zoning districts which fall within the WRPD must additionally comply with the requirements of the WPRD. Uses that are prohibited in the underlying zoning districts shall not be permitted in the overlaying portions of the WPRD. This bylaw revision is adopted under the State's enabling statute for the zoning, M.G.L., chapter 40A.

4. **Permitted Uses**

Any use permitted in the underlying zoning district shall be permitted, except for those uses specifically prohibited in section C.5 below.

5. **Prohibited Uses**

The following uses are prohibited within the WRPD: state and federal statutes cited are those that were in effect at the time this amendment was adopted and any revisions made thereto subsequent to adoption:

- a. landfills and open dumps as defined in applicable state regulations, except for areas approved for the disposal of brush and stumps;
- b. gasoline stations, fuel companies, and any other establishments that store liquid petroleum products, except the following:
 - i. normal household use including heating;
 - ii. waste oil retention facilities required by statute, rule, or regulation;
 - iii. storage of small quantities of liquid petroleum products incidental to commercial, industrial, and municipal uses, including the heating of structures;
 - iv. emergency generators required by statute, rule, or regulation;

Provided that such storage, listed in items (i) through (v) above, is in compliance with 527 CMR 4.00 and 9.00 as applicable; however, replacement of existing tanks or systems for keeping, dispensing, or storing gasoline is allowed if consistent with State and Town regulations;

- c. landfills for sludge and septage;
- d. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 32.31;
- e. wastewater treatment systems that do not comply with Board of Health requirements for WRPD;
- f. storage of deicing chemicals unless such storage, including loading areas, is within a covered structure designed to prevent the generation and escape of contaminated runoff or leachate;

- g. storage of animal manure unless covered or contained in accordance with the Best Management Practices (BMPs) of the United States Natural Resource Conservation Service;
- h. earth removal, consisting of removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 6 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except as approved as part of a Corrective Action in a DEP approved Waste Site Clean-up or for approved agricultural operations;
- i. facilities that generate, treat, store, or dispose of toxic or hazardous materials or waste, except those in compliance with Board of Health regulations or, after review, the Board of Health determines that the facility is one of the following:
 - i. very small quantity generators (VSQGs) as defined under 310 CMR 30.000;
 - ii. household hazardous waste centers and events under 310 CMR 30.390;
 - iii. waste water retention facilities required by M.G.L. , Chapter 21, s. 52A;
 - iv. water remediation treatment works approved by the DEP for the treatment of contaminated ground or surface waters;
- j. automobile graveyards and junkyards, as defined in M.G.L., Chapter 140B, s.1;
- k. stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the WRPD;
- l. the use of chloride (NaCl) for ice and snow control on public and/or private road surfaces and parking areas in any salt to sand ratio greater than the minimum required for public safety;
- m. enlargement or expansion of existing uses which do not confirm the WRPD regulations; of any accessory use which does not conform to the WPRD regulations; or a change of use to another use which does not conform to these regulations. Other provisions of this bylaw notwithstanding, a change of use to any of the prohibited uses listed in the WRPD regulations is specifically prohibited;
- n. any construction on or alteration to a commercial or industrial site , including paving, which will result in an increase of impervious surface, unless approved by the Planning Board through the site Plan Review process. The Planning Board shall require runoff from impervious roof surfaces be infiltrated on site. Runoff from impervious roof surface be infiltrated on-site. Runoff from traveled ways and parking areas shall be collected and petroleum products removed using Best Management Practices (BMPs) prior to infiltration on-site. On sites where the proposed improvements exceed fifty percent. (50%) of the assessed value of the property as determined by the Zoning Officer, or where repaving is proposed, the Planning Board may also require treatment for storm water from existing impervious areas. All

treatment facilities shall be permanently maintained in full in full working order by the owners(s);

- o. on site disposal of process wastewater as defined in 310 CMR 15.004 except in agricultural operations;
- p. The dumping or disposal on the ground, in water bodies, or in septic systems of any toxic or hazardous chemical, including but not limited to septic system cleaners.
- q. any increase in impervious surface on a residential lot which will result in impervious surfaces covering more than fifteen percent (15%) or twenty-five hundred (2500) square feet on any lot, which is greater, unless artificial drainage, such as leaching drywells, are provided.

(5/12/96 ATM)

D. Flexible Development District

1. Purpose

The Flexible Development Overlay District is designed to provide the Town with a Special Permit/Site Plan Approval mechanism to better control and provide a mix of commercial and multi-family, senior or congregate residential development in selected zones.

2. Procedure

- a. The Planning Board shall be the Special Permit Granting Authority/Site Plan Approval Agency for Flexible Developments.
- b. The plans for a Flexible Development shall comply with the specific requirements for multi-family dwellings, independent living facilities or congregate living facilities, whichever applicable, set forth in Section VII of this Bylaw. The Board may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this Bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.
- c. To promote better communication and to avoid misunderstandings, applicants shall submit a preliminary plan for informal review before any formal application. The Planning Board shall arrange a meeting for such review, inviting comment from the Board of Health, Conservation Commission, and any other interested officials or agencies.
- d. Applicants for a Special Permit/Site Plan Approval shall file with the Planning Board seven (7) copies of the formal application and set of plans prepared by a registered Landscape Architect or Professional Engineer. These plans shall include at a minimum a site plan, landscape plan, grading and drainage plan, and septic plan, as well as building elevations and floor plans. Copies of these materials shall be transmitted to the Board of Health, Conservation Commission, and any other agency or official whose review is sought. Those agencies and officials shall submit a written report on the plans within thirty (30) days of the referral. The Planning Board shall make no decision upon the application until receipt of all such reports or until the thirty (30) days has elapsed.

- e. The Planning Board shall review the plans for zoning compliance and shall evaluate the application pursuant to Sections VI and VIII of this Bylaw. The Notice of Decision shall make written findings on each of the criteria for the granting of a Special Permit/Site Plan Approval. The Notice shall also include any specific conditions imposed by the Board as part of their decision.

3. Location

The Flexible Development Overlay District is located in the following zones:

- a. The **GB3 (FD) District** bounded northerly by an irregular line 300 feet from, and parallel to, Route 28 and by Conservancy District C28; easterly by land of Emily P. Sylvan and Uncle Albert's Drive; southerly by an irregular line three hundred (300) feet from, and parallel to Route 28; westerly by Kelley Lane; southerly by Route 28; and westerly by the easterly bound of land of Pilgrim Village of Chatham, Inc.
- b. The **SB (FD) District** bounded westerly by the westerly property line of Sumner G. N. Harding and Jean C. Harding; northerly by land of the Town of Chatham, by Bearse's Pond, and by a line five hundred (500) feet from, and parallel to Route 28; easterly by Whelden Way; and southerly by Route 28, excluding therefrom any land lying within the bounds of the adjoining Conservancy District.
- c. The **GB (FD) District** bounded easterly by George Ryder Road; southerly by the land of the Town of Chatham; westerly by a line three hundred (300) feet from, and parallel to, George Ryder Road; northerly by land formerly of Thomas O. Raymond.
- d. The **SB (FD) District** bounded easterly by Old Mail Road and by Misty Meadow Lane; southerly by a line three hundred (300) feet from, and parallel to, Route 28, westerly by Leo Vernon Road; southerly by Route 28; westerly by land of the Town of Chatham; northerly by a line one hundred fifty (150) feet from, and parallel to, Route 28.
- e. The **SB (FD) District** in South Chatham bounded westerly by Route 137; northerly by land of the Town of Chatham from Route 137 to Cackle Cove Creek; easterly by Cackle Cove Creek to Route 28 and southerly by Route 28.
- f. The **GB3 and R20 District** bounded westerly by land of Grunewald, O'Neil, and Durfor; northerly by land of Murphy and Kendrick; easterly by land of Litchfield, Moore, Hunt, and Munson Meeting; and southerly by Route 28.
(12/9/96 STM)

(10/9/97 STM)

SECTION V

NONCONFORMING LOTS, BUILDINGS AND USES

The provisions of this Section are intended to achieve the following objectives in conjunction with proposed changes in nonconforming lots, building and uses:

- To promote or maintain compatibility with neighboring properties and natural resources.
- To avoid the creation of adverse impacts on neighboring properties or on natural resources.
- To reduce or minimize existing adverse impacts on neighboring properties or on natural resources.

(ATM

5/16/01)

The lawful use or location of any building, structure or land existing at the time of enactment or subsequent amendment of this Bylaw may be continued, although such building, structure or use does not conform with the provisions of this Bylaw, subject to the following conditions and exceptions:

A. **Abandonment**

A nonconforming use which has been abandoned or discontinued for a period of two (2) years or more shall not be reestablished and any future use shall conform with the Bylaw.

B. **Enlargement, Extension or Change**

As provided in Chapter 40A Section 6 MGL, a nonconforming single or two family dwelling may be altered or extended provided that the Zoning Enforcement Officer determines that doing so does not increase the nonconforming nature of such dwelling. For dwellings with setback nonconformities, any addition within the required setback area (including an increase in building height) shall be deemed to increase the nonconforming nature of the dwelling. Such alterations, extensions or changes shall require a Special Permit from the Zoning Board of Appeals.

Other pre-existing nonconforming structures or uses may be extended, altered, or changed in use by Special Permit, provided that the Zoning Board of Appeals finds that such extension, alteration, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use. In making its decision, the Zoning Board of Appeals shall make written findings addressing, at a minimum, each of the following considerations, if applicable:

1. Adequacy of the size of the site including, but not limited to, maximum lot or building coverage and setbacks.

2. Compatibility of the size of the proposed structure with neighboring properties;
3. Extent of proposed increase in nonconforming nature of the structure or use;
4. Suitability of the site, including but not limited to, impact on neighboring properties or on the natural environment, including slopes, vegetation, wetlands, groundwater, water bodies and storm water runoff;
5. Impact of scale, siting and mass on neighborhood visual character, including views, vistas and streetscapes;
6. Compatibility of the proposed use with neighboring uses;
7. Adequacy of method of sewage disposal, source of water and drainage;
8. Impact on traffic flow and safety;
9. Noise and litter; and
10. Adequacy of utilities and other public services.

(ATM 5/16/01)

C. Restoration and Repair

Necessary repairs and rebuilding after deterioration or damage by fire, storm or similar disaster are hereby permitted provided that they are accomplished without undue delay and do not substantially change the character or size of the buildings, nor the use to which they were put prior to such damage. Prior to and/or during restoration or reconstruction of any nonconforming building, the Building Inspector shall inspect such premises to determine the extent of necessary repairs. If the Building Inspector's assessment differs from that of the property owner, a mutually agreed upon third party inspector shall be engaged to determine the allowable repairs.

D. Nonconforming Lots

Except as provided below, lots which do not conform to the dimensional or area requirements of this Bylaw, as amended, and which are held in common ownership with contiguous lots, shall not be individually built upon unless combined and/or re-subdivided so as to meet the revised dimensional and area requirements.

1. **Single lots.** Any increase in area, frontage, width, yard or depth requirements of this Zoning Bylaw shall not apply to a lot for single family residential use which at the time of recording or endorsement whichever occurs sooner, conformed to then existing requirements, had less than the new requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage and was not held in common ownership with any other contiguous lot at the time of, or since, the effective date of the increased requirements.

(ATM 5/16/01)

2. **Two (2) or three (3) adjoining lots.** Any increase in area, frontage, width, yard or depth requirements of this Zoning Bylaw shall not apply for a period of five (5) years from its effective date to a lot for single family residential use, provided the plan for such lot was duly recorded or endorsed and such lot was held in common ownership with any adjoining land

and had less than the dimensional and density requirements of the newly effective zoning but contained at least seven thousand five hundred (7,500) square feet and seventy-five (75) feet of frontage. This exemption shall not apply to more than three (3) such adjoining lots held in common ownership.

(ATM 5/16/01)

3. **Subdivision and Approval Not Required Plans.** Subdivision and Approval Not Required plans which meet the requirement set forth in MGL 40 A, Sec. 6 are protected from certain zoning changes for a period of eight (8) years in the case of subdivisions and three (3) years in the case of Approval Not Required plans.

4. **One single family dwelling may be erected on any lot which, as of January 1, 1987:**

- a. if provided with either public water or sewer, had a minimum frontage of one hundred (100) feet or the approved equivalent and contained at least ten thousand (10,000) square feet of buildable upland, or if not provided with either public water or sewer, had at least one hundred (100) feet of frontage or the approved equivalent and contained at least fifteen thousand (15,000) square feet of buildable upland;
- b. complied with the Rules and Regulations of the Planning Board, if any, in effect at the time of endorsement. The proposed structure shall be located on such lot so as to conform with the following minimum setback requirements:

Road: 25 feet
Abutters: 15 feet
Inland and Coastal Conservancy Districts: 25 feet

Lots of fifteen thousand (15,000) square feet or more shall comply with the fifty (50) foot setback requirement of the Coastal Conservancy District.

This provision shall not apply to more than three (3) adjoining lots held in common ownership.

5. **Lots created after January 1, 1987 and prior to January 1, 1994.** Any increase in area, frontage or other area requirements of this zoning bylaw shall not apply to a residential lot shown on a subdivision plan which complied with the requirements in effect for the zoning district at the time of the plan's submission to the Planning Board for approval under the Subdivision Control Law, provided:

1. The lot contains a minimum of 20,000 square feet; and
2. The lot contains a minimum of 10,000 square feet of buildable upland; and
3. The construction of all required roads, drainage, and utilities, if any, was completed and approved by the Planning Board within eight (8) years of the date of the Planning Board's endorsement of approval of the plan.

(12/9/96 STM)

E. Any nonconformity relative to setback or lot area created by the laying out and acceptances of a road or roads in the Town of Chatham as a public way or ways shall render any

structure, use or lot as pre-existing nonconforming. Any structure or use that becomes nonconforming as a result of said taking may be extended provided that doing so does not increase the nonconforming nature of such structure or use. Any lot that is reduced in area such as to render it unbuildable because it no longer meets the minimum lot area for the zoning district in which it is located or because it no longer meets the minimum lot area for the exemptions in Section V. D. 1., V. D. 2., V. D. 3. or V. D. 4., may be built upon provided said lot was buildable prior to said road taking. (5/11/92 ATM)

SECTION VI SUPPLEMENTARY REGULATIONS

A. Site Plan Review

1. Applicability

Except as otherwise provided herein no use shall be established, erected, enlarged or changed except in conformity with a Site Plan approved and endorsed by the Planning Board. Site plan approval shall be required for all uses except single-family dwellings and their accessory structures, approved home occupations, agricultural and fishing uses, roadside stands, and those uses permitted in Conservancy Districts as set forth in Section IV A of this Bylaw.

2. Application Procedure and Site Plan Content

a. Pre-application Conference

1. Sketch Plan Required Before submitting a formal application for approval, the applicant or his agent shall appear before the Planning Board to discuss the proposed development. A sketch plan should be presented for informal review, and arrangements made for an inspection of the site by the Planning Board.
2. Contents The sketch plan should include a rough outline of the proposed development showing the proposed layout of streets, buildings, and other features which may be of assistance to the Board in understanding the proposal.
3. Non-Binding No binding commitments shall be made between the applicant and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible and what is acceptable.
4. Prerequisite to Formal Application A formal application will not be accepted unless a pre-application conference has been held within the previous four (4) months.

b. Application

1. Submission and Referrals

- a. The original and seven (7) copies of the formal application shall be filed with the Department of Planning and Development not less than four (4) weeks prior to a scheduled meeting of the Planning Board.
- b. The Planning Department shall forward copies of the application to the Building Inspector, Town Engineer, Board of Health, Board of Water and Sewer Commissioners, Fire Department and Traffic Study

Committee for review and report prior to the scheduled meeting date. In addition, any project located within one hundred feet (100') of a Conservancy District shall be referred to the Conservation Commission for review and recommendation.

2. Contents

To be considered complete a formal Site Plan application shall include the information listed below. The Planning Board may require additional information, if necessary to complete its review.

- a. A description of the proposed use or uses of the property.
- b. Evidence by the applicant of his title or interest in the property. Such evidence shall consist of a deed, purchase and sales agreement, lease or similar instrument.
- c. Names and addresses of abutting property owners within three hundred (300) feet.
- d. An estimate of the cost of site improvements, including but not limited to the following: (5/11/92 ATM)
 - Paving
 - Drainage
 - Retaining walls
 - Landscaping
 - Refuse storage and disposal facilities
 - Sidewalks
 - Handicap access
 - Outdoor lighting facilities
- e. A map showing the following information:
 1. Title of drawing including name and address of applicant and person responsible for preparation of such drawing
 2. North arrow, date and scale - minimum scale **1" = 40'**
 3. Lot size and zoning classification
 4. Boundaries of property plotted to scale
 5. Proposed use(s) of the property
 6. Location and dimensions of all existing and proposed buildings including setback distances and square footage calculations for each use
 7. Location and design of parking and loading areas including:
 - a. Calculations of required number of spaces (See Section VI.B.6 of the Zoning Bylaw for specific requirements. NOTE: parking calculations

for retail and office uses shall be based on gross floor area unless detailed building plans are submitted which delineate storage areas not for customer use)

- b. Delineation of both regular and handicapped spaces
 - c. Proposed surface materials
 - d. Reserve parking area (NOTE: The Planning Board may require that more than the minimum number of parking spaces be provided if the nature of the proposed use warrants such provision).
8. Proposed ingress and egress routes including location of road cuts
 9. Grading and drainage plan showing existing and proposed contours. Drainage structures shall be sized using a 25 year design storm. In addition, a soil test hole shall be done in the location of each proposed structure to a minimum depth equal to the proposed elevation of the bottom of the structure. (5/11/98 ATM)
 10. Location and design of all existing or proposed site improvements including:
 - a. Walkways and sidewalks
 - b. Refuse storage and disposal
 - c. Drains and culverts
 - d. Retaining walls and fences
 - e. Outdoor storage areas, if any
 - f. Outdoor lighting facilities
 - g. Existing trees of more than four inches (4") in diameter, including those located in road rights-of-way
 11. Landscaping plan including:
 - a. Calculations of proposed green space (See Section III. D. 3. I of the Bylaw)
 - b. Location, size and type of shade trees (one per ten parking spaces - contact Town Tree Warden)
 - c. Delineation of buffer zones where abutting a residential district

12. Existing water courses, wetlands, Conservancy District boundaries, or other natural features of the site
13. Location and design of wells and/or septic systems (NOTE: Complete septic system plans shall be submitted with the Site Plan for Board of Health approval)
14. Ruled box for date and Board signatures

3. Applicant Representative

The applicant may be represented before the Planning Board by an architect, engineer, attorney, or other designated individual. The representative must present a letter signed by the applicant stating the name and address of the representative and his/her capacity with regards to the proposed development. The representative must be fully empowered to speak on behalf of the applicant, and the applicant is bound to abide by all the terms and conditions agreed to by his representative.

c. Determination of Completeness

Within thirty (30) days of the filing of a formal application the Planning Board shall notify the applicant either that the application is complete or, if the application is not complete, the specific additional material needed to make a complete application.

d. Public Hearing

The Planning Board may conduct a public hearing on a proposed Site Plan if such a hearing is considered desirable by a majority of the members of the Board. A public hearing shall be held within thirty (30) days of determining that the application is complete. Procedures for such hearings shall conform to the requirements of Section 11 of Chapter 40A, MGL including notices sent to parties in interest and publication of the time, date and place of the hearing in a newspaper of general circulation at least two weeks prior to the hearing.

e. Review Criteria

The Planning Board's evaluation of the proposed Site Plan shall include, as appropriate, the following:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

5. Adequacy of storm water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
10. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

3. **Planning Board Action**

Within thirty (30) days of the public hearing or sixty (60) days after the Planning Board has determined that the application is complete, the Planning Board shall render a decision to approve, approve with conditions, or deny the proposed Site Plan. The Planning Board may require as a condition of approval, a bond to guarantee site improvements as per Section VI A. 5. The Planning Board shall forward its decision in writing to the Building Inspector together with a copy of the Site Plan endorsed by the Planning Board. An extension of this thirty (30) or sixty (60) day period may be granted upon consent of both the applicant and the Planning Board. An approved Site Plan shall be carried into effect and completed by the applicant or his assigns within two years of the date of approval. The Planning Board may grant such extension of time as it deems necessary to carry any Site Plan into effect; the Board shall notify the Building Inspector of any such extension of time and the date on which it shall expire (5/11/92 ATM).

4. **Application Fee**

Every application for Site Plan approval shall be accompanied by an application fee as stipulated by the Planning Board.

5. **Bonding and Inspection**

a. The Planning Board shall review the estimate submitted by the applicant and set the amount for a performance bond not to exceed the full cost of the required site improvements, exclusive of building construction costs, as shown on the approved site development plan. Such bond shall ensure to the Town of Chatham that the applicant will complete site improvements in compliance with the approved plan.

b. The Planning Board or its authorized representative, shall inspect the required improvements during construction to assure their satisfactory completion.

c. The bond shall be released or reduced by the Planning Board only after certification by the Planning Board that all of the required bonded improvements or those improvements requested for release have been completed in conformance with the approved plan and all applicable conditions and regulations. (5/11/92 ATM)

B. Parking Requirements

1. Objectives

It is the intent of this section that adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures, additions to existing ones, or through change of use creating higher parking demands.

2. Applicability

Existing buildings, structures and land uses are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged, altered or changed in use so as to increase demand, without providing the required off-street parking for the enlarged portion of the building or use. No existing off-street parking may be counted towards the provision of the required parking for the enlarged building or use.

3. Design Criteria

a. Surface

All parking areas, passageways and driveways (except those serving single family residences) shall be surfaced with a dustless, durable, all weather pavement or gravel, clearly marked for car spaces and adequately drained.

b. Dimensions

Each parking space shall consist of a stabilized surface measuring a minimum of nine (9) feet in width and eighteen (18) feet in length, plus adequate maneuvering area and aisles. Driveways for non-residential parking areas shall be at least twenty (20) feet, but not more than thirty (30) feet in width. There shall be not more than two (2) driveway openings onto any street from any single premises unless each opening centerline is separated from the centerline of all other driveways serving twenty (20) or more parking spaces, whether on or off the premises, by two hundred (200) feet (measured at the street line).

c. Landscaping

Landscaping consisting of attractive trees, shrubs, plants and grass lawns shall be required and planted in accordance with an approved Site Plan.

1. Non-residential parking areas shall be effectively screened or fenced on any side which adjoins or faces property in a residential district.

2. In all districts, public and private parking lots containing more than ten (10) parking spaces shall have at least one (1) shade tree for each ten (10) parking spaces. Said trees shall be

located within the paved area of the parking lot, and shall be at least two (2) inches diameter, with no less than thirty-five (35) square feet of soil or permeable surface area per tree, each within a bermed island, or within five (5) feet of the paved area.

The varieties of trees shall be approved by the Tree Warden. The trees shall be maintained by the owner or lessee of the property and shall not be cut down or removed when a lot is reconstructed or enlarged. Said trees may be moved to another location on the lot upon approval of a Site Plan by the Planning Board. Trees and soil plots shall be so located as to provide visual relief, and to assure safe patterns of internal vehicular and pedestrian circulation.

4. Location

Off-street parking spaces as required in this Section shall be located on the same lot as the use(s) which they serve. However, the collective provision of off-street parking by two or more buildings or uses located on the same or adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective uses.

5. Special Permit Provision

Parking areas for commercial and/or industrial uses shall be located wholly within the districts zoned for those uses. However, the Zoning Board of Appeals may authorize by issuance of a Special Permit the construction and/or operation of parking facilities in downtown Chatham within three hundred feet (300') of either side of Main Street between Crowell Road and Mulford Howes Lane, after a Public Hearing in accordance with Sections 9 and 11 Chapter 40A of the General Laws. Such permission shall be given only if the parking facility is to be used solely for parking of passenger automobiles accessory to and abutting a use or uses lawfully established in the GB1 or GB2 Zoning District. Such parking facilities are not to be used for sales, repair work or servicing of any kind, and no advertising sign or material is to be located on such lots. A buffer strip not less than ten (10) feet in width including evergreen planting not less than six (6) feet in height shall be provided along the rear and side lines of any parking facility which abuts or extends into a residential district.

6. Required Spaces

In any district no use of premises shall be authorized or extended and no building shall be erected or enlarged, unless there is provided for such extension, erection or enlargement, off-street parking space in accordance with the standards listed below. These standards are the minimum requirements. The Planning Board may require a greater number of spaces if the nature and scale of a proposed use warrants such provision.

- a. two (2) spaces for every residential dwelling unit whether single-family or multiple-family
- b. one (1) space for every rentable room in a boarding house, rooming house, bed and breakfast, tourist home or similar accommodation, and one (1) space for every bedroom in a group dwelling
- c. one (1) space for every three (3) beds in a hospital, sanatorium, nursing home or dormitory plus one (1) space for every two (2) employees on the largest shift
- d. 1.25 spaces for every rentable room in a hotel, motel, inn, cottage colony, or similar transient lodging establishment
- e. one (1) space for every four (4) seats, permanent or otherwise, in a restaurant, lunchroom, bar, tavern or other place serving food or beverage, plus one (1) space for every two (2) employees on the largest shift
- f. one (1) space for every one hundred fifty (150) square feet of floor area devoted to customer use in any bank, business office or professional office
- g. one (1) space for every one hundred fifty (150) square feet of floor area devoted to customer use or display area in any retail or personal and household service store, except as otherwise provided herein
- h. one (1) space for every five hundred (500) square feet of floor area for retail sales of furniture, appliances, hardware, lumber and similar bulky merchandise
- i. one (1) space for every one hundred (100) square feet of floor area in a supermarket or self-service food store
- j. one (1) space for every two hundred (200) square feet of building area for motor vehicle sales and service
- k. one (1) space for every two (2) machines in a self-service laundry or dry cleaning establishment
- l. one (1) space for every three (3) seats, permanent or otherwise, in an auditorium, church, theater, assembly hall, club or similar place of public or semi-public amusement or assembly
- m. one (1) space for every full-time employee in any school, municipal building, library, charitable institution or similar use, plus one (1) space for every three (3) seats in areas of public assembly (see 1 above)
- n. one (1) space for every employee in any kennel, animal hospital, or medical clinic plus a minimum of six spaces for client or customer parking
- o. one (1) space for every employee on the largest shift for all types of light industry and manufacturing plus one (1) space for every one thousand (1,000) square feet of floor area

- p. one (1) space for every employee in any wholesale storage or warehouse business plus one (1) for every two thousand five hundred (2,500) square feet of floor area
- q. one (1) space for every full-time employee in any approved home occupation plus one (1) space for every three hundred (300) square feet devoted to the use
- r. adequate spaces to accommodate customers, patrons and employees at gasoline stations, drive-in establishments, commercial recreation/facilities, marinas and other permitted uses not specifically enumerated herein, as determined by the Planning Board under Site Plan review.

7. Exceptions

- a. The minimums of sub-section 6 may be reduced upon vote of at least four members of the Planning Board in conducting a Site Plan review if it is determined that special circumstances render a lesser provision adequate for all parking needs. Examples of special circumstances include:
 - 1. use of a common parking lot for different uses having peak demands occurring at different times;
 - 2. age or other characteristics of occupants which reduce their auto usage;
 - 3. peculiarities of use which render usual measurements of demand invalid.
- b. The Planning Board may permit up to 25% of the required off-street parking spaces for any building or use to remain as green area reserved for future parking expansion, if it is determined that the full parking requirements may not be appropriate for a particular use.

8. Parking facilities must also comply with the handicapped parking requirements of Article 4 of the Town Bylaws.

C. Off-Street Loading Requirements

1. Applicability

Every building hereafter erected, altered, enlarged or occupied for business, industrial, or institutional purposes which has over five thousand (5,000) square feet of gross building area shall provide a minimum of one (1) space for the loading and unloading of service vehicles. Loading and unloading spaces shall be provided in addition to off-street parking spaces and shall not be considered as supplying required parking spaces.

2. Design Criteria

a. Surface

Off-street loading and unloading spaces shall be surfaced with a dustless, all-weather pavement, which shall be adequately drained.

b. Dimensions

Each loading space shall be not less than twelve (12) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. One additional space of these dimensions shall be provided for every additional twenty thousand (20,000) square feet of gross floor area in the building.

c. Landscaping

Whenever an off-street loading and unloading space is located next to a residential district, said loading and unloading space shall be suitably screened and buffered along the residential district boundary line.

d. Access

All loading and unloading spaces shall be designed so as to eliminate the need to back a vehicle out onto any public way.

D. Open Space Residential Development (OSRD) (5/10/04 ATM)

1. Purpose and Intent

- To allow for greater flexibility and creativity in the layout of lots for single family houses.
- To minimize the disturbance of existing topography and vegetation during construction on single family lots.
- To encourage the permanent preservation of open space and natural resources, including water bodies and wetlands, and historical and archaeological resources while, most importantly, minimizing the total disturbance of the site.
- To encourage lot shapes and house placement in keeping with established neighborhoods and Chatham's traditional character.
- To protect and enhance scenic vistas from roadways and encourage vegetated common areas at entrances to single family development.
- To facilitate construction and maintenance of streets, utilities and public services in an economical and efficient manner.
- To protect existing and potential municipal water supplies.
- To preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.

2. Applicability

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

3. Rules and Regulations

The Planning Board shall adopt and may, from time-to-time, amend rules and regulations consistent with the provisions of this By-Law and shall file same with the Town Clerk. Such rules and regulations shall be limited to the procedures and submission requirements for an OSRD as contained in this By-Law.

a. Pre-application meeting

A pre-application meeting of the Planning Board, Department of Community Development, and the applicant is required. The purpose of the meeting is to discuss the suitability of the site for a OSRD layout, to determine topographic and natural features which might be preserved under an OSRD layout, and to identify design consideration for the layout of lots, roadways, and open space.

b. Preliminary Plans

A preliminary plan showing all existing site conditions, including, but not limited to, wetlands, woodlands, scenic views, the 100 year floodplain, rights of way and easements, stone walls, cart and pathways, and topography, along with the proposed development, shall be prepared and submitted by a team including a

registered civil engineer, registered surveyor and registered landscape architect. The plan must be reviewed and accepted by the Planning Board prior to submission of an application for a special permit. Such plan shall show a layout meeting the design guidelines set forth in this By-Law.

In addition, a sketch plan at the same scale as the preliminary plan, shall be submitted sufficient to demonstrate the number of lots which could be created in a standard grid subdivision meeting the requirements set forth in the Planning Board's Subdivision Regulations. A preliminary subdivision application and preliminary plan meeting all of the requirements of the Subdivision Regulations may be submitted if so desired.

Alternative layouts of buildings and roadways may be submitted for discussion. The sketch plan shall show at Minimum:

- Property location, boundaries, approximate dimensions, and acreage
- Existing roadways adjacent to the property and any easements or rights-of-way on the property
- Existing topography shown at 2' intervals; proposed grading
- Boundaries of natural features such as wetlands and surface water
- Approximate locations of flood plains as defined in this By-Law
- Locations and types of existing trees of over 4 inch caliper
- Proposed lots and open space area with approximate boundaries and acreage
- Locations and approximate widths of proposed roads, including drainage and easements
- Sizes (footprints and heights) and approximate locations of proposed buildings and driveways
- Sketch of architectural style of proposed buildings
- Methods of sewage disposal

c. Special Permit Plan/Definitive Subdivision

A plan meeting the requirements for a Definitive Subdivision plan as set forth in the Planning Board's Subdivision Regulations shall be submitted with an application and plan for Special Permit. The plan shall be reviewed as a Definitive Subdivision under the Subdivision Regulations and as a Special Permit under this By-Law.

Procedures shall be as set forth in state law and in rules and regulations promulgated by the Planning Board under this By-Law. Review and action on a special permit for an OSRD and an associated definitive subdivision shall be concurrent.

d. Minimum Area

An OSRD shall encompass at least five (5) acres of upland which is contiguous though not necessarily in one ownership.

e. Density/Number of Dwelling Units

e.1 The total number of dwelling units permitted in an OSRD shall not exceed that which would

be permitted under a conventional grid subdivision that complies with the Chatham Protective By-Law and Planning Board Rules and Regulations Governing the Subdivision of Land and other applicable laws of the Town, County of Barnstable, or Commonwealth of Massachusetts, including any applicable Chatham Board of Health requirements.

- e.2 The exact number of dwelling units shall be determined by the Planning Board following its review of a preliminary subdivision plan depicting compliance with the aforesaid laws and requirements of the Board of Health limiting the number of bedrooms. Such plan may be submitted prior to the formal submission of an application or together with all other materials submitted with a formal application for a special permit.
- e.3 Applicable land area shall be determined by a register land surveyor and equal the total area encompassed by the development plan, minus all marsh or wetland, and minus land for road construction or land otherwise prohibited from development by a local By-Law or other regulations.
- e.4 When the OSRD includes more than one (1) ownership and/or lies in more than one (1) district, the number of units allowed shall be calculated as above for each zoning district and summed to give an overall total, which may be located on the plan without respect to allowable subtotals by district or ownership.
- f. Criteria for Special Permit Decision
 - f.1 Findings

The Planning Board may approve a special permit for an OSRD upon finding that it complies with the requirements of this By-Law and the rules and regulations adopted pursuant to Section 3 above and that it is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources on the site. In making its finding on design, the Planning Board shall consider the following criteria:

- a. Open space as required by this By-Law has been provided and generally conforms to the design requirements in section j below.
- b. Approximate building sites have been identified and none are located closer than 100 feet to wetlands or water bodies.
- c. Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to avoid or minimize adverse impacts on open space areas and to provide views of and access to the open space for most, if not all, of the home sites.
- d. All lots meet the applicable dimensional requirements of section g below.
The Planning Board's findings, including the basis of such findings shall be stated in the written decision of approval, conditional approval, or denial of the application for special permit, and shall require a 2/3 vote for approval.

f.2 Conditions

The Planning Board may impose conditions in its decision as necessary to ensure compliance with the purposes of this By-Law. Approval of an OSRD shall be conditioned upon definitive subdivision approval and shall be conditioned to provide that no further division of land which increases the number of lots or results in an alteration to the area to be set aside as open space

may occur without a modification of the special permit. Any alternation of lot lines or layout of ways shall require modification of the special permit issued by the Planning Board and shall be in compliance with the governing provisions of this By-Law and the subdivision rules and regulations.

g. Standards and Dimensional Requirements

g.1 Minimum Lot Size

The minimum lot size shall be 10,000 square feet of buildable upland.

g.2 Minimum Frontage

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

g.3 Lot Shape

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

g.4 Setbacks

The Planning Board may reduce by up to one-half the road and abutter setbacks listed in Appendix II, Schedule of Dimensional Requirements of this By-Law, if the Board finds that such reduction will result in better overall design, improved protection of natural and scenic resources, and will otherwise comply with this By-Law. Notwithstanding this provision or the requirements of the Protective By-Law, every dwelling fronting on a proposed roadway shall be set back a minimum of 15 feet from the roadway right-of-way, and a minimum of 50 feet from the outer perimeter of the entire OSRD site. This 50 foot setback shall be maintained in a naturally vegetated state to screen and buffer the development and may be included within the open space. This 50 foot setback may be eliminated where the proposed development abuts existing protected open space. Accessory buildings exceeding 100 square feet shall meet the setbacks for dwellings.

g.5 Common Open Space

Common open space within the OSRD shall comprise not less than 50% percent of the land area within the parcel or parcel(s) subject to this By-Law, all of which shall be buildable upland.

h. Permissible Uses

h.1 Purposes

Open space shall be used solely for noncommercial recreation, conservation, or commercial or

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

h.2 Recreation Areas

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

h.3 Leaching Facilities

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

h.4 Accessory Structures

Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space. With this exception, no other impervious areas may be included within the open space.

i. Ownership of Open Space

i.1 Options

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

- a. Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be accepted by it for a park or open space use. Land conveyed to the Town will be open for public use;
- b. Conveyed to a nonprofit organization, the principal purpose which is the conservation or preservation of open space, with a conservation restriction as specified in i.2 below. Such organization shall be acceptable to the Board as a bona fide conservation organization; or
- c. Conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under conservation restriction. The documents which form said

association are subject to approval by the Planning Board. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowners association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision.

i.2 Permanent Restriction

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

i.3 Encumbrances

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

i.4 Maintenance of Open Space

In any case where the open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses. Removal of underbrush in designated open space shall be permitted only when a plan for such activity is approved by the Planning Board as part of approval of a special permit to created an OSRD.

i.5 Monumentation

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

j. Design Requirements

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

- j.1 Open space shall be planned as large, wide, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than 100' wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas.
- j.2 Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized. The design shall minimize alteration of the topography of the land, minimize the clearing of vegetation from the site, and promote vegetated buffers along roadways and at the entrance(s) to the development.
- j.3 Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by trails. Said trails shall be shown on the open space residential definitive plan.
- j.4 Where the proposed development abuts or includes a body of water or a wetland, these areas and the 100' buffer to such areas shall be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.
- j.5 The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access in the open space through internal roads or paths.
- j.6 Open space shall be provided with adequate access, by a strip of land at least 20 feet wide and suitable for a footpath, from one or more streets in the development.
- j.7 Development along existing scenic roads and creation of new driveway openings on existing roadways shall be minimized.
- j.8 Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land. Trail connections should be provided where appropriate.
- I. Enforcement
 - 1.1 The Building Inspector shall enforce the provisions of this section.

SECTION VII SPECIAL REGULATIONS

A. **General Standards**

All special condition uses and special permit uses are subject to the following general standards and, in addition, those uses which are listed under Subsection B shall comply with the additional regulations stipulated therein.

1. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the ways giving access to it shall be in harmony with the orderly development of the district.
2. No use shall be permitted which would be offensive because of the objectionable noise, vibration, smoke, gas fumes, odors, glare of flashing lights, or be hazardous to the community on account of fire, explosion or other cause.
3. Adequate provision for water supply and sewage disposal shall be made in compliance with the Massachusetts State Environmental Code and Town Board of Health Regulations.
4. All new or expanded uses shall comply with the site plan review, parking and loading requirements of Section V1 of this Bylaw.

B. **Specific Standards**

1. **Adult Use Establishment**

Permitted by Special Permit in the General Business (GB) Districts as follows:

- a. The use shall not be located closer than one thousand (1000) feet from:
 1. Another adult use establishment;
 2. Public or private parks, playgrounds or beaches;
 3. Public or private day care centers;
 4. Public or private schools;
 5. Religious institutions;
 6. Residential uses.

2. **Affordable Apartment Incidental to a Single Family Dwelling**

Intent: (5/10/04 ATM)

The intent of this section is to provide some affordable housing to meet the needs of Chatham's residents and workers. This section sets forth standards and conditions for **Affordable Apartments Incidental to a Single Family Dwelling**. The standards are intended to be consistent with those recommended by the Cape Cod Commission for use by Towns. It is also intended that "affordable" units required and approved under this Bylaw remain affordable.

Definitions: (5/10/04 ATM)

Affordable, used in reference to dwelling units means intended for rental or sale to low or moderate income people and in conformance with the requirements of this Bylaw in regard to price and income level of tenant(s).

Affordable Apartment Incidental to a Single Family Dwelling means a dwelling unit subordinate to a one-family dwelling approved on the condition that the requirements of this Bylaw are met for affordable price and income eligible tenants.

Affordable Price, used in reference to a dwelling unit, means a monthly rent or mortgage payment which does not exceed 30% of the gross monthly income of a household whose income is 70% of the median income for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD).

Income Eligible means that the household income of a person or family does not exceed 80% of the median income, adjusted for household size, for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD).

General: (5/10/04 ATM)

No more than 10 Special Permits acted upon in the order received shall be granted for **Affordable Apartments Incidental to a Single Family Dwelling** in any 12-month period.

Affordable Apartments Incidental to a Single Family Dwelling are allowed by Special Permit approved by the Zoning Board of Appeals in all districts except Municipal Conservancy (M/C) and Industrial (I) as set forth in this section.

The Zoning Board of Appeals shall solicit comments on the proposal from other Town regulatory agencies which have jurisdiction in the particular case, and prior to acting upon the application, the Zoning Board shall consider any comments received from such agencies.

Conditions: (5/10/04 ATM)

All **Affordable Apartments Incidental to a Single Family Dwelling** shall be subject to the following conditions:

- * No **affordable** apartment shall be approved in addition to a **Guest House** on a single family lot.
- * Either the proposed apartment or the principal dwelling may be proposed to be rented as **affordable**, provided the property owner occupies the unit which is not designated as **affordable**. A change in the designation of which unit is **affordable** shall require an amendment to the Special Permit.
- * The owner of the property must dwell in either the apartment or in the principal dwelling unit and shall not rent both the apartment and principal dwelling unit at the same time.
- * The owner of the property must meet and adhere to the requirements for an **affordable** dwelling unit as set forth below in the Bylaw under Conditions **for Affordable Dwelling Units**.
- * Application may be made for a Special Permit under this section provided the property where the apartment is to be located has a minimum of 20,000 square feet of **buildable upland** area.
- * **Affordable Apartments Incidental to a Single Family Dwelling** shall meet all State and local requirements for the establishment of dwelling units, including Health, including restrictions of the Board of Health limiting the number of bedrooms, Building, Wetlands Protection and other approvals as necessary and applicable.
- * Unless specifically waived by the Zoning Board of Appeals, two parking spaces shall be provided for the affordable apartment in addition to the two parking spaces required for the single family dwelling.
- * The Special Permit shall lapse in the event that the **affordable** apartment is not used for a period of two years. Upon application by the owner, the Zoning Board of Appeals may reinstate the Special Permit after a public hearing. If the reinstatement is not requested or is denied by the Zoning Board, the Zoning Enforcement Officer may order that the kitchen be removed from the apartment.
- * The Zoning Enforcement Officer has the authority to order the kitchen to be removed from the **affordable** apartment upon finding a violation of the conditions of the Special Permit issued under this section and in the event that the owner does not correct the violation in a timely manner, after being given proper notice.

The **affordable** apartment may be part of the principal dwelling or in a separate building accessory to the single family dwelling.
- * The site shall provide for privacy, noise reduction, and outdoor recreation area for the tenants of the apartment.

Review Criteria: (5/10/04 ATM)

In addition to the review criteria for Special Permits set forth in this Bylaw, the following criteria shall be used in the review of all Special Permits for **Affordable Apartments Incidental to a Single Family Dwelling**:

- * Adequacy and suitability of the site for the addition of the apartment, whether or not new

construction is proposed, with consideration of the size and shape of the site, access to the site, location of existing and proposed buildings, topography of the site and surrounding area, and existing vegetation.

- * Impact of the proposal upon the abutters and the neighborhood, including such considerations as the size of the unit proposed, location of the unit on the site, proximity of the unit to the abutters, layout of parking provided, and location of the outdoor use area for the unit.

Conditions for Affordable Dwelling Units: (5/10/04 ATM)

Dwelling units required to be **affordable** or approved under this Bylaw with the condition that they are **affordable** shall be subject to the requirements of this section.

- * Any dwelling unit required or approved under this Bylaw as **affordable** shall meet the definition of **affordable price** as set forth in this Bylaw. Certification by the Chatham Housing Authority that the price is an "**affordable price**" shall be provided to the Zoning Enforcement Officer.
- * Any dwelling approved under this Bylaw as an affordable rental unit shall be rented subject to a minimum 12-month lease.
- * For any dwelling unit required or approved as an affordable rental under this Bylaw, certification by the Chatham Housing Authority that the tenants occupying the affordable unit are **income eligible** and the rent charged them is **affordable** per the definitions in this Bylaw must be submitted to the Zoning Enforcement Officer at the time of the signing of the lease and on an annual basis thereafter. Such certification is also required upon any change in tenants or rent charged. Dates of occupancy shall be stated in the certification.
- * Owners of **affordable** units created under this Bylaw shall be encouraged to rent the units to Chatham residents, workers, or people with ties to the community.

Conditions of Approval: (5/10/04 ATM)

The Zoning Board may impose conditions upon the approval of a special permit for an affordable apartment incidental to a single family dwelling in keeping with the review criteria, and such conditions may include a limit on the number of people who can occupy the affordable unit.

2-1. Affordable Dwelling Units, Mandatory Provision

Permitted by Special Permit approved by the Planning Board as a Special Permit Granting Authority in all zoning districts except Municipal (M), Municipal Conservancy (MC) and Industrial (I).

Intent

The intent of this section is to ensure that residential developments include some affordable housing to

meet the needs of Chatham's residents and workers. This section sets forth standards and conditions for affordable housing units required in developments. The standards are intended to be consistent with those recommended by the Cape Cod Commission for use by towns. It is also intended that "affordable" units required and approved under this bylaw remain affordable.

Definitions:

Affordable, used in reference to dwelling units means intended for rental or sale to low or moderate income people and in conformance with the requirements of this Bylaw in regard to price and income level of tenants(s).

Affordable Price, used in reference to a dwelling unit, means a monthly rent or mortgage payment which does not exceed 30% of the gross monthly income of a household whose income is 70% of the median income for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD).

Income Eligible means that the household income of a person or family does not exceed 80% of the median income, adjusted for household size, for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD).

Ten Percent, used in reference to the mandatory provision of affordable dwelling units, shall mean one tenth rounded to the nearest whole number. For example, any number below 1.5 would be rounded to 1, while any number between 1.5 and 1.9 would be rounded to 2.

Mandatory provisions of affordable dwelling units

This section of the Protective Bylaw applies to any residential subdivision or division of land resulting in 10 or more buildable lots or any residential multi-family development containing 10 or more dwelling units.

In any development that is subject to the regulations hereunder, ten percent of all dwelling units, whether in new, rehabilitated or converted buildings, shall be **affordable** housing units. The **affordable** units may be constructed or rehabilitated on the locus of the development and sold or rented to an **income-eligible** household at an **affordable price**, or the Planning Board may, in its discretion, approve one or more of the following methods, or any combination thereof, for the provision of **affordable** units:

- * **Off-Site Units.** An equivalent number of **affordable** housing units may be constructed or rehabilitated on another site in the Town of Chatham, and sold or rented to an **income-eligible** household at an **affordable price**. All requirements that apply to on-site provision of **affordable** units shall apply to provision of off-site **affordable** units. In addition, the location of the off-site units shall be approved by the Planning Board as an integral element of the development review and approval process.

- * **Land Donation.** An applicant may offer, and the Planning Board may accept, subject to approval of the Board of Selectmen, a donation of land in fee simple, on- or off-site, that the Planning Board determines is suitable for the construction of an equivalent number of **affordable** housing units. Land donated for this purpose shall be subject to a restriction assuring its use for **affordable** housing. Prior to accepting land as satisfaction of the requirements of the Bylaw, the Planning Board may require the applicant to submit an appraisal or opinion of value to determine the suitability of the land for an equivalent number of affordable housing units.

- * **Fee in Lieu of Units.** The Planning Board may allow a development of non-rental dwelling units to make a cash payment to the town through its Affordable Housing Trust Fund for each **affordable** unit required by these regulations. The cash payment per unit shall be equal to three (3) times the annual income of an **income-eligible** household of four.

Any development which creates or is phased to create 10 or more dwelling units within a 5-year period shall be subject to these requirements.

The **affordable** units provided under this section may be in addition to the number of units allowed on the property under the other provisions of this Bylaw, as a bonus. If the Planning Board approves a density bonus and the applicant proposes to pay an equivalent fee in lieu of units, the fee in lieu of **affordable** units shall not exceed six and one-half (6.5) times the annual income of an **income-eligible** household of four.

A guarantee that the requirements of this section will be met shall be provided to the Zoning Officer prior to the issuance of a building permit for any dwelling units or further dwelling units. Specific requirements relative to the location, appearance, and phasing of construction of the **affordable** unit(s) may be imposed as a condition of approval of a special permit for a development subject to this section.

The Planning Board shall solicit comments and recommendations on the proposal from other Town regulatory agencies which have jurisdiction in the particular case, and prior to acting upon the application the Planning Board shall consider any comments and recommendations received from such agencies.

Conditions for approval of affordable dwelling units

Dwelling units required to be **affordable** or approved under this Bylaw with the condition that they are **affordable** shall be subject to the requirements of this section.

- * Any dwelling unit required or approved under this Bylaw as **affordable** shall meet the definition of an **affordable price** as set forth in this Bylaw. Certification by the Chatham Housing Authority that the price is an "affordable price" shall be provided to the Zoning Enforcement Officer.
- * At the time of the sale of any dwelling units approved or required under this Bylaw as **affordable**, certification by the Chatham Housing Authority shall be provided to the Zoning Enforcement Officer that the purchaser is "income eligible" as defined in this Bylaw.
- * A deed restriction shall be placed upon the property limiting the rental rate or the resale price in perpetuity. The rental rate shall be restricted to meet the definition of **affordable price** under this Bylaw. The formula for setting the resale price shall be as follows: At the time of the original purchase, a multiplier shall be determined by dividing the sales price by the median income for Barnstable County as provided by the United States Department of Housing and Urban Development. At the time of sale of the unit, the multiplier times the median income at the time of the sale shall be the maximum sale price.
- * If a unit is offered for sale, the purchaser and the Town shall sign an agreement setting forth the procedure for establishing a resale price to keep the unit affordable upon its sale and granting the town the right of first refusal should the seller fail to enter into a bona fide purchase and sale agreement with an **income eligible** home buyer within ninety (90) days of the date that the unit is originally offered for sale.

- * Any dwelling approved under this Bylaw as an affordable rental unit shall be rented subject to a minimum 12-month lease.
- * For any dwelling unit required or approved as an affordable rental under this Bylaw, certification by the Chatham Housing Authority that the tenants occupying or purchasing the affordable unit are **income eligible** and the rent charged them is **affordable** per the definitions in this Bylaw must be submitted to the Zoning Enforcement Officer at the time of the signing of the lease and on an annual basis thereafter. Such certification is also required upon any change in tenants or rent charged. Dates of occupancy shall be stated in the certification.
- * In the permitting and certification process, owners of **affordable** units created under this Bylaw shall be encouraged to rent or sell the units to Chatham residents, workers, or people with ties to the community.

Density Bonus:

Density shall be limited as set forth in the provisions of the Protective Bylaw unless the Planning Board approves a density bonus for additional **affordable** dwelling units. A density bonus may be granted by the Planning Board, provided the applicant furnishes a greater number of **affordable** dwelling units than the mandatory **ten percent**.

3. **Antique Shop, Art Gallery or Gift Shop**

Permitted in the Small Business (SB) District as follows:

- a. The use shall be located within a residence and operated by a resident occupant.
- b. The use shall not occupy more than 33% of the first floor area of the building(s).

4. **Apartment, Incidental to a Commercial Use and Industrial Use**
(5/11/92 ATM)

Permitted in the Industrial I Districts and allowed by special permit in the General Business (GB) Districts as follows:

- a. The use shall comply with the dimensional requirements stipulated in Appendix II for the commercial use provided:
 - 1. The area of any lot shall provide not less than ten thousand (10,000) square feet of buildable upland for each apartment.
 - 2. In the GB District there shall be no more than four (4) apartments in one building.
(5/11/92 ATM)
 - 3. There shall be living quarters of not more than two (2) stories above finish grade and none below such level.
 - 4. In the Industrial District, there shall be no more than one two-bedroom apartment

per lot incidental to the commercial or industrial use.

- b. The residential use of the property shall be compatible with the nature and scale of the permitted commercial/industrial uses on the lot.

5. **Boarding or Rooming House, Tourist Home**

Permitted in the R60, R40, R20, R20A, SB and GB Districts as follows:

- a. The use shall be located within a residence and operated by an owner-occupant.
- b. The residential lot shall contain not less than ten thousand (10,000) square feet of buildable upland as required by Section III, D. 3. of this Bylaw. This requirement may be waived if the dwelling is connected to Town sewerage.
- c. Any food service provided shall be in compliance with Board of Health regulations.
- d. The sewage disposal system shall be inspected and approved by the Board of Health, or the Board of Water and Sewer Commissioners, as applicable.
- e. The egress from the rental rooms shall be approved by the Fire Chief with due regard for public safety.
- f. No more than two (2) persons may occupy any one room.
- g. There shall be no more than eight (8) rental rooms in any residence.
- h. Site Plan approval by the Planning Board shall be required.
- i. The parking area for the rental rooms shall meet the abutters setback requirements for the zoning district within which the use is located.
- j. Rental of more than three (3) rooms shall require a Special Permit from the Zoning Board of Appeals.

6. **Conversion of Existing Dwelling to Multiple-Family Dwelling**

Permitted in the GB and SB Districts as follows:

- a. There shall be no more than three (3) dwelling units per residence.
- b. The area of any lot shall provide not less than ten thousand (10,000) square feet of buildable upland for each dwelling unit. This requirement may be waived if the dwelling is connected to Town sewerage.
- c. There shall be living quarters of not more than two (2) stories above finish grade level and none below such level.
- d. Exterior additions, not to exceed fifteen percent (15%) of the enclosed ground area of the

existing dwelling, excluding porches, breezeways, stoops, garages, and sheds, shall be permitted provided that setback requirements are maintained.

- e. There shall be not less than a five (5) foot wide buffer strip of planting or grass between any driveway or parking area and the abutter's line and around the dwelling. No parking area shall be less than ten (10) feet from the street or way.
- f. The sewage disposal system shall comply with Title V of the State Environmental Code and the Health Regulations of the Town of Chatham, or be approved by the Board of Water and Sewer Commissioners, as applicable.
- g. The egress from each apartment shall be approved by the Fire Chief with due regard for public safety.
- h. Site Plan approval by the Planning Board shall be required prior to the issuance of a building permit for any interior remodeling.

7. **Conversion of Public Lodgings to Condominiums**

A motel, hotel, rooming house or other similar structure may not be converted to multiple-family dwelling use under condominium, cooperative, interval or other similar type of ownership except upon issuance of a Special Permit by the Zoning Board of Appeals and Site Plan approval by the Planning Board. Such structure shall comply with all the requirements for multiple-family dwellings set forth in Subsection 15 below and the sewage disposal system shall comply with Title V of the State Environmental Code and the Health Regulations of the Town of Chatham, or be approved by the Board of Water and Sewer Commissioners, as applicable.

8. **Conversion of Cottage Colony to Single Family Dwelling Use**

An existing cottage colony may not be converted to single family dwelling use under separate ownership unless the lot upon which each building is located complies with the minimum requirements of Appendix II for single-family dwellings in the zoning district in which the land is located.

9. **Conversion of Cottage Colony to Condominiums**

An existing cottage colony may not be converted to single-family dwelling use under condominium, cooperative, interval or similar type of ownership unless the property meets the following requirements:

- a. The number of dwelling units allowed shall not exceed the total area of buildable upland divided by the minimum lot area for the District in which the cottage colony is located, as required by Appendix II of this Bylaw.

When the cottage colony lies in more than one District, the number of dwelling units allowed shall be calculated as above for each District and summed to give an overall allowable total without respect to the allowable subtotals by District.

- b. Roadway access shall be provided to each dwelling unit by a way at least sixteen (16) feet wide. Surface, drainage and grading shall be equivalent to that required by the

Planning Board's Subdivision Regulations.

- c. There shall be a minimum of twenty (20) feet between all principal buildings. Road and abutters setbacks shall comply with the requirements of Appendix II.
- d. Two designated off-street parking spaces shall be provided for each dwelling unit.
- e. The sewage disposal system shall comply with Title V of the State Environmental Code and the Health Regulations of the Town of Chatham, or be approved by the Board of Water and Sewer Commissioners, as applicable.
- f. Site Plan approval by the Planning Board shall be required.

10. **Conversion of Nonconforming Seasonal Dwelling to Year-round** **Use**

Permitted in all Districts provided:

- a. The sewage disposal system shall comply with Title V of the State Environmental Code and the Health Regulations of the Town of Chatham, or be approved by the Board of Water and Sewer Commissioners, as applicable.
- b. Any expansion or alterations of the building(s) shall comply with the setback requirements of Appendix II for road, abutters and Conservancy Districts.
- c. Any expansion of the floor area of the dwelling which exceeds twenty-five percent (25%) of the existing area shall require a Special Permit from the Zoning Board of Appeals.

11. **Dormitory**

Permitted by Special Permit in the SB and GB Districts as follows:

- a. The area of the lot shall provide not less than three thousand (3,000) square feet of buildable upland for every two (2) beds. In addition, where an apartment is provided for the owner or resident staff, there shall be at least ten thousand (10,000) square feet of buildable upland provided for such apartment.
- b. The sewage disposal system shall comply with Title V of the State Environmental Code and the Health Regulations of the Town of Chatham, or be approved by the Board of Water and Sewer Commissioners, as applicable.
- c. The parking area shall meet the abutters setback requirements for the zoning district within which the use is located.
- d. No building shall be located less than forty feet (40') from any lot line and all such uses shall be adequately fenced or screened from any adjacent residential property.
- e. A Special Permit for any dormitory shall be effective for one year following the date of issuance. Such Special Permit shall be renewed on an annual basis unless the Board of Appeals, following a public hearing, determines that the use is not in compliance with all applicable regulations and is detrimental to the character of the neighborhood.

11.1 **Group Dwelling**

Permitted by Special Permit in the R60, R40, R20, R20A, SB and GB Districts as follows:

- a. The residential lot shall contain not less than ten thousand (10,000) square feet of buildable upland as required by Section III, D. 3. of this Bylaw. This requirement may be waived if the dwelling is connected to Town sewerage.
- b. The sewage disposal system shall be inspected and approved by the Board of Health or the Board of Water and Sewer Commissioners, as applicable.
- c. There shall be at least one (1) parking space for each bedroom in the dwelling. The parking area shall meet the abutters setback requirements for the zoning district within which the use is located.
- d. A Special Permit for any group dwelling shall be effective for one year following the date of issuance. Such Special Permit shall be renewed on an annual basis unless the Board of Appeals, following a public hearing, determines that the use is not in compliance with all applicable regulations and is detrimental to the character of the neighborhood.

12. **Guest House**

Permitted in the R60, R40, R20, R20A and SB Districts and by Special Permit in the GB Districts as follows:

- a. There shall be not more than one guest house on any one lot, such guest house may be separate from or a part of the principal dwelling, garage or barn. However, the floor area of a guest house shall not exceed fifty percent (50%) of the floor area of the principal dwelling.
- b. A guest house may be used by the owner or occupant of the principal dwelling or his or her guests, or it may be rented.
- c. For such guest house, the lot on which it is constructed shall have at least twenty thousand (20,000) square feet of buildable upland in addition to the minimum lot size required for the zoning district in which it is located. No guest house shall have more than two (2) bedrooms.
- d. When such guest unit is part of the principal dwelling and is occupied by a member of the immediate family occupying the principal dwelling, the Zoning Board of Appeals may grant a Special Permit to waive the additional land area requirement for a one (1) bedroom guest unit.

13. **Home Occupation**

Permitted in the R60, R40, R20, R20A and SB Districts as follows:

- a. There shall be no change in the exterior appearance of the residence or premises other than a permitted sign.
- b. There shall be no sales of products except goods produced on the premises or products incidental to the service provided.

- c. In the R60, R40, R20 and R20A Districts employees working the premises shall not exceed two (2) other than members of the resident family. Not more than two (2) business-related vehicles shall be stored or parked on the premises.
- d. In the SB District employees working on the premises shall not exceed two (2) other than members of the resident family. Not more than four (4) business-related vehicles shall be stored or parked on the premises. Not more than two (2) such vehicles shall be stored or parked within public view.

14. **Hotel, Motel, Inn**

Permitted by Special Permit in the GB Districts as follows:

- a. The lot shall be not less than eighty thousand (80,000) square feet in area and not less than one hundred fifty (150) feet in width at frontage on the street lot line.
- b. Buildings shall not cover more than twenty-five percent (25%) of the total area of such lot. Parking areas and buildings shall be set back not less than fifty (50) feet from the road.
- c. There shall be a minimum of three thousand (3,000) square feet of buildable upland for every rental unit. In addition, where an apartment is provided for the owner or resident staff, there shall be at least ten thousand (10,000) square feet of buildable upland area provided for such apartment.
- d. Off-street parking shall be provided in compliance with the requirements of Section VI B of this Bylaw. Where other facilities such as restaurants, bars, and areas of public assembly or recreation are provided, off-street parking shall be provided as required for each of those uses.
- e. A motel shall be limited to one story in height.
- f. All such uses shall be adequately fenced or screened from any adjacent residential property and lighting shall be directed away from adjacent uses.

15. **Multi-Family Dwelling (New Construction)**

Permitted in the R-20A District and by Special Permit from the Planning Board in the Flexible Development Overlay Districts and the GB-1 Districts, both in the manner set forth in Section IV D. of this Bylaw, as follows:

- a. The property shall contain no more than eight (8) bedrooms per acre of contiguous buildable upland.
- b. In the R-20A District and the Flexible Development Overlay District, there shall be a vegetated buffer of not less than twenty (20) feet along the rear and side property lines. There shall also be a landscaped area of not less than twenty (20) feet along any street frontage.

In the GB-1 District, there shall be a vegetated buffer of not less than twenty (20) feet along any property line which abuts a residential zoning district.

- c. In the R-20A District and the Flexible Development Overlay District, all buildings shall be set back from abutting property lines, except along any street frontage, by a minimum distance equal to the required buffer plus the above grade height of the wall of the building abutting that property line. Along any street frontage, the building shall be set back a minimum distance equal to the required landscaped area.

In the GB-1 District, the structural setbacks listed in Appendix II of this Bylaw shall apply, except as noted in (b) above.

- d. In the R-20A District, buildings shall not cover more than fifteen (15) percent of the total lot area nor shall the lot coverage exceed fifty (50) percent. The remaining fifty (50) percent of the lot shall be green space.
- e. In Flexible Development Overlay Districts, buildings shall not cover more than twenty-five (25) percent of the total lot area except that for Flexible Developments which do not include any commercial space, buildings shall not cover more than (15) percent of the total lot area. The lot coverage shall not exceed fifty (50) percent and the remaining fifty (50) percent of the lot shall be green space.

In the GB-1 District, buildings shall not cover more than twenty-five (25) percent of the total lot area nor shall the lot coverage exceed seventy-five (75) percent. The remaining twenty-five (25) percent of the lot shall be green space. For developments in the GB-1 District which do not include any commercial space, buildings shall not cover more than (15) percent of the total lot area nor shall the lot coverage exceed fifty (50) percent. The remaining fifty (50) percent of the lot shall be green space.

- f. In the GB-1 District and Flexible Development Overlay Districts, any proposed commercial and residential mixed development shall comply, in the aggregate, with the regulations stated above as well as the parking requirements listed in Section VI of this Bylaw.
- g. There shall be no more than four (4) dwelling units in one building.
- h. There shall be living quarters of not more than two (2) stories above finish grade and none below such level.
- i. No principal building shall be located less than thirty (30) feet from any other principal building.

16. **Restaurant, Lunch Room, Bar, Tavern, Fast-food or Takeout** **Restaurant**
Permitted as stipulated in Section III, C provided:

- a. Trash shall be stored in areas which are designed and constructed so as to allow no view of the trash storage from the street, to prevent waste paper from blowing around the site or adjacent properties and to permit safe, easy removal by truck or hand.

- b. Exterior lighting shall be designed so it will not cast direct light or glare upon adjacent properties or public ways.
- c. Landscaping and/or fencing shall be provided to minimize visual impacts and to minimize conflicts with adjacent residential uses.

17. **Tent, Trailer, Camping Vehicle, Mobile Home**

- a. The use of a trailer, camping vehicle or mobile home for living and/or business purposes is prohibited unless a temporary occupancy permit has been issued by the Building Inspector. The Building Inspector may grant a temporary occupancy permit of use of such facilities for a period not exceeding six (6) months in connection with the construction of a permanent home or for use as a temporary office, or for a period not exceeding twelve (12) months in connection with the rebuilding of a residence which has been destroyed by fire or other disaster.
- b. No persons shall park or store a tent trailer, camper, camping vehicle or mobile home except in a garage or in the rear half of a lot owned and occupied by the owner of said tent, trailer, camper, camping vehicle or mobile home. If stored outside, said facilities shall conform to the building setback requirements of the zoning district.
- c. The use of a large tent in connection with a special event such as a wedding reception, festival or similar occasion is permitted with the prior approval of the Board of Selectmen.

18. **Independent Living Facility and/or Congregate Living Facility**

Permitted by Special Permit from the Planning Board in the Flexible Development Overlay Districts and the GB-1 Districts, both in the manner set forth in Section IV D. of this Bylaw, as follows:

- a. The property shall contain no more than twelve (12) units per acre of contiguous buildable upland. No dwelling unit shall contain more than two (2) bedrooms.
- b. In the Flexible Development Overlay District, there shall be a vegetated buffer of not less than fifteen (15) feet along the rear and side property lines. There shall also be a landscaped area of not less than twenty (20) feet along any street frontage. In the GB-1 District, there shall be a vegetated buffer of not less than twenty (20) feet along any property line which abuts a residential zoning district.
- c. In the Flexible Development Overlay District, all buildings shall be set back from abutting property lines, except along any street frontage, by a minimum distance equal to the required buffer plus one-half (1/2) the above grade height of the wall of the building abutting that property line. Along any street frontage, the building shall be set back a minimum distance equal to the required landscaped area. In the GB-1 District, the structural setbacks listed in Appendix II of this Bylaw shall apply, except as noted in (b) above.
- d. In the Flexible Development Overlay District, buildings shall not cover more than twenty-five (25) percent of the total lot area, except that for Independent Living Facilities which do not provide common areas and services, buildings shall not cover more than (15) percent of the total lot area. The lot coverage shall not exceed fifty (50) percent and the remaining fifty (50) percent of the lot shall be green space.

- e. As illustrated in the table below, in the GB-1 District, for Independent Living Facilities which provide common areas and services or for Congregate Living Facilities, buildings shall not cover more than twenty-five (25) percent of the total lot area nor shall the lot coverage exceed ninety (90) percent. The remaining ten (10) percent of the lot shall be green space.

As illustrated in the table below, in the GB-1 District, for Independent Living Facilities which provide common areas and services or for Congregate Living Facilities, both of which include commercial space, buildings shall not cover more than twenty-five (25) percent of the total lot area nor shall the lot coverage exceed eighty (80) percent. The remaining twenty (20) percent of the lot shall be green space.

As illustrated in the table below, in the GB-1 District, for Independent Living Facilities which do not provide common areas and services or for Independent Living Facilities which do not provide common areas and services but do include commercial space, buildings shall not cover more than fifteen (15) percent of the total lot area nor shall the lot coverage exceed seventy-five (75) percent. The remaining twenty-five (25) percent of the lot shall be green space.

	Lot Coverage	Building Coverage	Green Space
Independent Living Facility with common areas and services	90%	25%	10%
Congregate Living Facility			
Independent Living Facility with common areas and services with commercial space	80%	25%	20%
Congregate Living Facility with commercial space			
Independent Living Facility without common areas and services	75%	15%	25%
Independent Living Facility without common areas and services but with commercial space			

- f. In Independent Living Facilities, all permanent residents shall be age sixty-two (62) years or older, except the spouse of a permanent resident may be younger.

(10/9/97 STM)

SECTION VIII ADMINISTRATION

A. Enforcement

1. The Building Inspector, or, if there is none, the Board of Selectmen shall be charged with the enforcement of this Bylaw and shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure would be in violation of this Zoning Bylaw; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this Zoning Bylaw.
2. Construction or operations under a building or special permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
3. A building permit shall lapse six (6) months from the date it is issued if construction has not begun by such date, except for good cause.
4. A Special Permit shall lapse one year from the date the Special Permit Granting Authority files its written decision with the Town Clerk, including such time required to pursue or await the determination of an appeal under General Laws, Chapter 40A, Section 17.

B. Building Permit Procedures

1. Application for a building permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all building or accessory buildings already on the lot, the location of new buildings to be constructed, together with the lines within which all buildings and accessory buildings are to be erected, the existing and intended use of each building or accessory building and such other information as may be necessary to provide for the execution and enforcement of this Bylaw.
2. All commercial, industrial or multiple-family residential buildings or uses, and all commercial signs shall be referred to either the Architectural Review Board or the Historic Business District Commission for review. No building permit shall be issued unless, and until, the construction or alteration of a building, as proposed, shall comply in all respects with the provisions of this Bylaw, the Building Code and/or with a decision rendered by the Historic Business District Commission and/or the Zoning Board of Appeals.

C. Special Permit Procedures

1. **Special Permit Granting Authority**

Unless specifically designated otherwise, the Zoning Board of Appeals shall act as the Special Permit Granting Authority.

2. **Designated Review Body**

The Planning Board shall be designated as the Technical Review Body (TRB) to the Zoning Board of Appeals for all Special Permit applications other than requests for dimensional variation involving single or two-family dwellings or structures accessory thereto.

a. **Duties and Responsibilities of the Technical Review Body**

The Planning Board shall administer the review of the information required to be submitted by applicants under this Bylaw; shall assign to the appropriate Town Committees, Boards, Commissions and departments and other agencies the review of data and information particular to each; shall set reasonable time limits for the review of this data and receipt of reports from these various agencies consistent with the provisions set forth in this Bylaw; shall conduct meetings, prepare findings and give testimony and recommendations to the Zoning Board of Appeals.

3. **Public Hearing**

Special Permits shall only be issued following public hearings held within sixty-five (65) days after filing with the Special Permit Granting Authority an application, a copy of which shall forthwith be filed with the Town Clerk by the applicant.

4. **Criteria**

Special Permits may be granted when it has been found that the use involved will not be detrimental to the established or future character of the neighborhood and the Town, and when it has been found that the use involved will be in harmony with the general purpose and intent of the Bylaw. The Special Permit Granting Authority shall make written findings certifying compliance with the specific requirements governing individual special uses and addressing at a minimum each of the following considerations:

- a. Adequacy of the site in terms of size for the proposed
- b. Suitability of the site for the proposed use;
- c. Impact on traffic flow and safety;
- d. Impact on neighborhood visual character, including views and vistas;
- e. Adequacy of method of sewage disposal, source of water and drainage;
- f. Adequacy of utilities and other public services;
- g. Noise and litter;
- h. Compatibility of the proposed use with surrounding land uses; and
- i. Impact on the natural environment including slopes, vegetation, wetlands, groundwater

and water bodies.

5. **Conditions**

Special Permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the Special Permit Granting Authority may deem necessary to serve the purposes of this Bylaw.

D. **Zoning Board of Appeals**

1. **Establishment**

There is hereby established a Zoning Board of Appeals of five (5) regular members and three (3) associate members to be appointed by the Board of Selectmen, with the term of each member to be three (3) years so arranged that the term of at least one (1) member shall expire each year. The Zoning Board of Appeals shall elect annually a Chairman from within its own regular members and a Clerk, and may, subject to appropriation, employ experts and clerical and other assistants. A member, either regular or associate, may be removed for cause by the Board of Selectmen and only after written charges have been made, and a public hearing has been held. (5/9/89 ATM)

2. **Powers**

The Zoning Board of Appeals shall have the following powers:

- a. **Appeals** - To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of General Laws Ch. 40A, and as otherwise provided for by General Laws Ch. 40A, Section 8.
- b. **Special Permits** - To hear and decide applications for special permits upon which the Board is empowered to act under this Zoning Bylaw pursuant to Chapter 40A, Section 9 of the General Laws.
- c. **Variances** - Variances may be granted by the Zoning Board of Appeals provided that, after a public hearing for which proper notice has been given as required by General Laws Ch. 40A, Section 10, said Board with respect to the particular land or structure or building, specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land, structure or building, and especially affecting such land, structure or building, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such Bylaw. The permit granting authority shall have all rights as provided under General Laws Chapter 40A, Section 10, and all variances issued shall be subject to provisions of said statutory section.

3. **Procedures**

- a. The Zoning Board of Appeals shall establish procedures consistent with the provisions of this Bylaw and with the provisions of Chapter 40A or other applicable provisions of the General Laws, and shall file a copy thereof with the Town Clerk.
- b. Special Permits and Variances shall only be issued following public hearings held within sixty-five (65) days after filing of an application or petition with the Special Permit Granting Authority and the Town Clerk.

4. **Special Provisions: RC3 (Residence Seashore Conservancy District)**

Applicants for variances and exceptions within the Seashore Conservancy District shall be promptly notified by the Board of Appeals that the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, property which is made the subject of a variance or exception that, in his opinion, fails to conform or is in any manner opposed to or inconsistent with the purposes of the Cape Cod National Seashore. The Secretary of the Interior shall be given notice by the Board of Appeals of all applications or petitions made for variances and exceptions to the Bylaws for the Seashore Conservancy District and he shall be provided notice by the Building Inspector of all application and petition. Subsequently, to meet the requirements of the Act of Congress of August 7, 1961, the Secretary shall be given notice by the appropriate board or official of any variance, or exception, or building permit, granted or denied for the area within the Seashore Conservancy District.

E. **Penalty**

Any person, firm or corporation violating any section or provision of this Bylaw shall be fined not more than one hundred (100) dollars for each offense. Each day that such offence continues shall constitute a separate offense.

F. **Non-Interference**

This Bylaw shall not interfere with or annul any other Town Bylaw, rule, regulations or permit; provided that, unless specifically excepted, where this Bylaw is more stringent, it shall control.

G. **Separability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision hereof.

H. **Amendment**

This Bylaw may be amended from time to time in accordance with the provisions of Section 5, Chapter 40A of the General Laws.

APPENDIX I
Schedule of Use Regulations¹

P: Permitted SC: Special Condition SP: Special Permit SP/SPA: Special Permit/Site Plan Approval⁴ X: Prohibited

	R-60	*R40 R40A	R-30	R-20	R-20A	SB	GB	I	M/C ^{***}	M
Agricultural use	P	P	P	P	P	P	P	P	P	P
Animal Hospital	X	X	X	X	X	X	SP	X	X	X
Antique Shop	X	X	X	X	X	SC	P	X	X	X
Apartment incidental to a commercial use and Industrial use [*]	X	X	X	X	X	X	SP/SPA	SP SPA *	X	X
Affordable apartment incidental to a single family dwelling	SP	SP	SP	SP	SP	SP	SP	X	X	X
Affordable Dwelling Units	SP	SP	SP	SP	SP	SP	SP	X	X	X
Art Gallery	X	X	X	X	X	SC	P	X	X	X
Arts and Crafts Production	X	X	X	X	X	X	SP	P	X	X
Auto body and repair	X	X	X	X	X	X	X	P	X	X
Bank	X	X	X	X	X	X	P	X	X	X
Bar/Tavern	X	X	X	X	X	X	SP	X	X	X
Boarding or rooming house	SC	SC	SC	SC	SC	SC	SC	X	X	X
Bus Terminal	X	X	X	X	X	X	SP	SP	X	
XBus and trucking terminal	X	X	X	X	X	X	X	SP	X	X
Commercial entertainment establishment	X	X	X	X	X	X	SP	X	X	X
Commercial recreation facility	X	X	X	X	X	X	SP	X	X	X
Congregate Living Facility ⁵	X	X	X	X	X	X	SP/SPA	X	X	X
Commercial Garage/Parking Lot	X	X	X	X	X	X	SP	X	X	X

APPENDIX I (cont'd)

	R-60	*R40 R40A	R-30	R-20	R-20A	SB	GB	I	M/C***	M
Conservation of land, water, wildlife, vegetation, and other natural features	P	P	P	P	P	P	P	P	P	P
Conversion of existing dwelling to multiple dwelling	X	X	X	X	X	SC	SC	X	X	X
Dormitory	X	X	X	X	X	SP	SP	X	X	X
Fast food or take-out restaurant	X	X	X	X	X	X	X	SP	X	X
Fishing use	P	P	P	P	P	P	P	P	X	P
Fuel establishment	X	X	X	X	X	X	X	P	X	X
Gasoline Station	X	X	X	X	X	X	SP	SP	X	X
Gift Shop	X	X	X	X	X	SC	P	X	X	X
Government Offices and Facilities ***	X	X	X	X	X	X	X	X	X	P
Group Dwelling	SP	SP	SP	SP	SP	SP	SP	X	X	X
Guest House	SC	SC	SC	SC	SC	SC	SP	X	X	
XHome Occupation	SC	SC	SC	SC	SC	SC	X	X	X	X
Hospital, sanatorium or nursing home	X	X	X	X	X	X	SP	X	X	X
Independent Living Facility ⁵	X	X	X	X	X	X	SP/SPA	X	X	X
Kennel	SP	SP	SP	SP	X	X	SP	X	X	X
Light Industry and manufacturing	X	X	X	X	X	X	SP	SP	X	X

APPENDIX I (cont'd)

	R-60	*R40 R40A	R-30	R-20	R20A	SB	GB	I	M/C***	M
Low intensity recreational use such as walking, biking, fishing and picnicking***	P	P	P	P	P	P	P	P	P	P
Lumber and feed establishment	X	X	X	X	X	X	SP	P	X	X
Lunch Room	X	X	X	X	X	SP	SC	X	X	X
Marina/boatyard	SP	SP	SP	SP	SP	SP	SP	P	X	X
Medical Clinic	X	X	X	X	X	X	SP	X	X	X
Motel, Hotel and Inn	X	X	X	X	X	X	SP	X	X	X
Multi-Family dwelling ⁵	X	X	X	X	SC	X	SP/SPA	X	X	X
New and used car sales	X	X	X	X	X	X	SP	P	X	X
One-family dwelling	P	P	P	P	P	P	SP	X	X	X
Open Space Residential Development (OSRD)	SPA	SPA	SPA	SPA	SPA	SPA	X	X	X	X
Personal and household service	X	X	X	X	X	X	P	X	X	X
Private educational use	SP	SP	SP	SP	SP	SP	P	X	X	X
Private not-for-profit club	SP	SP	SP	SP	SP	SP	SP	X	X	X
Professional Office	X	X	X	X	X	SP	P	X	X	X
Public educational use	P	P	P	P	P	P	P	P	X	
Public utility building and facilities	SP	SP	SP	SP	SP	SP	SP	SP	X	P
Radio/television broadcasting	X	X	X	X	X	X	SP	X	X	X
Religious and municipal use	P	P	P	P	P	P	P	P	X	X






APPENDIX I (cont'd)

	R-60	*R40 R40A	R-30	R-20	R-20A	SB	GB	I	M/C	M
RESTAURANT	X	X	X	X	X	X	SC	X	X	X
Retail sales and service	X	X	X	X	X	X	P	P	X	X

Roadside stand	P	P	P	P	P	P	P	P	X	X
Tent, trailer, camping vehicle and mobile home	SC	SC	SC	SC	SC	SC	SC	SC	X	X
Tourist home	SC	SC	SC	SC	SC	SC	SC	SC	X	X
Wholesale businesses or storage	X	X	X	X	X	X	X	SP	P	X
Outdoor vending machine: Food and Beverage	X	X	X	X	X	X	X	SP	X	X
<u>Accessory Uses:</u> ³										
Barn	P	P	P	P	P	P	P	SP	X	X
Boathouse	P	P	P	P	P	P	P	SP	X	X
Garage	P	P	P	P	P	P	P	SP	X	X
Swimming Pool	P	P	P	P	P	P	P	SP	X	X
XTennis Court	P	P	P	P	P	P	P	SP	X	X
Similar accessory structures	P	P	P	P	P	P	P	SP	X	X

1 For permitted uses in the RC3 District, see Section III, C. 6.
2 Except outdoor food and beverage vending machines shall be prohibited in the GB1 District.
3 Accessory uses shall be located on the same lot as a principal use, except that the Zoning Board of Appeals may grant a Special Permit to locate such a use on an unimproved lot, provided that it is for private, non-commercial use and meets the criteria set forth in Section VIII, C. 3. of this Bylaw. (5/14/90 ATM)
4 In certain cases, Site Plan Approval is included as part of the Special Permit process. (10/9/97 STM)
5 Also allowed by SP/SPA in the Flexible Development Overlay Districts. See Section IV D. of this Bylaw. (10/9/97 STM)
. 5/11/92 ATM * 5/16/01 11/7/95 STM

APPENDIX II
Schedule of Dimensional Requirements

District	Minimum Building/Structure Setbacks ^{9,10}	Conservancy Districts ^{2,3}		Maximum Bldg. Height	Min. Parking Setbacks		Max. Lot Coverage	Max. Bldg Coverage	Req. Green Area	Stories ⁶	Feet	Road (ft)	Abutters (ft)
		Min. Frontage (feet)	Road (ft)		Abutters (ft)	Coastal (ft)							
R60	60,000	150	40 ⁷	25 ⁷	50	25	N/A	10% 	N/A	2½	30	20 ¹¹	10 ¹¹
R40	40,000	150	40 ⁷	25 ⁷	50	25	N/A	10% 	N/A	2½	30	20 ¹¹	10 ¹¹
R40A*	40,000	150	40 ⁷	40	50	25	N/A	10% 	N/A	2½	30	20 ¹¹	10 ¹¹
R30	30,000	100	25	15	50	25	N/A	10% 	N/A	2½	30	20 ¹¹	10 ¹¹
R20	20,000	100	25	15	50	25	N/A	10% 	N/A	2½	30	20 ¹¹	10 ¹¹
R20A	20,000	100	25	15	50	25	50%	N/A	50%	2½	30	20 ¹¹	10 ¹¹
SB	20,000	125	50	20	50	25	50%	N/A	50%	2½	30	60 ⁵	15
GB-1	5,000	50	5 ⁴	5 ⁴	50	25	90%	N/A	10%	2½	30	0	0
GB-2	7,000	50	25	15	50	25	70%	N/A	30%	2½	30	10	10
GB-3	10,000	100	50 ¹	15	50	25	60%	N/A	40%	2½	30	20	
	10,000	50 ⁸	10	5	50	25	80%	N/A	20%	2½	30	10	0
RC3	3 acres	150	50	50	50	50	10%	N/A	90%	2½	30	0	0
M	N/A	N/A	25	15	N/A	N/A	N/A	N/A	N/A	2½	30	0	0
M/C	N/A	N/A	25	15	N/A	N/A	N/A	N/A	N/A	2½	30	0	0

¹ Except when a building is erected on a corner of two streets, a setback of fifty (50) feet shall be required on the primary street and a setback of thirty (30) feet shall be required on a secondary street.

² Nonresidential buildings and structures permitted by the Board of Appeals under Section IV. A. 3. of this Bylaw need not conform to the Conservancy District setbacks.

³ Stairs, steps and walkways used as access from the top of a bank to a beach or wetland need not conform to the abutter's setback requirements; however, in no case shall the abutter's setback be less than three (3) feet.

4 Except single family dwellings in the GB1 District shall comply with the following setback requirements: 25 ft. road/15 ft. abutters.

5 Except when a lot is located on the corner of two streets, a setback of sixty (60) feet shall be required on the primary street and a setback of twenty (20) feet shall be required on the secondary street.

6 A building may contain either a finished basement or a finished attic but in no case shall both attic and basement areas be used as habitable space.

7 Except that for lots in existence prior to May 1987, a road setback of thirty (30) feet and an abutter's setback of twenty (20) feet shall be required.

8 Except along Route 137 (Meetinghouse Road) where the minimum frontage shall be one hundred feet (100').

9 Except that retaining walls which are needed to upgrade or replace existing substandard septic systems (as determined by the Board of Health), where no expansion of use is involved, shall not be required to conform to the road, abutter's and conservancy setbacks set forth herein.

10 See Section III D.3.i. for business or industrial lots which abut a residential zoning district or Route 137. (10/9/97 STM)

11 For all nonresidential uses and uses accessory to the residential use. (10/9/97 STM)

The maximum building coverage for all lots, whether vacant or improved with a structure, which contains 30,000 square feet or less or buildable upland shall be as follows:

Buildable Upland

Maximum Building Coverage

20,000 s.f. or less

15%, but not more than 2,800

20,001 to 22,500 s.f.

2,850 s.f.

22,501 to 25,000 s.f.

2,900 s.f.

25,001 to 27,500 s.f.

2,950 s.f.

27,501 to 30,000 s.f.

3,000 s.f.
(ATM 5/16/01)

* R40A- Added (ATM 5/16/01)