

Mashpee Zoning By-Laws
April 1985

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SECTION 1: PURPOSE AND VALIDITY

1.1 Zoning Purposes

For the purposes set forth in Massachusetts General Laws, Chapter 40A and all Acts in amendment thereof, and in addition thereto, and under the authority thereof, the height, area, location and use of buildings and structures and the use of land throughout the Town of Mashpee are hereby regulated as provided herein, and the Town is hereby divided into districts hereinafter designated, defined and described, and shown on an official copy of the zoning map, dated May, 1979 as amended on file with the Town Clerk, which map is hereby made a part of this By-Law.

1.2 Conflict of Laws, Validity, Severability

1.21 In general, this By-Law is supplementary to other Town By-Laws affecting the use, height, area and location of buildings and use of premises, but where this By-Law imposes a greater restriction in any respect than is imposed by other Town By-Law the provisions of this By-Law shall prevail.

1.22 The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision.

SECTION 2: DEFINITIONS

For the purposes of this By-Law the following words and phrases shall have the meanings or limitations of meanings herein defined. All present tenses shall include past and future tenses and all past tense the present. All singular terms shall include the plural and the plural the singular.

2.1 Accessory

- a) Accessory building: a building devoted exclusively to a use accessory to the principal use of the lot on which it is located.
- b) Accessory use: a use incident and subordinate to and on the same lot as a principal use.

2.2 Apartment

- a) Unit: any room or suite of rooms forming a habitable unit for one family with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping, and eating areas wholly within such room or suite of rooms.
- b) Apartment building: a building containing four or more apartment units.
- c) Garden apartment: an apartment building containing four or more apartment units with no portion of the building below the first story or above the second story used for dwelling purposes.
- d) Town House apartment: a group of attached one-family dwellings.

2.3 Build

The word "build" shall include the words "erect", "construct", "alter", "enlarge", "move", "excavate", "fill", and any others of like significance.

2.4 Building

The word "building" shall include the word "structure" unless the context unequivocally indicates otherwise. "Building" shall also mean any three dimensional enclosure by any building materials of any space for use or occupancy, temporary or permanent, and shall include foundations in the ground, also all parts of any kind of structure above ground except fences and field or garden walls or embankment retaining walls.

2.5 Dwelling

- a) Dwelling Attached: A building designed for or occupied as a residence and separated from another attached dwelling on one or both sides by a vertical party wall.
- b) Dwelling Detached: A building designed for or occupied as a residence and separated from any other building except accessory buildings by side

- yards.
- c) Unit: (Same as Apartment Unit)
 - d) One Family Dwelling: A building designed for or occupied by one family.
 - e) Two Family Dwelling: A free standing building, designed or intended exclusively for residential use containing two dwelling units. (This can be two attached dwelling units).
 - f) Mixed Residential Use: Dwellings built above the ground floor in buildings which contain retail or office uses on the ground floor

2.6 Family

Any number of individuals, including domestic employees, living together in a dwelling unit and living as a single non-profit housekeeping unit; provided that a group of five or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

2.7 Home Occupation

An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit requiring only customary home equipment. Home occupations do not include barber shop, beauty shop, commercial offices such as real estate or insurance nor do they involve the sale of articles produced outside the dwelling unit nor the raising or producing or products involving odor, vibration, smoke, dust, heat or other objectionable effects

2.8 Hotel-Motel

A structure containing 15 or more sleeping rooms with or without a common eating facility, each room having its own private toilet facilities and each room let for compensation.

2.9 Lot

The whole area of a single parcel of land undivided by a street under one ownership, with ascertainable boundaries established by deed or deeds of record or a segment of land ownership defined by lot boundary lines on a land division plan duly approved by the Planning Board under the subdivision control statute.

2.10 Lot Line, Front

A line dividing a lot from a street. On any lot bounded on more than one side by a street, the street boundary that is to be the lot "Front" shall be so designated in any application for a permit to build on such lot.

2.11 Lot Line, Rear

Except for a triangular lot, the lot line opposite the "Front lot line".

- 2.12 Lot Line, Side
Any lot line not a front or rear lot line.
- 2.13 Lot Frontage
The lot frontage shall be measured along a straight line connecting point of intersection of the side lot lines with the front lot line.
- 2.14 Lot Width
The width of any lot shall be measured wholly within such lot as the shortest distance between side lot lines at the required front yard dept.
- 2.15 Lot Area
The area of a lot exclusive of any area in public or private way open to public use and any body of water.
- 2.16 Lot Coverage
The amount of area on a lot covered by the horizontal cross-section of structures.
- 2.17 Marina
An area for the storage or mooring of boats with frontage on a navigable body of water and with facilities for the landing of boats if the storage is on land. If storage is to be on land and of a transient nature, requiring frequent launchings and landings, it shall be inside a building.
- 2.18 Mobile Home - Trailer
- a) Mobile home: A transportable, single family dwelling unit suitable for year round occupancy, and containing the same water supply, waste disposal, and electrical conveniences as immobile housing.
 - b) Trailer: The following shall be considered a trailer.
 1. Travel Trailer: A vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation having body width not exceeding 8 feet and a body length not exceeding 32 feet.
 2. Pick-up Coach: A structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
 3. Motor Home: A portable temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self propelled vehicle.
 4. Camping Trailer: A folding structure mounted

on wheels and designed for travel, recreation and vacation use.

- 2.19 Mobile home or Trailer Park: A parcel of land which has been planned and improved for the placement of mobile homes or trailers for transient or non-transient use and is designed to accommodate two or more mobile homes or trailers.
- 2.20 Non-conforming
- A. Lot
A lot that does not conform to a dimensional regulation prescribed by this By-Law for the district in which it is located.
- B. Use
A use of a building or lot that does not conform to a use regularly permitted by this By-Law for the district in which it is located but was in existence at the time of the adoption of this By-Law and was lawful at the time it was established.
- 2.21 Occupied
"Occupied" shall include the words "designed, arranged, or intended to be occupied."
- 2.22 Parking Space
An area containing not less than 300 square feet to be used exclusively as a parking stall for one motor vehicle.
- 2.23 Signs
A sign shall mean and include any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation used as or which is in the nature of an advertisement, announcement or direction or is designed to attract the eye by intermittent or rapid motions or illumination.
- 2.24 Story
That portion of a building contained between any floor and the floor or roof next above it, but not including any portion so contained if more than one-half of such portion vertically is below the average natural grade of the ground adjoining such building.
- 2.25 Half-Story
That portion of a building next beneath a sloping roof and in which there are less than 4 feet vertically between the top of the floor and the intersection of the bottoms of the rafters with the interior faces of the wall.
- 2.26 Space - habitable

Those areas within the exterior walls of a dwelling which have head room of not less than seven (7) feet measured vertically upward from the top of the finished floor but excluding basement areas and excluding areas in any accessory structure attached to any dwelling.

2.27 Street

A public way or private way on record at the Registry of Deeds which affords a principal means of adequate access to abutting property and open to travel by the general public or a way shown on a subdivision plan duly approved by the planning board under the subdivision control statute.

2.28 Structure

A combination of material assembled at a fixed location to give support or shelter such as a building, tower framework, platform, bin, sign, or the like.

2.29 Use

The purpose for which land or a building is arranged, designed, or intended or for which either land or a building is or may be occupied or maintained.

2.30 Yard

A. Front Yard

An open space extending the entire width of a lot from lot sideline to lot sideline between the front lot line or lines and the nearest point of a building.

B. Rear Yard

An open space extending the entire width of a lot line from sideline to sideline between the rear lot line or the corner of a triangular lot farthest from the front lot line and the nearest point of the building.

C. Side Yard

An open space extending along a sideline of a lot (between the front yard and the rear yard on such lot) and extending between the sideline of such lot to the nearest point of the building.

2.31 Special Permit Granting Authority - shall be the Board of Appeals unless specifically designated in any section of this By-Law to another authorized Board or Agency as allowed under Chapter 808 of the Acts of 1975, as amended.

2.40 Other words and Phrases

Words and phrases not defined in this section but defined in the building code of the Town of Mashpee which have the meanings given in said building code

unless a contrary intention clearly appears.

SECTION 3:

ESTABLISHMENT OF ZONING DISTRICTS

- 3.1 The Town of Mashpee is hereby divided into zoning districts designated as follows:

Residence Districts

R-1 R-4

R-2 R-5

R-3

Commercial Districts

C-1 C-1-SU Incentive Zone

C-2

Industrial Districts

I-1

Flood Plain Districts

F

Mashpee River and Quashnet River Protective Districts

- 3.2 Except for Flood Plain and Mashpee River and Quashnet River Protective Districts, the location and boundaries of these districts are hereby established as shown on a map entitled "Zoning Map of the Town of Mashpee," dated June 27, 1983, bearing the signatures of the members of the Planning Board and on file in the office of the Town Clerk, which map, with all explanatory matter thereon is declared to be a part of this By-Law.
- 3.3 Any changes or amendments shall be indicated by the alteration of such map, and the map thus altered is declared to be a part of the By-Laws thus amended.
- 3.4 Where a district boundary is indicated as within or parallel to a street, highway, railroad right-of-way, water course or town municipal boundary such district boundary shall be construed as the centerline or being parallel to the centerline of such street, highway, railroad right-of-way, water course or town municipal boundary.
- 3.5 Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined from the scale of the map by the building inspector.

SECTION 4:

APPLICATION OF REGULATIONS

- 4.1 No buildings shall be erected or used, and no land shall be used or divided unless in conformity with the regulations of this By-Law. All other buildings and all other uses of land or of buildings are hereby expressly prohibited, except those already lawfully existing which by the provisions of this By-Law become lawfully nonconforming.
- 4.2 When a lot is transected by a zoning district boundary, and in part in the adjacent municipality, the provisions of this By-Law shall be applied to the portion of such lot in the Town of Mashpee in the same manner as if the entire lot were situated in Mashpee.
- 4.3 When a lot is transected by a zoning district boundary, the regulations of the By-Law shall be applicable to the larger part by area of such lot may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary but only to an extent not more than thirty (30) linear feet in depth beyond such zoning district boundary.
- 4.4 No building shall be erected except on a lot fronting on a street and there shall be not more than one principal building on any residential lot, except as allowed under this By-Law.
- 4.5 Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of this By-Law even though the fee to such land may be in the owners of abutting lots.
- 4.6 Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been taken by eminent domain, shall not be deemed to be transferred, in violation of the land area, width, and space provisions of this By-Law.
- 4.7 Construction or operations under a building permit or special permit shall conform to any subsequent amendment of the Zoning By-Law 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 it is reasonable.

SECTION 4:

APPLICATION OF REGULATIONS

- 4.1 No buildings shall be erected or used, and no land shall be used or divided unless in conformity with the regulations of this By-Law. All other buildings and all other uses of land or of buildings are hereby expressly prohibited, except those already lawfully existing which by the provisions of this By-Law become lawfully nonconforming.
- 4.2 When a lot is transected by a zoning district boundary, and in part in the adjacent municipality, the provisions of this By-Law shall be applied to the portion of such lot in the Town of Mashpee in the same manner as if the entire lot were situated in Mashpee.
- 4.3 When a lot is transected by a zoning district boundary, the regulations of the By-Law shall be applicable to the larger part by area of such lot may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary but only to an extent not more than thirty (30) linear feet in depth beyond such zoning district boundary.
- 4.4 No building shall be erected except on a lot fronting on a street and there shall be not more than one principal building on any residential lot, except as allowed under this By-Law.
- 4.5 Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of this By-Law even though the fee to such land may be in the owners of abutting lots.
- 4.6 Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been taken by eminent domain, shall not be deemed to be transferred, in violation of the land area, width, and space provisions of this By-Law.
- 4.7 Construction or operations under a building permit or special permit shall conform to any subsequent amendment of the Zoning By-Law 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 it is reasonable.

4.8 In the C-1-SV Incentive Zoning District and C-1-0 Incentive Zoning District, lot owners shall have the option to elect, accept and adopt and therefore have a right to either all uses and benefits available to all lot owners in the underlying C-1 Commercial District as designated in the "Table of Use Regulations of the Zoning By-Laws", or in the alternative to elect, accept and adopt the uses and benefits available to lot owners in the newly created C-1-SV or C-1-0 Incentive Zoning District designated in said "Table of Use Regulations."

Lot owners must elect to adopt entirely within any qualifying lot the provisions of the incentive zone in which their property lies, or the underlying C-1 Commercial Zoning District Provisions. The two sets of provisions cannot be mixed within any qualifying lot. This election and/or decision must be made before an application for the required special permit, and submitted to the Town of Mashpee. A letter notifying the Town of the decision must accompany any application for a special permit.

SECTION 5:

NON-CONFORMING BUILDINGS AND USES

- 5.1 Any lawful use of any structure or land or both may be continued although not conforming with the provisions of this By-Law, but no such lawfully non-conforming use or structure shall be changed, intensified, extended or enlarged in any manner except as permitted by the Board of Appeals and such permission shall be based on the same conditions as set forth in Section 6.2 of this By-Law and further provided the board finds there is adequate land area to provide sufficient parking and setbacks as may be required, and further provided that the board finds that such change, intensification, extension or enlargement shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.
- 5.2 If any non-conforming use of any structure or land or both is changed to a conforming use it shall not thereafter be put into any non-conforming use.
- 5.3 If any non-conforming development or use of land or of a building be discontinued for a period of not less than twenty-four (24) consecutive months, which in the terms of this By-Law shall be evidence of abandonment of a non-conforming usage, such land or building shall thereafter be used or developed only in accordance with the terms of this Zoning By-Law for the zoning district in which such property is located.
- 5.4 Any non-conforming building or structure destroyed or damaged by fire, flood, lightning, wind or otherwise may be rebuilt, subject to approval of the Board of Appeals subject to the same conditions as set forth in section 6.2 of this By-Law.
- 5.5 Non-Conforming Lots: None-Conforming lots may be developed as allowed by M.G.L. Chapter 40A, Section 6 or in conformance with the following:
- 5.51 Definitions, for the purpose of this section:
- Non-Conforming Lots: A lot which was lawfully laid out by a plan or deed duly recorded in the Registry of Deeds which complied with all zoning requirements, if any, in effect at the time of recording, but which, through subsequent adoption or amendment of a zoning by-law imposing minimum area, frontage, width, depth or yard requirements, or more than one such requirement, in excess of those in effect at the time of recording, no longer meets the requirements of this by-law with regard to those items.

Undeveloped Lot: A lot which no building exists.

- 5.52 Where one undeveloped non-conforming lot was held in ownership separate from that of all adjoining undeveloped lots on January 1, 1985, or at the time it became non-conforming, whichever is later, one single-family residential building and its permitted accessory buildings and improvements may be built on that lot, provided that the lot contains at least five thousand (5,000) square feet of area and fifty (50) feet of frontage.
- 5.53 Where two or three adjoining non-conforming lots were held in common ownership on January 1, 1985 or at the time they became non-conforming, whichever is later, one single-family residential building and its permitted accessory buildings and improvements may be built on such lots, provided that the lot contains at least ten thousand (10,000) square feet of area and seventy-five (75) feet of frontage. Where the area of one or more of said lots is less than ten thousand (10,000) square feet or lot frontage is less than seventy-five, said lots may be combined and a single-family residential building and its permitted accessory buildings and improvements may be built on each remaining lot which meets those area and frontage requirements, provided that in no case may the number of remaining lots be greater than that of the original number of non-conforming lots which contained at least two thousand, five hundred (2,500) square feet of area.
- 5.54 No lot may be changed in size or shape so that a violation is created, except by a public taking of a portion of the lot.
- 5.55 Where four or more adjoining non-conforming lots were held in common ownership on January 1, 1985 or at the time they became non-conforming, whatever is later, such lots shall be combined so that the resulting lot or lots conform with current by-law requirements before any building permit may be issued, except that where the combination of all of the four or more such lots will not result in a lot which would conform to the current by-law requirements, one single-family residential building and its permitted accessory buildings and improvements may be built on the combined lots, provided that the resulting lot contains at least ten thousand (10,000) square feet of area and seventy-five (75) feet of frontage.
- 5.56 Nothing in this section shall be construed to apply to lots in a commercial or industrial district or to allow any building or improvement which is prohibited

or limited by any regulation, finding or order of the Board of Health or any other Town, State or Federal agency. Nothing in this section shall be construed to allow any residential density or type of residential or other use which was allowed by a special permit where (a) said special permit has expired under any provisions of these by-laws, or (b) the use allowed has been discontinued for a period of more than two years.

- 5.57 If a lot obtains its legal frontage on, or requires access via a road shown on a subdivision plan as defined in M.G.L. Chapter 41, Section 81, which plan has been approved by the Planning Board, no building may be constructed on said lot unless the roads shown on such plan have been installed in accordance with Planning Board requirements, if any, in effect at the time the plan was submitted to the Planning Board where a release of the road covenant or release of other security has been obtained from the Board, or in accordance with current Planning Board requirements where no road covenant or security has been so released.

SECTION 6:

LAND USE REGULATIONS

- 6.1 Except as provided by law or in this By-law in each district no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompanying Table of Use Regulations, Section 6.3.
- 6.11 Prior to the authorization of any new building, the Building Inspector shall require a performance bond of not less than \$4.00 per foot of lot frontage against possible costs due to erosion or damage within street right-of-way, and a bond or cash security may be required by the Building Inspector for other construction, such bond or cash security to be held by the Town Treasurer until an occupancy permit is granted in the case of a building or a release of the security is executed by the Building Inspector. In the event of erosion or damage within streets right-of-way caused by the construction, the owner of the land shall make repairs to restore the road layout not later than 10 days after being directed to do so by the Building Inspector or the security posted will be forfeited and applied to the cost of said repairs and the owner will be responsible for any cost in excess of the security. The Building Inspector shall have the right, for cause, to extend the 10 day time limit imposed hereunder for additional 10 day periods.
- 6.2 A use listed in Section 6.3 is permitted as of right in any district under which it is denoted by the letter "Y" subject to such requirements as may be specified elsewhere in this By-Law. Absence of any designation on the Table in Section 6.3 means the use listed is not permitted. If designated in the Tables by the letters "SP" the use may be permitted as a special exception only if the Planning Board so determines and grants a special permit therefor as provided in Section 9 subject to such restrictions as set forth elsewhere in this By-Law and/or such restrictions as said Board may establish, or if Section 9 is not applicable then such permit shall be granted if deemed by the Board of Appeals in the best interest of the community. Such permit shall set forth any restrictions the Board of Appeals deems appropriate and the granting of said permit shall be made after the Board of Appeals determines it is not detrimental to the Town or the area by reason of excessive traffic noise or demand on community facilities. In all cases involving a special permit a site plan showing

location of buildings, drainage, and utilities shall be submitted in duplicate and Board of Appeals shall submit one (1) copy to the Planning Board for its review and comments. The Planning Board shall submit a written report to the Board of Appeals within thirty (30) days of the receipt of said site plan. Where the decision of the Board of Appeals differs from the recommendations of the Planning Board the reasons therefor shall be clearly stated in writing.

- 6.21 Any Special Permit granted by the Board of Appeals shall be issued only following a public hearing which shall be held within 65 days after the filing of an application therefor with the Town Clerk, a copy of which shall forthwith be given to the Board of Appeals by the applicant.
- 6.22 Any special permit hereinafter granted by the Board of Appeals shall lapse within two years from the grant thereof, including such time required to pursue or await the determination of any appeal, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause.
- 6.23 Any use, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.
- 6.3 Land Use Regulations: See following pages.

SECTION 7

LAND SPACE REQUIREMENTS

- 7.1 No building or structure shall be built nor shall any existing building or structure be enlarged or altered except in conformance with the regulations of this Zoning By-Law as to lot coverage, lot area, land area per dwelling unit, lot width, front, side, and rear yards, and maximum height of structures, in the several districts as set forth below except as may otherwise be provided elsewhere in this Zoning By-Law.
- 7.11 Prior to the proceeding with any new construction above the foundation, a Registered Land Surveyor shall certify to the Building Inspector that the structure has been located on the lot in compliance with all land space requirements.
- 7.2 The land and yard spaces required for any new building or use shall not include any land or area required by any other building or use to fulfill zoning requirements.
- 7.3 If more than one building (other than a one, two or three car garage, a tool-shed, a greenhouse or a cabana) may lawfully be placed on any lot in a single or common ownership, the distance between the nearest parts of such buildings shall be not less than twenty (20) feet.
- 7.4 Land Space Requirements Table: See following page.

Land Space Requirements Table Footnotes

- (1) Frontage may be measured at the front yard set back line if the street is an arc of a curve with a radius of 300' or less provided there be in any event not less than sixty (60) feet width of such frontage at the street.
- (2) Not less than the frontage requirements shall be maintained throughout the front yard depth, except as provided for in (1) above.
- (3) On lots abutting streets or public ways on more than one side, the front yard requirements shall apply to each of the abutting streets and public ways. In the case of undefined ways, the measurements shall be taken from the center of the road and an additional twenty feet shall be required.

- (4) These height restrictions shall not apply to chimneys, water towers, skylights and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy nor to wireless or broadcasting towers and other like unenclosed structures.
- (5) See Section 9 regarding motels, attached dwellings and apartments.
- (6) A dwelling need not be set back more than the average of the set backs of dwellings on the lots adjacent to either side. If a vacant lot exists on one side, it shall be considered as a dwelling set back the depth of the required front yard.
- (7) Except no requirement when the side of a building abuts another building.
- (8) Except 50' when abutting a residential zone.
- (9) Flood Plain restrictions are set forth in Section 11.
- (10) All land space requirements shall apply to accessory uses.
- (11) Where private subdivision roads serve only industry, minimum front yard depth may be seventy-five (75) feet, twenty-five (25) feet of which shall be left wooded or suitably landscaped and not to be used for parking.

7.5 In the C-1-SV Commercial District no building may cover more than 8000 sq. ft. of ground area.

SECTION 8

OFF-STREET PARKING

- 8.1 No land shall be used and no building or structure shall be erected, enlarged or used unless the off-street parking space requirements are provided as specified in this section. For the purpose of this section an enlargement of any building shall require the provision of off-street parking for the existing building as if it were newly constructed.
- 8.2 Where the computation of required parking space results in a fractional number, only the fraction of one-half (1/2) or more shall be counted as one.
- 8.3 Required off-street parking facilities for non-residential purposes and apartments shall be provided on the same lot as the principal use they are designed to serve and all parking spaces shall be paved.
- 8.4 Each required car space shall be not less than nine (9) feet in width and twenty (20) feet in length exclusive of drives and maneuvering space and the total area of any parking facility for more than five (5) cars shall average at least three hundred (300) square feet per car exclusive of driveways.
- 8.5 Where one building is used for more than one use, parking requirements shall be computed for each use (a motel with a restaurant would be required to provide parking for both rental units and for seating capacity of the restaurant, a professional office in a residence must provide the space for both office use in addition to the residential requirements.)

Principal Use	Number of spaces
One and two family dwellings	2 spaces per dwelling unit.
Apartments	2 spaces per dwelling unit.
Rooming Houses & Lodging Houses	3 spaces + 1 space for each rental unit over 2.
Nursing Homes	1 space for each 2 beds.
Motels, Hotels, & Inns	2 spaces + 1 1/2 spaces for each rental unit + 1 1/2 spaces for each 20 square feet of floor area available for meeting or functions.

Permitted Offices in Residences	3 spaces + 3 spaces for each non-resident employee.
Retail Stores and Services	1 space for each one hundred fifty (150) square feet of gross floor area.
*Apartments built under housing for the elderly	1 space per dwelling unit.
Restaurants, theatres and other places of assembly exclusive of churches	1 space for each four (4) seats.
Bowling Alleys	Four (4) spaces for each alley.
Offices	1 space for each two hundred (200) square feet of gross floor area.
Warehouses and other commercial or industrial buildings	1 space for each nine hundred (900) square feet of gross floor area.

For any home occupations permitted which are not covered in Section 8.5, adequate off-street parking shall be provided.

- 8.6 In the C-1, C-1-SU, and C-1-0 Commercial Districts and the R-4 Residential Districts all parking for any uses, including permitted residential uses must be located behind or to the side of buildings and shall not be located closer than 40 feet from any front lot line.
- 8.7 In the C-1, C-1-SU and C-1-0 Commercial District and R-4 Residential Districts no accessway for parking may be closer than 200 feet from another accessway or the right of way line of a road intersection. No accessway for parking may enter into a main road leading into Mashpee Circle (Pine Tree Corner) at a point closer than 600 feet from the center of Mashpee Circle, provided that all existing uses and accessway may be maintained in their current condition.
- 8.8 All marinas in all zoning districts shall provide one automobile parking space for each boat storage and mooring and docking space, whether such boat spaces are to be provided on land or water.
- 8.9 All outdoor Flea Markets shall provide on site parking spaces; one space shall be provided for each 100 sq.

of ground area in the area of display.

SECTION 9

SPECIAL PROVISIONS

- 9.1 The following uses may be permitted as designated in Section 6.3, Table of Use Regulations, provided they meet the following requirements in addition to any other requirements.
- 9.2 Motels.
- 9.21 No motel shall be constructed on a lot having less than two hundred (200) feet frontage, nor less than forty thousand (40,000) square feet of lot area.
- 9.22 On each lot used for motel purposes there shall be provided front, rear and side yards each not less than fifty (50) feet in depth.
- 9.23 A space not less than twenty (20) feet shall be maintained open with grass, bushes, flowers or trees all along each side, rear lot and front lot, except for entrance and exit driveways and such open space shall not be built on, not paved, nor used for parking.
- 9.24 No space within the required front yard depth shall be used for parking except as a temporary nature such as for registering.
- 9.25 Each motel site shall be provided with no more than two (2) motor vehicle driveways for each abutting street which shall intersect the abutting street or streets at ninety (90) degrees.
- 9.26 Each rental unit shall contain not less than two hundred sixteen (216) square feet of habitable floor area.
- 9.27 Height restrictions as set forth in Section 7 may be waived subject to Board of Appeals for motels containing 100 or more units.
- 9.28 Subject to Board of Appeals uses such as but not limited to restaurants, convention facilities, health clubs, retail shops, beauty and barber shops are permitted within motels containing 100 or more units.
- 9.3 Open Space Multi-Family Development:
- An Open Space Multi-Family Development may be allowed in R-3M and R-4 zoning districts in accordance with the following procedures and standards.

9.31 Site Eligibility - A parcel of land located in zoning district R-3M containing at least twenty (20) acres, or a parcel of land located in Zoning District R-4 containing at least five (5) acres, (land subject to seasonal or periodic flooding or covered by tidal water, pond, lake, stream or river not to be included). With a least 200' frontage on a public way or on a way having in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal utilities, to serve such land and the building erected or to be erected thereon, shall be eligible for open space attached single-family development.

9.32 Density

9.321 The parcel to be developed with attached or detached single-family dwelling units at a density not to exceed four (4) units per acre in the R-4 District, and one (1) unit per acre in R-3M District.

9.322 Attached single-family units shall contain not less than one (1) bedroom, nor more than two (2) bedrooms. Detached single-family units shall also contain either one (1) or two (2) bedrooms.

9.323 Any provisions above as to density requirements notwithstanding each attached single-family development may have one three (3) bedroom dwelling unit for every twenty (20) attached or detached dwelling units containing less than three (3) bedrooms.

9.324 In determining the total area to be used in making the above computation, not more than ten (10) per cent of any land comprising the parcel subject to seasonal or periodic flooding shall be included nor shall any area covered by tidal water, pond, lake, stream or river be included.

9.33 Permitted Uses - Within an open space attached single-family development only the following uses with their customary accessory uses shall be permitted.

9.331 Single family detached structures

9.332 Structures consisting or attached dwelling units consisting of not less than three (3) or more than eight (8) units per structure.

9.333 GARDEN APARTMENTS - Garden apartments are permitted only in the R-4 Zoning District. Procedures for approval of garden apartments are identical to those for approval of attached single-family units as specified in Sections 9.3 through 9.392 of this By-Law. The following provisions shall govern in the case of garden apartments. Not less than four (4) nor more than eight (8) garden apartment units, with no portion of the building below the first story nor above the second story used for dwelling purposes, may be constructed in a single structure in an R-4 Zoning District. Each one bedroom apartment unit shall contain at least 600 square feet of living space. One hundred fifty (150) sq. ft. of living space shall be added for a second bedroom. Land space requirements shall be identical with those for buildings in the R-4 Zoning District. Two (2) parking spaces for each apartment unit shall be constructed. Parking for garden apartment units shall be set back at least forty (40) feet from the front lot line.

9.334 A community building and recreational facilities for the exclusive use of the residents of the development and their guests.

9.335 A bedroom shall be deemed any habitable room providing such room exceeds sixty (60) square feet in area and is other than a living room, dining, kitchen, utility room or bathroom.

9.336 All dwelling units excepting garden apartment units shall have a ground floor with direct outside entrance from that floor.

9.337 Minimum gross floor area of any one (1) bedroom dwelling shall be 900 square feet exclusive of decks, patios, garages, balconies and entrances. For each additional bedroom 200 square feet shall be added to the 900 square foot minimum floor area. Garden apartments are exempted from this requirements and are subject to the floor area requirements of Section 9.333.

9.338 Commercial Uses - For every 200 dwelling units 5,000 square feet of retail space and 5,000 square feet of office may be developed. All such commercial buildings are subject to the same location, setback, height, and other special permit restrictions as the structures for dwelling units. All such commercial uses must be located together and have common landscaped parking. One parking space for every 150 square feet of commercial space must be provided. Twenty-five (25) additional square feet of retail and office space may be developed for each additional

dwelling unit over 200 contained in the open spaced attached single-family development.

- 9.34 Phasing - The applicant shall submit a phasing plan for completion of the project. Such a plan will give dates for the completion of each structure and functional area shown on the overall plan of development. The Planning Board shall approve the phasing of the construction of single-family units, community buildings and recreational facilities so as to render the construction of the development in an orderly fashion and to protect the individual lot owners within the development. Building permits for construction shall be granted only in accordance with such phasing schedule. The project phasing schedule may be amended by the Planning Board to a less stringent schedule in cases where the Planning Board finds that individual lot owners are adequately protected.

9.35 Space Requirements

9.351 No single family or accessory use structure shall be built closer to the street line, sideline, or rear line than the minimum requirement of the underlying zoning district and no structure shall be built closer to the street line, sideline, or rear line than fifty (50) feet; two (2) separate parking spaces shall be provided for each dwelling unit.

9.352 A buffer strip of land equal in width to the front yard requirement of the underlying zoning district shall be created along the entire perimeter of the parcel. The buffer strip shall be unbroken except for access roads. The buffer strip shall be retained in its natural state or landscaped if in the opinion of the Planning Board it is necessary to protect privacy organized recreational activities. The Planning Board may require a buffer strip in excess of the minimum requirement depending on the use of the adjoining land.

9.36 Common Open Space

9.361 The common open space shall be a defined area of open land shown on the definitive development plan containing not less than thirty (30) percent of the total land area, and shall be designed and maintained in accordance with the following standards:

9.3611 Naturally existing woods, meadow and marshland shall be maintained and improved by customary good conservation practices.

9.3612 In cases where the land is scarred or barren, it shall be improved to grow back to the natural state of the surrounding countryside.

9.3613 It shall be planned in large units of land, continuous wherever possible, and shall be accessible to the open space residential development property owners, or to the public when owned by the Town of Mashpee.

9.3614 It is the intent that the common open space be developed for reasonable outdoor recreational uses. These may be include playing fields, tennis courts and golf courses.

9.362 The common open space shall be permanently dedicated in one of the following ways: In either case the developer's declaration of this choice and the manner of dedication the common open space shall be furnished with the definitive development plan, together with the covenants and restrictions necessary to secure the permanent legal existence of the common open space.

9.3621 PUBLIC OWNERSHIP - The common open space shall be conveyed to the Town of Mashpee and accepted by it for park or open space use.

9.3622 OWNERSHIP BY NON-PROFIT ORGANIZATION - The common open space shall be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space. The non-profit organization shall execute a restriction enforceable by the Town of Mashpee which shall be recorded at the Barnstable County Registry of Deeds providing that such land shall be kept in an open and natural state and shall not be built for residence use or developed for accessory uses such as parking or roadway. The non-profit organization shall own and shall not dispose of any of the common open space by sale or otherwise except that said non-profit organization may offer to convey such common open space to the Town of Mashpee for acceptance by it for park or open space use.

9.3623 OWNERSHIP BY CORPORATION OR TRUST- The open space shall be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units with the development. Ownership of the corporation or trust owned or to be owned by the owners of lots or residential units within the development. The corporation or trust shall execute a restriction enforceable by the Town of Mashpee which shall be recorded at the Barnstable County Registry of Deeds and said restriction shall provide that such land shall be kept in an open and natural state and not be built for residence use or developed for accessory uses such as parking or roadway. The corporation or trust shall own and maintain the common open space and shall not dispose of any of the common open space by sale or otherwise except that said corporation or trust may offer to convey such common open space to the Town of Mashpee for acceptance by it for park or open space use.

9.363 In the event that the organization established to own and maintain the open space, or any successor organization, shall at any time after establishment of the open space residential development fail to maintain the open space in reasonable order and condition in accordance with the plan, the Town of Mashpee will serve written upon such organization or upon the residents of the open space residential development setting forth the manner in which the organization has failed to maintain the open space in reasonable conditions, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of hearing hereon which shall be held within fourteen (14) days of the notice. At such hearing the Town of Mashpee may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said thirty (30) days, the Town of Mashpee in to preserve the taxable values of the properties within the open space residential development and to prevent the open space from becoming a public nuisance, may enter upon said open space and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any right to use the open space except when the same is voluntarily dedicated to the

public by the owners. Before the expiration of said year, the Town of Mashpee shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon notice to such a organization, or to the residents of the the open space residential development, to be held by the Town of Mashpee Planning Board, at which hearing such organization or the residents of the open space residential development shall show cause why such maintenance by the Town of Mashpee shall not, at the election of the Town of Mashpee, continue for a succeeding year. If the Planning Board of Town of Mashpee shall determine that such organization is ready and able to maintain said open space in reasonable condition, the Town of Mashpee shall cease to maintain said open space at the end of said year. If the Planning Board of of the Town of Mashpee shall determine such organization is not ready and able to maintain said open space in reasonable condition, the Town of Mashpee may, in its discretion, continue to maintain said open space during the next succeeding year and subject to a similar hearing and determination, in each year thereafter. The decision of the Planning Board of the Town of Mashpee in any such case shall constitute a final administrative decision subject to review in accordance with any applicable statute of the Commonwealth of Massachusetts.

The cost of such maintenance by the Town of Mashpee shall be assessed pro rata against the properties within the open space residential development that have a right of enjoyment of the open space, such assessment shall become a lien on properties. The Town of Mashpee, at the time of entering upon the open space for the purpose of maintenance, shall file a notice of such entry with the Town Clerk and at the principal office the corporation, trust or association owning the open space, which notice shall contain a statement that the individual owners within the open space residential development may become subject to an assessment and lien for their pro rata share of the total cost of the maintenance.

9.37 Pre-Application Conference - Prior to the submission of an application for a special permit to develop an Open Space Attached Single-Family Development, the applicant shall confer with the Planning Board and Board of Appeals to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data.

It is the responsibility of the Planning Board to evaluate the applicant's proposal as follows:

9.371 Does not substantially derogate from the intent of the zoning by-law;

9.372 The proposed use of the land shall not be substantially detrimental to adjoining property;

9.373 The proposed development shall be superior to a conventional plan in preserving open space for conservation or recreation, utilizing natural features of the land, and allowing more efficient provision for public services.

9.374 The developer shall present the following to the Planning Board at the time of the Pre-Application Conference.

9.3741 A topographic plan of the entire site showing five (5) foot contour intervals and outlining existing structures and general vegetative cover masses;

9.3742 Sketch plan of the proposed development showing the following location and dispersement of all structures within the parcel;

9.3743 Vehicular and pedestrian circulation patterns, roadways, and parking area location;

9.3744 Open space including the locations of intended recreation facilities;

9.3745 Pertinent vegetation, soil and water condition;

9.3746 Proposed utility systems;

9.3747 Generalized architectural plans including floor plans.

9.3748 Septic and well locations for each unit served, generalized landscape plan including treatment of a typical structure, entrance ways and major signs.

9.3749 In addition, a site visit to be conducted by applicant with representation from the Planning Board and Board of Appeals, may be required, if so determined by either Board. A water quantity and quality test every two acres.

9.375 For the Pre-Application Conference, the applicant shall file seven (7) copies of the above cited material. The applicant shall deliver these materials to the Planning Board, the Assessors, the Superintendent of Streets, the Board of Health, the Board of Appeals, the consulting engineer to the Planning Board, and the Conservation Commission. The applicant shall obtain and present proof of such deliveries (receipts) to the Planning Board. Each of these Town Organizations shall submit written comments to the Planning Board within thirty (30) days of the delivery of materials. The Planning Board shall respond to the applicant within sixty (60) days of delivery of Pre-Application materials with either a favorable review, or a set of written comments recommending modification or withdrawal of the plan.

9.38 Special Permit Application - Upon approval of the Pre-Application Plans, a developer may submit an application for a special permit for an Open Space Attached Single-Family Development. The developer shall present the following to the Planning Board in support of an application.

9.381 Subdivision plan if required, in accordance with rules and regulations of the subdivision control law of the Town of Mashpee;

9.382 General development plans shall be required in addition to the subdivision plan for a project including single-family housing and shall include the following documents;

9.3821 Site plan showing topography at two (2) foot intervals, project location, building locations, roads, parking, grading, pedestrian circulation, and any other pertinent information required by the Planning Board;

9.3822 Building plan showing floor plans and elevations of proposed and existing buildings;

9.3823 Open space plan showing parks, recreation facilities, landscaping and proposed topography, and other pertinent information required by the Planning Board;

9.3824 Landscape Plan showing details of plantings, entrance ways, signs and other structures.

9.3825 Road profile plans on engineering

plans showing utilities including water supply, quality and quantity for every two acres, sewerage disposal, electrical service, storm drainage (including capacity) and other pertinent information required by the Planning Board.

9.3826 Covenants or other documents satisfactory to the Planning Board to insure the open space will remain open and not built upon.

9.3827 More than one party may be named as an applicant for a special permit. The special permit is not transferable to other parties not named in the application, without specific written permission from the Planning Board.

9.383 (1) The applicant shall submit to the Town Clerk an application for a special permit accompanied by the original of the plan plus ten (10) copies thereof, together with a fee to be determined by the Board, to include the cost of advertisement and notification of all "parties in interest" as defined in G.L. ch. 40A, Section 11.

(a) The Town Clerk shall transmit the application, the original and two (2) copies of the plan to the Planning Board. One (1) copy each shall be forwarded to the Superintendent of Streets, Board of Health, Fire Department, Police Department, Conservation Commission, Recreation Commission and Board of Appeals and other bodies as the Planning Board may determine.

(b) The agencies receiving copies of the plans shall submit to the Planning Board written recommendations on the proposed project within 45 days of filing. Failure to comment shall be deemed lack of objection.

(c) The Planning Board, within sixty-five (65) days of submission of the plan, shall hold a public hearing, notice of which shall be published in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen (14) days before the date of the hearing and shall be mailed to all "parties in interest" as defined in G.L. ch. 40A, Section 11, and to any other property owners deemed by the Board to be affected thereby. Notice shall be given by certified mail by the Board. The list of persons to be notified shall be prepared by the applicant, certified by the

Board of Assessors. Insofar as possible, this hearing shall be held jointly with any other hearing required to be held for this project.

(d) The Planning Board shall within ninety (90) days following the public hearing, certify in writing that the application is approved as submitted, approved subject to modification, or denied. If modified or denied, the Planning Board shall include written reasons for the action. If the Planning Board fails to issue its findings within ninety (90) days, the plan shall be deemed approved. However, no building permit shall be issued until the plan, signed by the appropriate number of members of the Planning Board shall be recorded in the Registry of Deeds and until any appeal period has passed.

(e) Approval of a special permit hereunder shall require four-fifths (4/5) vote of the Planning Board.

(f) If the project is denied, the developer shall not submit substantially the same proposal for two (2) years, except as provided under G.L. ch. 40 A, Section 11.

(g) Special permits granted under this section shall lapse within two (2) years, excluding time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use has not sooner commenced or if construction has not begun. The Planning Board may grant an extension for good cause, and shall grant an extension if the delay has been caused on account of the need to seek other permits.

(h) No construction or reconstruction except as shown on the recorded plan shall occur without a further submission of plans to the Planning Board, and a notation to this effect shall appear upon the recorded plan and upon deeds to any property within the Open Space Attached Single-Family Development.

9.39 Building Permits - The developer shall submit to the Building Inspector prior to the issuance of a building permit with his application for a building permit, a copy of the approved subdivision plan together with evidence that the project phasing schedule is being adhered to by the developer. Also proof that the Septic and Well permit have been issued.

9.391 Changes or deviations from plans, schedules and phasing may be made only with the unanimous approval of the Planning Board.

9.392 The Building Inspector may revoke by law in case the builder or developer fails to conform to the plans and schedules as approved.

9.4 Exception for Cluster Development.

9.41 Purpose: To encourage the preservation of open space and promote the more efficient use of land, and to protect and promote the health, safety and general welfare of the inhabitants of the town.

9.42 Any provisions of Section 7 of this by-law to the contrary notwithstanding, the Board of Appeals may grant a Special Permit approving a cluster development in a residential district for a tract of land 20 acres or more in which some or all of the lots do not conform to the lot area, frontage, set back, or yard requirements of Section 7 of this by-law, provided that the Board of Appeals makes a finding that the public good will be served and further provided that the following criteria are met:

1. The proposed plan will promote the purpose of this section.
2. The total number of lots for building purposes within the tract shown on the plan shall be not more than the number of times that the total area of the tract, in square feet, exclusive of roads, is wholly divisible by the minimum lot size, in square feet, normally required for the district in which the tract is located.
3. The lots for building purposes shall be grouped in a cluster of clusters, and within each cluster the lots shall be contiguous.
4. Each lot shall have a minimum frontage of seventy-five (75) feet on a public or private way except as provided for under footnote number 1 of Section 7.4.
5. The minimum lot width at the building line shall be not less than one hundred (100) feet.
6. Provision shall be made so that Open Land shall be owned:

- a) PUBLIC OWNERSHIP - The open land shall be conveyed to the Town of Mashpee and accepted by it for park or open space use.
- b) OWNERSHIP BY NON-PROFIT ORGANIZATION - The open space shall be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space. The non-profit organization shall execute a restriction enforceable by the Town of Mashpee which shall be recorded at the Barnstable County Registry of Deeds providing that such land shall be kept in an open and natural state and shall not be built for residence use or developed for accessory uses such as parking or roadway. The non-profit organization shall own and maintain the open space and shall not dispose of any of the open space by sale or otherwise except that said non-profit organization may offer to convey such open space to the Town of Mashpee for acceptance by it for park or open space use.
- c) OWNERSHIP BY CORPORATION OR TRUST - The open space shall be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. Ownership of the corporation or trust shall pass with conveyance of the lots or residential units. The corporation or trust shall execute a restriction enforceable by the Town of Mashpee which shall be recorded at the Barnstable County Registry of Deeds and said restriction shall provide that such land shall be kept in an open and natural state and not be built for residence use or developed for accessory uses such as parking or roadway. The corporation or trust shall own and maintain the open space and shall not dispose of any of the open space by sale or otherwise except that said corporation or trust may offer to convey such open space to the Town of Mashpee for acceptance by it for park or open space use.

7. Provisions shall be made so that Open Land shall be:

- a) Restricted to any one or more of the uses: recreational, agricultural, conservation or park.
- b) Open to such uses by at least the Owners and occupants of the lots in the tract.
- c) Restricted so that no structure shall be erected thereon except as an incident to the above uses, and no such structure shall be more than 15 feet in height.

8. Provision shall be made so that each dwelling shall be set back from the public way or private way on which its lot is located not less than thirty (30) feet.

9. Provisions shall be made so that each dwelling shall have two side yards each of at least fifteen (15) feet and a rear yard of at least twenty (20) feet.

10. Each lot shall contain not less than 15,000 square feet.

11. A minimum of twenty-five percent (25%) of the total tract, excluding sidewalks, roads, and ninety percent (90%) of wetlands, shall be common open space.

9.43 The Board of Appeals shall transmit to the Planning Board and to the applicant the decision of the Board of Appeals within ninety (90) days following the date of public hearing. Approval by the Board of Appeals shall be contingent upon approval of the Planning Board under subdivision control law and as provided for herein.

9.44 Planning Board Approval - The developer shall be required to comply with all of the provisions set forth in Section 9.38 upon approval by the Board of Appeals of the Special Permit.

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9.6 DESIGN REVIEW COMMITTEE - A Design Review Committee shall be established to advise the Planning Board of Zoning Appeals on matters of architectural and design concern in the review of applications for special permits in the R-4, R-3M, C-2, I-1, C-1, C-1-SV Incentive, and C-1-0 Incentive Zoning Districts. Architectural and design concern shall include but not be limited to: site planning, building placement, building size, design compatibility, exterior appearance, construction materials and finishes, parking and roadways, landscaping and site grading, building entrance and exit placement and signs.

The Design Review Committee will sit with the Planning Board and Board of Zoning Appeals in any public meetings dealing with development proposals in the R-4, R-3M, C-2, I-1, C-1, C-1-SV Incentive, and C-1-0 Incentive Zoning Districts. The Design Review Committee may call special meetings of its own to review applications. Findings of the Design Review Committee shall be advisory to the Planning Board and Board of Zoning Appeals. Full power for granting or denial of applications for special permits shall remain with these Boards.

Membership of the Design Review Committee shall consist of four persons, one each from the Planning Board and Board of Zoning Appeals and two members to be appointed by the Board of Selectmen. The Planning Board member shall be appointed by the Planning Board Chairman, and the Board of Zoning

Appeals member shall be appointed by the Chairman of the Board of Zoning Appeals. One of the two members appointed by the Board of Selectmen shall be an architect, landscape architect, or civil engineer. In the event that no such person is available the Design Review Committee may retain, with prior approval of the Board of Selectmen, the services of an architect, landscape architect, or civil engineer.

SECTION 10: SIGNS

10. Intent

It is the intent of this by-law to protect, conserve, and improve the visual quality of the Town of Mashpee while providing reasonable regulations and control of the erection and maintenance of signs and advertising devices without restricting the conduct of lawful enterprise.

10.1 No sign or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure in Mashpee except as permitted by this section.

10.2 Plans, Specifications and Permits

10.2.1 Owner's consent: Before any permit is granted for the erection of a sign, plans and specifications shall be filed with the building inspector showing the dimensions, materials and required details of construction, including loads, stresses and anchorage, where required. The application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected.

10.2.2 New signs: A new sign shall not hereafter be erected, constructed, altered or maintained except as herein provided and until after a permit has been issued by the building inspector, and the bond, if required, shall have been filed in accordance with Section 10.8. Signs of over twenty (20) square feet, existing as of the effective date of this by-law, shall have their continued use subject to the issuance of a permit from the building inspector. The deadline for obtaining such a permit is Sept. 1, 1985.

10.2.3 Alterations: A sign shall not be enlarged or relocated except in conformity to the provisions of this article for new signs, nor until a proper permit has been secured. The changing of movable part of an approved sign that is designated for such changes, or the repainting or reposting of display matter, shall not be deemed an alteration; provided the conditions of the original approval and the requirements of this article are not violated.

10.2.4 New signs exceeding twenty (20) square feet

require a special permit from the Board of Appeals, in accordance with Section 6.

10.3 Prohibitions

10.3.1 Moving or flashing signs: No sign, any part of which is designed intentionally to move, and no sign illuminated by or including any flashing or occulting light shall be included in this prohibition, which shall also apply to window signs, as defined herein. A sign which is designed, for structural reasons, to align itself with the direction of the wind shall not be considered a moving sign.

10.3.2 Overhanging signs: No signs shall be permitted which overhang public ways, however, this provision shall not apply to street name signs nor to signs or devices erected by the Town, County or Commonwealth for the direction and control of traffic, nor shall this provision apply to signs permitted under Section 10.3.4.

10.3.3 Signs on trees, etc.: Except for signs warning of danger or prohibiting trespass or the like, no sign shall be printed on or affixed to any tree, fence, utility pole, rock or ledge, nor painted or posted on any wall without an intermediary removable surface.

10.3.4 Private signs on Town property: Unless a permit for such a sign is authorized by the Board of Selectmen, no such signs are permitted. No such authorization shall be given until after a duly advertised public hearing. Any such signs shall conform in all respects to all other provisions of this section. All permits issued hereunder shall be subject to the provisions of 10.8. Permits for such signs may be revoked at any time by the Board of Selectmen.

10.3.5 Portable signs, including portable signs attached to a permanent post or installed on any portable vehicle, are not permitted.

10.3.6 Independent stand signs advertising products are not permitted.

10.3.7 Window neon-type signs advertising products are not permitted.

10.4 Maintenance

10.4.1 All signs, whether erected before or after the

effective date of this by-law, shall be maintained in a safe condition to the satisfaction of the building inspector.

- 10.4.2 When any sign becomes insecure, in danger of falling, or otherwise unsafe, or poorly maintained as evidenced by illegibility or excessive defacement or missing sections; or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this by-law, the owner thereof or the person or firm maintaining same, shall upon written notice of the building inspector, forthwith in the case of immediate danger and in any case within not more than ten (10) days, make such sign conform to the provisions of this article or shall remove it. If within ten (10) days the order is not complied with, the building inspector may remove such sign at the expense of the owner or lessee thereof. Any sign existing in a commercial or industrial district shall be removed within sixty (60) days or such further period as allowed by written letter of the building inspector, following the permanent closing of the commercial or industrial operation. Any sign not removed in compliance herewith may be removed by the building inspector.

10.5 Residential Districts

- 10.5.1 One sign displaying the street number or name of the occupant of the premises or both, not exceeding four (4) square feet in area is permitted. Such sign may be attached to a building or may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses including customary home occupations.
- 10.5.2 One bulletin or announcement board or identification sign for a permitted non-residential building or use, not more than six (6) square feet signboard area is permitted. For churches and institutions, two (2) bulletin or announcement or identification signs are permitted on each building. Each such church or institution sign shall be not more than ten (10) square feet signboard area. No such sign shall be located nearer a street than one-half the required front yard depth.
- 10.5.3 One the premises with a lawfully non-conforming non-residential use, one sign not more than four

(4) square feet signboard area is permitted.

10.5.4 One "For Sale" or "For Rent" sign, not more than three (3) square feet signboard area and advertising only the premises on which the sign is located is permitted.

10.5.5 One real estate sign, not more than three (3) square feet signboard area is permitted. Such sign shall be removed forthwith upon signing of a legally binding purchase and sales agreement or lease agreement.

10.5.6 One building contractor's sign on a building while actually under construction, not exceeding four (4) square feet signboard area is permitted. Such sign shall be removed forthwith upon completion or occupancy of the structure.

10.5.7 In Residential Districts all sign or advertising devices shall be stationary and shall not contain any visible moving or movable parts. No sign or advertising device in such Districts shall be of neon, neon type or illuminated tube-type. Lighting on any sign or advertising device shall be continuous (not intermittent nor flashing nor changing) and shall be so placed or hooded as to prevent direct light from shining onto any street or adjacent property. No sign or advertising device shall be illuminated after eleven (11) p.m., except as permitted by the Board of Selectmen, upon application to them for a permit, citing reasons for the exceptions.

10.5.8 Subdivisions: One subdivision name sign, not to exceed twenty (20) square feet, may be permitted for each entry to a subdivision from a public way.

10.6 Commercial and Industrial Districts

Signs shall relate to the premises on which they are located and shall only identify the occupancy of such premises or advertise the articles and services available within said premises, except with special permit.

10.6.1 There shall be no temporary or permanent special promotion signs, banners, streamers or placards erected, suspended, posted or affixed in any manner outdoors or on the exterior of any building except for public purposes, except by permit from the building inspector.

- 10.6.2 On each lot in a Commercial or Industrial District there is permitted one sign affixed to the exterior of each building for each business therein. The top edge of each such sign shall be not higher than the roof ridge of the building, or the highest point of the roof if no ridge pole, no higher than the plate of a flat roof. The maximum area of the sign shall be 5 percent of the area of the wall upon which the sign is located. In addition, an identification sign at each building entrance will be exempted which shall be up to four (4) square feet in area or 3 percent of the area of wall upon which the sign is located if approved by Special Permit by the Board of Appeals.
- 10.6.3 In an Industrial District one free standing sign is permitted on each lot, provided that it does not exceed forty (40) square feet in signboard area, does not exceed five (5) feet in height, and is located closer than fifty (50) feet to a lot line. In Commercial Districts one free standing sign per road access point is permitted. Such signs may not exceed forty (40) square feet in signboard area and may not be closer than twelve (12) feet to any lot line. The top edge of any such free-standing sign shall be not higher than twenty-five (25) feet vertical measure above the average level of the ground between the supports of each sign.
- 10.6.4 Advertising signs or other devices of any kind advertising products or services for sale shall not be permitted to be affixed to the outside or inside windows of any structure, so as to be visible from outside of the structure except that such signs or devices advertising seasonal products or sale items may be permitted, but in no event shall more than ten (10) percent of the area of the window be covered by said sign or device.
- 10.6.5 No free standing sign shall have signboard area (or display area if no signboard) exceeding the dimensions allowed under 10.6.3 above, measured from the tops of the topmost display elements, and including in such measurements any blank space between display elements. No display or signboard dimensions shall exceed forty (40) feet for a free-standing sign.
- 10.6.6 Illuminated signs are permitted, subject to the following conditions:

- a) No sign shall be intermittently

illuminated, nor of a traveling light, animated or flashing light type. No exposed neon-type signs shall be permitted in the Town of Mashpee.

b) Sign illumination is permitted only between the hours of seven (7) o'clock in the morning and eleven (11) o'clock in the evening, except the signs of commercial or industrial establishments may be illuminated during any hours these establishments are open to the public or in operation. Illuminated signs on public buildings and land are exempt from this provision.

- 10.6.7 Illumination: Except as otherwise prohibited herein, signs may be illuminated by any fixed steady light source, of such nature and in such manner that the brightness of the sign face does not exceed one hundred (100) lumens per square foot. Except for non-exposed neon-type signs, where permitted, such illumination shall be so arranged that its exterior source is not directly visible from any way or occupied building, and no illumination shall be of any color that might be confusing to traffic. Holiday lights shall not be deemed as coming within the provisions of this paragraph, but this paragraph shall apply to window signs.
- 10.6.8 In all zoning districts, for safety reasons, any private outdoor lighting fixture, exclusive of street lights, whether temporary or permanent, shall be so placed or hooded that no light beams shall be directed at any point beyond the lot lines of the premises illuminated.
- 10.6.9 Where a group (three or more) of business buildings are built as a "Plaza," "Mall," "Village," or "Shopping Center," and it is desired to identify the groupings as such, in addition to signs permitted for individual buildings or businesses, there may be permitted one free-standing sign, set back not less than twenty-five (25) feet from each major street, and not to exceed eighty (80) square feet in area, nor the maximum building height permitted in the zoning district in which the sign is located.
- 10.6.10 Gasoline stations: Standard pump hand signs of gasoline filling stations shall not be included in the total area of signs permitted, and no permit shall be required therefor, but they shall conform to the provisions of Section 10.6.7. One free-

standing sign, not to exceed four (4) square feet in signboard area; displaying gasoline prices may be placed along the front lot lines of each gasoline station.

- 10.6.11 Contractors and Developers: For each construction or development project, there may be issued a temporary permit for one standing sign not to exceed sixteen (16) square feet in signboard area, setting forth facts and names pertinent to the subject. Such signs shall be removed forthwith when the project is completed.

10.7 Violations and Penalties

- 10.7.1 Anyone who shall violate a provision of Section 10 of the by-law shall be punishable by a fine of not more than \$200 for each violation. Each day during which any portion of a violation continues shall constitute a separate offense. Violations shall be considered to begin on the first day after the time allowed for correction of the violation has elapsed. Official notice of violations and time allowed for correction shall be given in writing by the Town of Mashpee.

10.8 Bonds and Liability Insurance

- 10.8.1 Filing: A person shall not erect, install, remove, rehang or maintain over public property any sign for which a permit is required under the provisions of this by-law until approved bond or liability insurance shall have been filled in accordance with the requirements of the Board of Selectmen.
- 10.8.2 Conditions: Such bond or insurance policy may provide that the Town shall be protected and held harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor or his agents, or by any reason of defects in the construction or damages resulting from the collapse, failure or combustion of the sign or parts thereof.
- 10.8.3 Notice of cancellation: Any such obligation shall remain in force and effect during the lifetime of every such sign and shall not be cancelled by the principal or surety until after thirty (30) days notice to the building inspector,

SECTION 11: FLOOD PLAIN ZONE PROVISIONS

Permits for new construction, alteration of structures, or other development (any man-made 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), at or below the Base Flood Elevation as specified with the A and V zones (in unnumbered A zones, in the absence of Flood 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) as designated on special F.I.A. Flood Insurance Rate Maps, Page five and Page ten dated October 19, 1977, (which are on file with the Town Clerk, Planning Board and Building Inspector, shall be approved subject to other laws and by-laws applicable thereto and to the following:

1. New construction or substantial improvement (repair, construction or alteration containing 50% or more of the market value of the structure before improvement, or if damaged, before damage occurred), of residential structures shall have the lowest floor (including basement), elevated to not less than base flood elevations. New construction or substantial improvement of nonresidential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities, be flood proofed to not less than base elevations.

*(Substantial improvement will have been deemed to occur when the first alteration of any structural part of the building commences.)

2. Where floodproofing is required in accordance with Section 1, 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.
3. Any new construction or substantial improvement to be undertaken within said zones shall be in accordance with the Massachusetts Uniform Building Code, Section 748.0 as amended. The Building Inspector shall (a) review all proposed development within the flood zones to assure that all necessary permits which are obtainable at such time have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the

Federal Water Pollution Control Amendments of 1972, 33 U.S.C. 1334. (b) obtain and maintain records of elevation and floodproofing levels of new construction or substantial improvement within the flood zones.

4. No land within areas designed as V (velocity) Zones on the F.I.A. Flood Rate Maps shall be developed unless such development is demonstrated by the application to be located landward of the reach of the mean high tide. Notwithstanding the applicable provisions of the Massachusetts Uniform Building Code, all new construction and substantial improvement within the V zones shall be (a) elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns), is elevated to or above the base flood elevation; and (b) certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash. The following shall be prohibited with said V zones.

- (A) Any man-made alteration of sand dunes which might increase the potential for flood damage.
- (B) Use of fill for structural support for new construction or substantial improvement of structures.
- (C) Mobile homes (except in existing mobile home parks and existing mobile home subdivisions).

5. The Zoning Board of Appeals may authorize a use variance within the flood areas, as in any other zoning district within the Town of Mashpee, and may vary the restrictions and requirements set forth in this section in the case of new structures or where there is to be substantial improvements or other development on a lot of one-half acre in size or less, contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided the following are met:
 - (A) A showing of good and sufficient cause.
 - (B) A determination that failure to grant the Special Permit would result in exceptional hardship to the applicant.
 - (C) A determination that the granting of the Special Permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or any conflict with requirements in accordance with Chapter 40 A, of the Massachusetts General Laws.
 - (D) The Zoning Board of Appeals has notified the applicant for the Special Permit in writing, that the actuarial rates will increase as the first floor elevation level increases risks to life and property.
6. Upon the granting of such Special Permits, the Zoning Board of Appeals, shall require that the Town of Mashpee shall maintain a record of all Special Permit actions, including justification for their issuance, and report such Special Permits issued in accordance with the Department of Housing and Urban Development guidelines.
7. Notwithstanding the applicable provisions of the Massachusetts Uniform Building Code within Zones A1-30 for new mobile home parks and mobile home subdivisions, and for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, (i) lots are to be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the

base flood level, (ii) adequate surface drainage and access for a hauler must be provided, and, (iii) in the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than 10 feet apart, and reinforcement must be provided for pilings more than 6 feet above the ground level.

8. Notwithstanding the applicable provisions of the Massachusetts Uniform Building Code in all mobile homes to be placed within Zone A1-30, but not into a mobile home park or mobile home subdivision:
 1. Lots must be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
 2. Adequate surface drainage and access for a hauler must be provided.
 3. In the instance of elevation on pilings, lots must be large enough to permit steps, piling foundations must be placed in stable soil no more than 10 feet apart, and reinforcement must be provided for piers more than 6 feet above ground level.
9. The Zoning Board of Appeals may grant a Special Permit for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in Section 4 above.
10. Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable by-laws or regulations, the more restrictive shall apply.

SECTION 11A: MASHPEE RIVER AND QUASHNET RIVER PROTECTIVE DISTRICTS

1. Purpose: The purpose of this by-law is the preservation of the Mashpee River and Quashnet River and the protection of wildlife resources.
2. The area affected shall be the Mashpee River and Quashnet River marshes and uplands up to 100 horizontal feet from the natural bank of the Mashpee River and Quashnet River as delineated on the plan entitled, Mashpee River Protective Zoning By-Law. All distances shall be measured in horizontal feet. In tidal areas the area affected shall be measured from a line which is 2.8 feet above the National Geodetic Vertical Datum (formerly known as mean sea level). In freshwater wetland areas, this shall mean the landward edge of the freshwater marsh as defined in M.G.L. Ch. 131 Section 40. The area subject to this by-law shall be: the source of the Mashpee River beginning at the northermost point, thence running in a southerly direction along the natural bank to a depth of 100 feet on both sides of the Mashpee River terminating on the western bank of the river on the southermost point of Parcel No. 8 located on Assessor's Map 95, now or formerly of Herbert Stenberg, thence running southerly and terminating on the east side of the Mashpee River bounded by Parcel No. 24 located on Assessor's Map No. 90, also known as the northerly boundary of Pirate's Cove. The area known as Pirate's Cove and all areas south of Pirate's Cove shall be excluded from the provisions of the by-law. The following area shall also be subject to this by-law. The intersection of Quashnet River with the southern right-of-way boundary of State Route 151, thence running in a southerly direction along the natural bank, to a depth of 100 feet on both sides of the Quashnet River to its southermost point at the intersection with the boundary between the Towns of Mashpee and Falmouth.
3. PROHIBITED USES IN ANY AREA AFFECTED BY THIS BY-LAW
 - (A) No structure of any kind may be located within the area subject to this by-law with the exception of docks which may be constructed in keeping with the state and local law.

(B) No dumping, filling, removing of material of dredging, except for maintenance dredging of the Mashpee River and Quashnet River, may be done except as subject to the requirements of M.G.L. Ch. 131, Sec. 40, and all other applicable laws, by-laws and regulations.

4. **EXISTING USES:** Any existing structure or use of such structure lawful at the effective date of this by-law may continue although such structure or use does not conform to this by-law. Any existing structure may be repaired, maintained and improved but in no event made larger. Any non-conforming structure which is destroyed, may be built on the same location but no larger than the original overall square footage.
5. **HARDSHIP:** To avoid undue hardship, nothing in this by-law shall be deemed to require a design, construction or intended use of any structure with respect to which a building permit was legally granted prior to the effective date of this by-law. Such construction must be substantially completed within a period of two years from the effective date of this by-law, or such construction shall be required to conform to this by-law.
6. **EXCEPTIONS:** Any owner of a lot which is buildable at the time of the effective date of this by-law but which is made unbuildable due to said by-law, may apply to the Board of Appeals for variance.
7. **POWERS:** Nothing contained in this by-law is intended to override, restrict, impede or otherwise invalidate any of the rules, regulations, laws or by-laws, etc. of the Mashpee Conservation Commission, the Town of Mashpee, or the Commonwealth of Massachusetts which certain to the subject matter of this by-law. Unless otherwise indicated, this Mashpee River and Quashnet River Protective District zoning by-law shall govern and supersede all other provisions of the zoning by-law.

SECTION 11B: WATER RESOURCE DISTRICT

1. Purpose

The purpose of the Water Resource District is to protect the public health by preventing contamination of the ground and surface water resources providing water supply for the Town of Mashpee.

2. Creation

A Water Resource District is hereby created covering areas described on maps titled "Water Resource Districts". Such Water Resource Districts shall be considered to be superimposed over any other zoning districts established in the zoning by-laws. Land in a Water Resource District shall be subject to the following restrictions, in addition to those of the underlying district.

3. Definitions

For the purpose of this by-law, the following will define terms used within:

- 3.1 "Process Wastewater" shall include all wastewaters disposed on site other than sanitary wastewater.
- 3.2 "Recharge Area" shall mean the area encompassing land and water surfaces through which precipitation enters the groundwater body, and which groundwater flows naturally, or is drawn by pumping, into the water well.
- 3.3 "Toxic or Hazardous Materials" Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant actual or potential hazard to water supplies, or other hazard to human health, is such substance or mixture were discharged to land or waters of this town. Toxic or hazardous materials include, without limitation, organic chemical petroleum products, heavy metals, radio-active or infectious wastes, acids and alkalies, and include products such as pesticides, herbicides, solvents and thinners. Wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity demonstrate the contrary to the satisfaction of the Board of Health:
- a. Airplane, boat and motor vehicle service and

- repair
- b. Chemical and bacteriological laboratory option
- c. Dry cleaning
- d. Electronic circuit assembly
- e. Metal plating, finishing and polishing
- f. Motor and machinery service and assembly
- g. Painting, wood preserving and furniture stripping
- h. Pesticide and herbicide application
- i. Photographic processing
- j. Printing

4. Use Regulations

4.1 Prohibited Uses: Within the water resource district the following uses are prohibited; Sanitary landfills, junk yards, municipal sewage treatment facilities with on-site disposal of primary or secondary-treated effluent, car washes, road salt stockpiles, dry cleaning establishments, boat and motor vehicle service and repair, metal plating, chemical and bacteriological laboratories, and any other use which involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, except as allowed by special permit below.

4.2 Special Permit Uses: The following shall be allowed in the Water Resource Districts only if granted a special permit.

- a. fuel oil or gasoline storage as a principal use, in any amount, with the approval of the Board of Health.
- b. any use which includes retention of less than 30% of lot area in its natural state with no more than minor removal of existing trees and ground vegetation, or creation of impervious surfaces covering more than 40% lot area.
- c. any use which involves on site wastewater disposal facilities having over 15,000 gallons per day capacity or disposal of process wastes from operations other personal hygiene and food for residents, patrons and employees.
- d. any use involving generation of toxic or hazardous waste materials, incidental to the principal use.

- 4.3 The Special Permit Granting authority shall be the Board of Appeals.
- 4.4 Such Special Permit may be granted if the Board of Appeals determines that the intent of the by-law as well as the specific provisions of the Performance Standards are met. In making such determinations, the Board of Appeals shall give consideration to:
- a. the simplicity, reliability and feasibility of the control measures proposed
 - b. the degree of threat to water quality which would result if the control measures failed
 - c. the recommendations of the Water Quality Review Committee
- 4.5 The Board of Appeals, shall explain any departures from the recommendations of the Water Quality Review Committee in its decision.
5. Performance Standards
- 5.i To preserve the natural land surface providing high quality recharge to the groundwater, to limit sewage flow and fertilizer application to amounts which will be adequately diluted by natural recharge, and to prevent the discharge or leakage of toxic hazardous substances into the groundwater resource, all uses, other than single family dwellings, shall meet the following performance standards:
- 5.1.1 The connection of nitrate nitrogen resulting from domestic disposal and from fertilizer application, when diluted by rainwater recharge on the lot shall not exceed 10 parts per million (ppm). Compliance with this standard is presumed under the following conditions:
- a. For dwelling uses: a sewage flow as determined by Title 5 of the State Environmental Code not exceeding 110 gallons (gpd) per 10,000 sq. ft. of lot area, and less than 10% of the lot area maintained in cultivated lawn, and a fertilizer use of less than six pounds nitrogen/1,000 square feet per year, or less.
 - b. For non-dwelling uses: a sewage flow determined by Title 5 not exceeding 150 gallons per day per 10,000 square feet of lot

area, and less than 10% of the lot area maintained in cultivated lawn, and fertilizer use of six pounds nitrogen/1,000 square feet per year, or less.

- 5.1.2 Compliance shall otherwise be certified by a Registered Professional Engineer in Sanitary or Civil Engineering and will require a Special Permit.
- 5.1.3 All toxic or hazardous materials shall be stored in product tight containers protected from corrosion, accidental damage or vandalism and shall be used and handled in such a way to prevent spillage into the ground or surface waters. A product inventory shall be maintained and reconciled with purchase, use, sales, and disposal records at sufficient intervals to detect product loss. Subsurface fuel and chemical storage facilities in compliance with Mashpee Board of Health Regulations and Massachusetts Fire Prevention Regulations shall be deemed to be in compliance with this standard.
- 5.1.4 No toxic or hazardous materials shall be present in wastes disposed on the site. Wastes composed in part or entirely of toxic or hazardous materials shall be retained in product tight containers for removal and disposal by a licensed scavenger service or as directed by the Board of Health.
- 5.1.5 Contaminant levels in groundwater resulting from disposal of process wastes from operations other than personal hygiene and food from residents, patrons and employees or from wastewater treatment and disposal systems greater than 15,000 gallons per day capacity shall not exceed those levels specified in Tables C and E of the "Drinking Water Regulations of Massachusetts" (DEQE, June 15, 1977), after allowing for dilution by natural recharge on the premises. If higher, background levels of individual constituents in the groundwater shall not be exceeded.
- 5.1.6 All runoff from impervious surface shall be recharged on the site, diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminated solids. In the vicinity of chemical or fuel delivery points,

provision must be made for spill control.

5.1.7 Sand and gravel removal operations shall be limited in depth so that the depth to the water table will not be less than eight (8') feet at any time. Land area exposed at any one time shall be minimized and land shall be returned to a natural vegetative state within one year of completion of operations.

5.1.8 Where the premises are partially outside of the Water Resource District, such potential pollution sources as on-site waste disposal systems shall, to the strictest degree possible, be located outside the District, and to the downside of the water slope.

6. Water Quality Review

6.1 Water Quality Review Committee. There is hereby established a Water Quality Review Committee, comprising one representative each appointed from time to time by the Board of Selectmen, Board of Health, Planning Board, Conservation Commission and the Board of Appeals.

6.2 Certificate of Water Quality Compliance. A Certificate of Water Quality Compliance shall be obtained by the owner of the premises from the Water Quality Review Committee or, for Special Permit uses, from the Board of Appeals, for the following activities in Water Resource Districts:

- a. for erection of any new principal structure other than a single family dwelling or for change in occupancy requiring a Certificate of Use and Occupancy under the State Building Code;
- b. a change in use of premises or alterations, enlarging structure by more than twenty-five percent;
- c. for occupancy of any premises not requiring a Certificate of Use and Occupancy but involving the storage, handling or transportation of toxic or hazardous wastes;

6.3 No building permit or Certificate of Use and Occupancy shall be issued by the Building Inspector unless a Certificate of Water Quality Compliance, if required, has been obtained.

6.4 Requirements. A Certificate of Water Quality

Compliance issue only as follows:

- a. for new construction or additions or new activities not involving structures, only if in full compliance with all requirements of Section 5. Performance Standards.
- b. for change in occupancy or operation on previously developed premises, only if all the requirements of 5.1.3, 5.1.4, and 5.1.5 are met, and the requirements of all paragraphs of Section 4 are either met or, if previously exceeded, there will be no further increase in non-compliance.

6.5 Submittals. In applying for a certificate of Water Quality Compliance, or Special Permit, six (6) sets of application materials shall be submitted to the Water Quality Review Committee as defined in Section 6.1 of this by-law. In the case of uses requiring a Special Permit under Section 4.2 one set shall also be submitted to the Board of Appeals along with any other application materials. All information necessary to demonstrate compliance must be submitted, including but not limited to the following:

- a. A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures to protect from vandalism, corrosion and leakage, and to provide control of spills;
- b. A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
- c. Evidence of approval by Massachusetts Department of Environmental Quality Engineering of any industrial treatment or disposal system or any wastewater system treatment 15,000 gallons per day capacity, accompanied by analysis by a Professional Engineer or Sanitary or Civil Engineering registered in the Commonwealth of Massachusetts certifying compliance with Section 5.1.5 of this by-law.

6.6 Action. For uses not requiring a Special Permit under Section 4.2, the Water Quality Review Committee shall act within thirty-one (31) days

received of application, approving it by issuing a Certificate of Water Quality Compliance, if the applicant adequately demonstrated compliance with the requirements of the Water Resource District, and rejecting the application otherwise. For uses requiring a Special Permit under Section 4.2, the Water Quality Review Committee shall make recommendations to the Board of Appeals within thirty-five (35) days of receipt of the application, as provided in Section 11, Chapter 40A, Massachusetts General Laws.

6.7 Certificate Review. Each three years the Water Quality Review Committee shall review compliance with the by-law and the Certificate of Water Quality Compliance, and, if appropriate, issue a new Certificate of Water Quality Compliance. All certificate holders shall submit the following not less than thirty (30) days prior to the expiration of the three-year anniversary date of the issuance of the current Certificate of Water Quality Compliance:

- a. Description of any changes from the originally submitted materials.
- b. Certification that the waste disposal system has been inspected by a licensed septic system installer or treatment plant operator within the preceding ninety (90) days and found to be properly maintained and in proper operating condition.
- c. Results from analysis of leachate or wastewaters as may be required by the Board of Health.

7. Enforcement

7.1 Inspection: These provisions shall be enforced by the Building Inspector. The Building Inspector or Agent of the Board of Health may enter upon the premises at any reasonable time to inspect for compliance with the provisions of this By-Law. Evidence of compliance with approved waste disposal and removal shall be retained by the holder of the Certificate of Water Quality Compliance.

7.2 Violations: Written notice of any violation shall be provided to the holder of the Certificate of Water Quality Compliance, specifying a time for compliance including cleanup of any spilled materials which is reasonable in relation to the

public health hazard involved and the difficulty of compliance, but in no event more than thirty (30) days.

- 7.3 Penalty: Any violations on the provisions of this Water Resource District By-Law shall be punished by a fine of \$200.00. Each day a violation exists shall be considered a separate violation for purposes of penalty. The penalty imposed herein shall be in addition to all other lawful remedies available to the Town.

Section 11B. 2.1 Water Resource District including all of the land within the following described area as shown on "Plan of Proposed Water Resource District" dated March 28, 1984 prepared by Charles L. Rowley and Associates:

Including all of the land within the following described lines:

Beginning at a point in the southerly sideline of Nathan S. Ellis Highway (Route 151) at the existing intersection with Job's Fishing Road as shown on Assessors Sheet 74;

Thence southeasterly by the centerline of Job's Fishing Road a distance of 2900 feet more or less; crossing Falmouth Road and Great Neck Road;

Thence across Great Neck Road, easterly to the southerly sideline of Timber Landing Road;

Thence easterly and southerly by the southerly sideline and westerly sideline of Timber Landing to River Road;

Thence easterly and southerly by the southerly sideline and westerly sideline of Timber Landing Road to River Road;

Thence southerly in the westerly sideline of River Road as most recently laid out at the intersection of Great Neck Road and the southerly boundary of Lot 2 as shown on Assessors Sheets 89 and 95.

Thence southerly in the westerly sideline of Great Neck Road to the southerly line of Lot 35 as shown on Assessors Sheet 99, it being land of Fields Point Manufacturing Corp;

Thence westerly in said line and continuing westerly in the southerly line of land of the Town of Mashpee shown as Lot 1 on Assessors Sheet 99 and in the southerly line of

land of Eugenia Fortes shown as Lot 12 on Assessors Sheet 98 to Great Hay Road;

Thence northwesterly in a straight line to the intersection of the southerly boundary of the existing I-1 district and easterly sideline of Falmouth Road (Route 28);

Thence northerly across Falmouth Road, 150 feet more or less to Whiting's Road;

Thence northerly by the centerline of Whiting's Road to the northwesterly boundary of the existing I-1 district;

Thence northerly in a straight line to the southerly sideline of Nathan S. Ellis Highway (Route 151) at the intersection of the existing Whiting's Road;

Thence easterly in a southerly sideline of Nathan S. Ellis Highway a distance of 1200 feet more or less to existing Job's Fising Road and point of beginning.

SECTION 12: APPEALS AND BOARD OF APPEALS

- 12.1 There shall be a Board of Appeals as provided for by the Massachusetts General Laws consisting of three members. The Board of Selectmen shall appoint the members annually to a term commencing July 1st. The members shall be appointed for a term of three years with the term of one member to expire each year. The Board of Selectmen may appoint up to six associate members for similar terms in the same manner. Vacancies shall be filled for unexpired terms in the same manner as in case of original appointments.
- 12.2 The Board of Appeals shall organize annually at the meeting next following July 1st by the election of a chairman and a clerk from within its own membership, and may, subject to appropriation, employ experts and clerical and other assistants.
- 12.3 The Chairman of the Board of Appeals may designate any associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof or in the event of a vacancy on the board until said vacancy is filled by action of the Board of Selectmen.
- 12.4 Any member or associate member of the Board of Appeals may be removed for cause by the Board of Selectmen but only after written charges have been and delivered to the member and a public hearing has been held.
- 12.5 The Board of Appeals shall have and exercise the powers specifically granted by the General Laws of the Commonwealth and those powers granted in this Zoning By-Law which are not inconsistent with the aforesaid General Laws.

SECTION 13: ZONING AMENDMENTS

- 13.1 Any person desiring a zoning amendment shall propose it in writing to the Selectmen for insertion in the warrant of a town meeting, regular or special.
- 13.2 If geographic change of a zoning boundary description be proposed, words of boundary description change for insertion in the warrant shall be accompanied by a brief written statement of the nature, extent and location in the town of the zoning map change proposed, together with three blackline prints of a diagram to scale showing the area to be changed, stating pertinent dimensions in feet.
- 13.3 On each zoning amendment proposal accepted by the Selectmen for insertion in a town meeting warrant, or on any such proposal inserted in a town meeting warrant by petition as provided by statute, the Planning Board shall hold a public hearing, of which notice shall be given by the Planning Board under the statutory zoning notice provisions.
- 13.4 The costs of publication and of mailing of notices of hearing and the costs of holding such zoning hearing and of making a public record of the proceedings at such hearing, if such a record be made, shall be paid by the Planning Board, but the Planning Board may determine whether a fee to cover such costs shall be required of zoning amendment proponents.

SECTION 14: ENFORCEMENT AND PENALTIES

- 14.1 No building shall be erected, altered or moved in the Town without a written permit issued by the Building Inspector. Such permits shall be applied for in writing to the Building Inspector. The Building Inspector shall not issue such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of this Zoning By-Law, except as may have been specifically permitted otherwise by action of the Board of Appeals, provided a written copy of the terms governing any such permission be attached to the application and to the resulting building permit issued. One copy of each such permit issued, including any conditions or exceptions attached thereto, shall be kept on file in the office of the Building Inspector.
- 14.2 Each application for a permit to build, alter, or move a building shall be accompanied by a plot plan in such number of copies and drawn to such scale as is required by the Building By-Laws of the Town. Each such plot plan shall show dimensions and areas of lots and of structures to be erected, altered or moved, and adjacent streets or angles of all lot lines shown thereon, also of any streets or ways. Such plot plans shall indicate approved street grades and proposed elevations of the top of foundations. Also such plot plans shall show the locations of existing sanitary sewers, storm drains, and water pipes in any street shown and the locations of all existing buildings and structures within the application area. Also the location of existing or proposed wells and sanitary disposal areas shall be shown.
- 14.3 This Zoning By-Law shall be enforced by the Building Inspector of the Town. The Building Inspector, upon being informed in writing of a possible violation of this By-Law or on his own initiative shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. The Building Inspector, on evidence of any violation after investigation and inspection shall give written notice of such violation to the owner and to the occupant of such premises. The Building Inspector shall demand in such notice that such violations be abated within a reasonable time, designated therein by the Building Inspector. Such notice and demand may be given by mail addressed to the owner at the address appearing

for him on the most recent real estate tax records of the Town and to the occupant at the address of the premises of such seeming violation.

14.5

If the Building Inspector after being requested in writing to enforce the Zoning By-Law against any person allegedly in violation of the Zoning By-Law declines to act, he shall notify, in writing, the party requesting enforcement of any action he takes or refusal to act, and the reasons therefor, within 14 days of receipt of the written request for enforcement.

Earl M. Marsters, Chairman
Harold P. Collins, Vice-Chairman
Michele Stone, Clerk
Richardson Jonas
Richard Dubin
Mashpee Planning Board