

BOURNE SPECIAL TOWN MEETING WARRANT

October 20, 2008

BOURNE HIGH SCHOOL AUDITORIUM

7:30 P.M.

ARTICLE 1: To see if the Town will vote to appropriate a sum of money for **engineering services** to survey Town owned facilities at Barlow's Landing, Pocasset and further to appropriate a sum of money for the removal of derelict and abandoned moorings, or take any other action relative thereto.

Sponsor - Shore & Harbor Committee

MOTION: We move that the Town vote to appropriate the sum of \$10,000.00 for the purpose of surveying the Town owned facilities at Barlow's Landing and to further appropriate \$10,000.00 to remove derelict and abandoned moorings and to meet this appropriation to transfer the sum of \$20,000.00 from the Waterways Improvement Fund.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 2: To see if the Town will Vote to authorize the Board of Selectmen to **accept as a town way** a section of highway originally laid out on behalf of the Town of Bourne by the Commonwealth of Massachusetts Department of Public Works by virtue of "Layout No. 5018 and Order of Taking" dated March 12, 1963 and recorded in the Barnstable County Registry of Deeds in Deed Book 1193, Page 280, which section of highway is more particularly described as a Service Road in said "Layout No. 5018 and Order of Taking" and shown on the Plan of Land entitled "Plan of Land in the Town of Bourne, Barnstable County, Altered and Laid Out as a State Highway by the Department of Public Works, March 12, 1963, Scale: 40 feet to the Inch," which plan of land is filed at the Barnstable County Registry of Deeds in Tube #138; or take any other action relative thereto.

Sponsor - Planning Board

MOTION: We move the Town so vote.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 3: To see if the Town will Vote to authorize the Board of Selectmen, pursuant to Massachusetts General Laws, Chapter 82, Section 21, to **discontinue as a town way** the section of highway originally laid out on behalf of the Town of Bourne by the Commonwealth of Massachusetts Department of Public Works by virtue of "Layout No. 5018 and Order of Taking" dated March 12, 1963 and recorded in the Barnstable County Registry of Deeds in Deed Book 1193, Page 280, which section of highway is more particularly described as a Service Road in said "Layout No. 5018 and Order of Taking" and shown on the Plan of Land entitled "Plan of Land in the Town of Bourne, Barnstable County, Altered and Laid Out as a State Highway by the Department of Public Works, March 12, 1963, Scale: 40 feet to the Inch," which plan of land is filed at the Barnstable County Registry of Deeds in Tube #138; and thereafter, pursuant to General Laws, Chapter 40, Section 15 and General Laws, Chapter 30B, Section 16, to convey title said Service Road for not less than One Hundred (\$100.00) Dollars to High Rock Factory Outlet Road I, LLC; to authorize the Board of Selectmen to negotiate and enter into all agreements and execute any and all instruments as may be necessary on behalf of the municipality to effect this sale; or to take any other action relative thereto.

Sponsor - Planning Board

MOTION: We move the Town so vote.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 4: To see if the Town will vote to appropriate, borrow or transfer from available funds a sum of money for the payment of **unpaid bill(s)**, or take any other action relative thereto.

Sponsor – Board of Selectmen

Department	Vendor	Fiscal Year	Amount
Town Hall	Buzzards Bay Water District	2008	\$ 508.87
Legal	Robert S. Troy	2008	\$ 3,146.50
Legal (Police)	American Arbitration Assoc.	2008	\$ 200.00
Bourne School Dept.	Halliday Builders	2008	\$ 7,921.00

MOTION: We move that the Town vote to appropriate the sum of \$11,776.37 for the purposes of this Article and to meet this appropriation to transfer the sum of \$3,855.37 from the Overly Surplus Account and to transfer the sum of \$7,921.00 from Free Cash.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 5: To see if the Town will vote to authorize the Board of Selectmen to negotiate and execute **easements**, on terms and conditions deemed to be in the best interests of the Town, to VERIZON NEW ENGLAND INC., for the transmission and/or distribution of intelligence and telecommunications by installation of various equipment and to COMMONWEALTH ELECTRIC COMPANY for the transmission and/or distribution of electricity for light, heat, power or other purpose by installation of various equipment for the purposes of providing electrical and communication services at the New Bourne Elementary School (Off Ernest Valeri Road), or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move the Town so vote

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 6: To see if the Town will accept the **provisions of Massachusetts General Laws Chapter 43D** providing for expedited permitting for the development of land, buildings or structures in a priority development site and to authorize the Board of Selectmen, acting as the "Governing Body," to file a formal proposal with the "Interagency Permitting Board" for the designation of land at 24 Cohasset Avenue, 32 Cohasset Avenue, 127 Main Street, 111 Main Street, 105 Main Street, 0 Main Street and 0 Bournedale Road as a "Priority Development Site", or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town vote to accept the **provisions of Massachusetts General Laws Chapter 43D**, providing for expedited permitting for the development of land, buildings or structures in a priority development site and to authorize the Board of Selectmen, acting as the "Governing Body," to file a formal proposal with the "Interagency Permitting Board" for the designation of land at 24 Cohasset Avenue (Map 23.2, Parcel 68), 32 Cohasset Avenue (Map 23.2, Parcel 70), 32 Cohasset Avenue (Map 23.2, Parcel 71), 127 Main Street (Map 23.2, Parcel 82), 111 Main Street (Map 23.2, Parcel 78), 105 Main Street (Map 23.2, Parcel 77), 0 Main Street (Map 23.2, Parcel 74), 100 Main Street (Map 23.2, Parcel 181), and 0 Bournedale Road (Map 10, Parcel 9), as a "Priority Development Site."

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 7: To see if the Town will vote to **amend the Town Bylaws, Section 1.1.8** by striking the current section and inserting in its place the following revised Section 1.18:

Section 1.1.8

Time Limit. Each daily session of an annual or a special town meeting shall begin no earlier than 7:00 p.m. and shall conclude no later than 10:00 p.m. unless at such hour a vote is in progress in which event the vote shall be completed, or unless by 4/5ths vote of those in attendance it is voted to continue the session beyond 10:00 p.m. Under no circumstances shall the town meeting be allowed to continue after 11:00 p.m. Or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move the Town so vote.

VOTED: the Ayes have it; declared the motion passes.

ARTICLE 8: To see if the Town will vote to **abolish the Canal Side Task Force** and transfer the balance of any appropriations for that purpose to the Economic Development Line item of the FY2009 budget, or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town vote to abolish the Canal Side Task Force.

VOTED: the Ayes have it; declared the motion passes.

ARTICLE 9: To see if the Town will vote to authorize the Board of Selectmen and the Town Administrator to file a home rule petition with the Massachusetts General Court for the purpose of exempting **Special Police Officer Lonergan** from the age requirement of Massachusetts General Laws, Chapter 31, Section 58A and to request the enactment of legislation in substantially the following form:

"Notwithstanding MGL Chapter 31, section 58A or any other general or special law to the contrary, Drew Lonergan may have his name certified for original appointment to the position of police officer in the Town of Bourne, notwithstanding having reached the age of 32 before taking any civil service examination in connection with such said appointment. In all other respects, Drew Lonergan shall be eligible for appointment to the position of police officer in the Town of Bourne only insofar as he qualifies and is selected for employment under chapter 31 of the General Laws, any regulations of the civil service commission and any lawful hiring practices of the Town of Bourne."

Sponsor - Board of Selectmen

MOTION: We move the Town so vote.

VOTED: the Ayes have it; declared the motion passes.

ARTICLE 10: To see if the Town will vote to **transfer certain sums** to meet additional expenses of the current fiscal year not adequately funded under Article 3 of the 2008 Annual Town Meeting, or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town vote to appropriate the sum of \$96,350.00 for the purposes of this Article and to meet this appropriation to transfer the sum of \$73,850.00 from the Overlay Surplus Account and to transfer the sum of \$22,500.00 from Free Cash. The breakdown of this Article is as follows:

- \$33,800.00 – Department of Public Works (Overlay Surplus)
- \$4,200.00 – Building Inspector copy machine (Overlay Surplus)
- \$3,600.00 – for Inspectors Salaries (Overlay Surplus)
- \$7,250.00 – Data Processing (Overlay Surplus)
- \$15,000.00 – Tax Title (Overlay Surplus)
- \$10,000.00 – Jonathan Bourne Public Library Building Equipment and Supplies (Overlay Surplus)
- \$7,500.00 – Selectmen Contracted Services (Free Cash)
- \$15,000.00 – Economic Development (Free Cash)

Total: \$96,350.00

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 11: To see if the Town will vote to apply for membership in the Cape & Vineyard Electric Cooperative, Inc. (the "Cooperative"), or take any other action relative thereto.

Sponsor - Selectmen's Energy Advisory Committee

MOTION: We move that the Town vote to apply for membership in the Cape and Vineyard Electrical Cooperative.

VOTED: the Ayes have it; the motion passes.

ARTICLE 12: To see if the Town will vote to authorize its Board of Selectmen to negotiate terms and conditions of its membership in the Cape & Vineyard Electric Cooperative, Inc. or take any other action relative thereto.

Sponsor - Selectmen's Energy Advisory Committee

MOTION: We move that the Town vote to authorize the Board of Selectmen to negotiate terms and conditions of the Town's membership in the Cape and Vineyard Electric Cooperative.

VOTED: the Ayes have it; declared the motion passes.

ARTICLE 13: To see if the Town will amend the General Bylaws by deleting **Chapter 4 Inspection and Development Regulations, Article 4.6 Sealer of Weights and Measures** in its entirety and to authorize the Board of Selectmen to enter into an inter-municipal agreement to provide for services for a sealer of weights and measures or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town amend the General By-Laws by deleting Chapter 4, Inspection and Development Regulations, Article 4.6 Sealer of Weights and Measures in its entirety and to authorize the Board of Selectmen to enter into an Intermunicipal agreement to provide services for the Sealer of Weights and Measures.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 14: To see if the Town will vote to enter into an **indemnification agreement** for liability associated with activities related to the Tobey Island Bridge on terms deemed by the Selectmen to be in the best interest of the Town or take any other action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town vote to enter into an indemnification agreement for liability associated with activities related to the Tobey Island bridge on terms deemed by the Selectmen to be in the best interest of the Town.

VOTED: voice vote – declared the Nays have it; the motion does not pass.

ARTICLE 15: To see if the Town will vote to amend the Bourne Zoning Bylaw to **renumber Section 1600 in it's entirety to Section 1700** or take any other action relative thereto:

Sponsor: Planning Board

MOTION: We move that the Town vote to amend the Bourne Zoning Bylaw to renumber Section 1600 in it's entirety to Section 1700.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 16: To see if the Town will vote, upon recommendation of the **Community Preservation Committee**, to appropriate from the Community Preservation Fund a sum of money for the following Community Preservation Fund purposes: repairs, renovation and restoration work to the Jonathan Bourne Public Library building, including costs incidental thereto; or take any other action relative thereto.

Sponsor - Library Trustees and the Community Preservation Committee

MOTION: We move that the Town vote , on the recommendation of the Community Preservation Committee, to appropriate the sum of \$37,000.00 from the Community Preservation Fund - Historic Resources Reserve - for repairs, renovation and restoration work to the Jonathan Bourne Public Library building, including costs incidental and related thereto; and further, the Board of Library Trustees and the Community Preservation Committee are hereby authorized and directed to take any and all acts necessary to implement this vote.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 17: To see if the Town will vote, upon recommendation of the **Community Preservation Committee**, to appropriate from the Community Preservation Fund a sum of money for the following Community Preservation Fund purposes: to make improvements to Clarke Field in North Sagamore including the creation of a new multi-use field along with the installation of irrigation, including costs incidental and related thereto; and further the Recreation Committee and the Community Preservation Committee are hereby authorized and directed to take any and all acts necessary to implement this vote, or take any other action relative thereto.

Sponsor - Recreation Committee and the Community Preservation Committee

MOTION: We move that the Town vote, on the recommendation of the **Community Preservation Committee**, to appropriate the sum of **\$25,000.00** from the Community Preservation Fund - Undesignated Fund Balance - for making certain improvements to Clarke Field in North Sagamore including creating a new multi-purpose field, installing irrigation, along with including costs incidental and related thereto; and further, the Recreation Committee and the Community Preservation Committee are hereby authorized and directed to take any and all acts necessary to implement this vote.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 18: To see if the Town will vote, upon recommendation of the **Community Preservation Committee**, to appropriate from the Community Preservation Fund, a sum of money for the following Community Preservation Fund purposes:

Bourne Archives: Catalogue, Conserve, Digitize Town Records and Photographic Materials - \$20,323.00

Place the Aptucxet Trading Post site; Bourne School Administration Building; Cataumet Schoolhouse and the Soldiers & Sailors Monument (in front of Town Hall) on the State and Federal Registers -\$21,000.00

Restoration of Burial Hill in Bournedale - \$10,000.00

Move Memorial Stones from the West End Rotary to the grounds at Town Hall - \$20,000.00

Installation of American with Disabilities (ADA) compliant chair - lift at the Bourne Historical Center - \$30,000.00

Making certain necessary repairs, renovations and restoration work to the Bourne Historical Center - \$50,000.00

Restoration and Preservation of the Aptucxet Trading Post - \$97,000.00 including costs incidental and related thereto; or take any other action relative thereto.

Sponsor - Historical Commission and the Community Preservation Committee

MOTION: We move that the Town vote, upon the recommendation of the **Community Preservation Committee**, the sum of **\$248,323.00** for the purposes of this Article and to meet this appropriation to transfer the sum of **\$175,000.00** from the Community Preservation Fund - Historic Resources Reserve and to transfer **\$73,323.00** from the 2009 estimated revenues for Historic Reserves for the purposes of this Article, including costs incidental and related thereto; and further, the Historic Commission and the Community Preservation Committee are hereby authorized and directed to take any and all acts necessary to implement this vote.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 19: To see if the Town will vote, upon recommendation of the Community Preservation Committee, to appropriate a sum of money from the Undesignated Fund Balance of the Community Preservation Fund and transfer a sum of money to the reserve for Open Space, reserve for Historic Resources, and reserve from Community Housing, or take any other action relative thereto.

Sponsor - Community Preservation Committee

MOTION: We move that the Town vote, upon the recommendation of the **Community Preservation Committee**, the sum of **\$255,850.00** for the purposes of this Article and to meet this appropriation to transfer the sum of **\$199,000.00** to the Reserve for Open Space and to transfer the sum of **\$28,425.00** to the Reserve for Historic Resources and to further transfer the sum of **\$28,425.00** to the Reserve for Community Housing from the Community Preservation Undesignated Fund Balance.

VOTED: the Ayes have it; the motion passes; declared a unanimous vote.

ARTICLE 20: To see if the Town will vote to amend the **Bourne Zoning Bylaw** by adding the following Section 1600 relative to Development Agreements: Or take any other action relative thereto:

Sponsor - Planning Board

1600. Development Agreement

1610. Purposes and Intent:

It is the purpose and intent of this bylaw to enable the Town of Bourne to enter into development agreements in the areas delineated on the attached map dated September 3, 2008 entitled "Bourne Development Agreement Districts." (*On file in Town offices*)

1611. The Town of Bourne adopts this section under the Home Rule Authority of Article 89 of the Amendments to the Massachusetts Constitution, and the provisions of the Cape Cod Commission Act Sections 6 and 14 of Chapter 716 of the Acts of 1989, as amended and Chapter D, Development Agreement Regulations.

1612. The provisions of this chapter shall not apply to any single-family structure in existence on the day of adoption of this section.

1620. Authority:

Notwithstanding provisions to the contrary, the Town of Bourne is hereby authorized to enter into a development agreement with a Qualified Applicant provided the following conditions are met:

- a. The Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said certification has not been revoked;
- b. The Town has adopted the following regulation contained in Sections 1610 through Section 1690 herein.

1630. Parties to Development Agreements:

- 1631.** A development agreement may be executed by and between a Qualified Applicant and;
- a. The Town of Bourne; or
 - b. The Town of Bourne and the Cape Cod Commission; or
 - c. The Town of Bourne and a state agency or agencies; or
 - d. The Town of Bourne and the Cape Cod Commission and a state agency or agencies; or
 - e. The Cape Cod Commission.

1640. Negotiation and Execution of Development Agreements:

1641. Negotiation of the elements of a Development Agreement between authorized parties (Section 1630) and a Qualified Applicant shall follow all pertinent rules of due process currently required for public meetings, public hearings, and ratification of Planning Board decisions.

1642. Negotiation of the elements of a development agreement between authorized parties (Section 1630) and a Qualified Applicant shall be led by the Planning Board or its designee, and may include representatives from other municipal boards, departments and commissions where said joint participation will assist the negotiation process.

1643. No development agreement may be executed by the Board of Selectmen prior to an affirmative, majority vote by the Planning Board recommending the execution of the development agreement.

1644. The Board of Selectmen may make minor amendments to the development agreement recommended by the Planning Board and execute said development agreement as amended, provided that such amendments do not alter the use, intensity or mitigation stipulations of the development agreement. However, in no instance may the Board of Selectmen make substantial amendments to the development agreement recommended by the Planning Board without first receiving written concurrence from the Planning Board and the Qualified Applicant that said substantial amendments are agreed to.

1645. The Board of Selectmen or their designee shall be authorized to execute, on behalf of the town, a development agreement. Prior to executing said development agreement, the Board of Selectmen shall, at a public meeting, vote to authorize said execution. The Board of Selectmen shall, within seven (7) days of the vote authorizing the execution of the development agreement, cause said development agreement to be so executed and forward the same to the Qualified Applicant by certified, return receipt mail. Within twenty-one (21) days of the date said development agreement has been mailed by the Board of

Selectmen, the Qualified Applicant shall execute the agreement and return either by certified mail or hand delivery, the fully executed development agreement.

1650. Elements of Development Agreements:

1651. Proffers by a Qualified Applicant: A development agreement may include, but is not limited to, the provisions whereby a Qualified Applicant agrees to provide certain benefits which contribute to one or more of the following:

- a. infrastructure;
- b. public capital facilities;
- c. land dedication and/ or preservation;
- d. affordable housing, either on or off-site;
- e. employment opportunities;
- f. community facilities;
- g. recreational facilities;
- h. any other benefit intended to serve the proposed development, municipality or county, including site design standards to ensure preservation of community character and natural resources.

1652. Proffers by the Town of Bourne: A development agreement may include the provisions whereby the Town of Bourne agrees to provide certain protection from future changes in applicable local regulations and assistance in streamlining the local regulatory approval process. Streamlining may include, where not in conflict with existing local, state or federal law, holding of joint hearings, coordination of permit applications and, where possible, accelerated review of permit approvals. A development agreement may also provide for extensions of time within which development approvals under state, regional and local laws may be extended to coincide with the expiration of the development agreement established in Section 1680, below. When the Cape Cod Commission is not a party to the development agreement, the land use development rights shall not vest with respect to Cape Cod Commission regulations and designations and the property shall be subject to subsequent changes in the Commission's regulations and designations.

1660. Procedural Requirements for inclusion or exclusion of the Cape Cod Commission as a Party to the Agreement.

1661. Where the Cape Cod Commission is to be a party to a development agreement, a Qualified Applicant shall complete a Development Agreement Application Form and comply with the specific procedural requirements established in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised. No such development agreement shall be valid unless and until the requirements of said Section 5 of Chapter D have been complied with in full.

1662. Where the Cape Cod Commission is not to be a party to a development agreement;
A. The Qualified Applicant shall complete a Development Agreement Application Form, which shall include:

- 1) A fully completed Development of Regional Impact Application Form, including a certified list of abutters;
- 2) A legal description of the land subject to the agreement and the names of its legal and equitable owners;
- 3) The proposed duration of the agreement;
- 4) The development uses currently permitted on the land, and development uses proposed on the land including population densities, and building densities and height;
- 5) A description of public facilities that will service the development, including who shall provide such facilities, the date any new facilities will be constructed, and a schedule to assure public facilities adequate to serve the development are available concurrent with the impacts of the development;
- 6) A description of any reservation or dedication of land for public purposes;
- 7) A description of all local development permits approved or needed to be approved for the development of the land;
- 8) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the Qualified

Applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

- 9) A Final Environmental Impact Report, certified as adequate by the Secretary of Environmental Affairs, if required under sections 61-62h of chapter 30 of the general laws;
 - 10) Additional data and analysis necessary to assess the impact of the proposed development, as determined by the Town of Bourne.
- B.** All Qualified Applicants seeking to enter into a development agreement without the Cape Cod Commission as a party shall submit the proposed development to the Cape Cod Commission for a Jurisdictional Determination. If the Cape Cod Commission determines that the proposed development is not a Development of Regional Impact, then the Qualified Applicant may pursue a development agreement without the Cape Cod Commission as a party. If the Cape Cod Commission determines that the proposed development is a Development of Regional Impact, then the Cape Cod Commission must be a party to the development agreement, in which case, the provisions of Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall apply. If the Commission determines that the proposed development is not a Development of Regional Impact, then the provisions of Sections 1671(C) through 1671(J) below, shall apply.
- C.** When more the one municipality is party, then the Town of Bourne shall assume responsibility for overseeing the Development Agreement process. The Town of Bourne shall hold a public hearing after receipt of a fully completed application from a Qualified Applicant for consideration of a proposed development agreement. At least one public hearing shall be held in the municipality, which the proposed development is located. The public hearing regarding review of a development agreement shall not exceed ninety (90) days, unless extended by mutual agreement of the parties. Failure to close the public hearing within ninety (90) days shall not result in a constructive grant of the proposed development.
- D.** The Town of Bourne shall be responsible for overseeing the development agreement process as specified in these regulations. Conflicts between the Town of Bourne and other municipality(ies) which are a party to the agreement shall be resolved through negotiation conducted by the relevant parties. Because a development agreement is a voluntary process, unresolved disputes may result in one or more parties making a determination not to remain a party to the proposed development agreement.
- E.** The Town of Bourne shall provide notice of the public hearing to consider a development agreement by publication as required by Sections 5(a) and (d) of the Cape Cod Commission Act and shall also provide notice to the Cape Cod Commission at least fourteen (14) days prior to such hearing.
- F.** The Qualified Applicant shall bear the cost of providing notice of the public hearing to consider the proposed development agreement.
- G.** The Town of Bourne shall review proposed development agreements for their consistency with the Cape Cod Commission Act and with the Regional Policy Plan and Local Comprehensive Plans. The Town of Bourne shall obtain a determination from the Cape Cod Commission or its designee that a proposed development agreement is consistent with the Act, the Regional Policy Plan, and Local Comprehensive Plans prior to executing a development agreement.
- H.** The Town of Bourne shall file its development agreement with the Bourne Town Clerk and with the Clerk of the Cape Cod Commission. Notices of Development Agreements shall be published in a newspaper of general circulation in the Town of Bourne, including a brief summary of the contents of the development agreement and a statement that copies of the development agreement are available for public inspection at the Town Clerk's office during normal business hours. In addition, the Town of Bourne shall provide the Cape Cod Commission with a summary of the Development Agreement, which the Cape Cod Commission shall publish in its official publication pursuant to section 5(i) of the Cape Cod Commission Act.
- I.** The Development Agreement shall be issued in a form suitable for recording in the Barnstable County Registry of Deeds. The Town of Bourne shall record the development agreement in the Barnstable County Registry of Deeds and shall submit proof of such recording to the Town Clerk and the Cape Cod Commission Clerk within

14 days of such recording. The Qualified Applicant shall bear the expense of recording.

- J. The cost for filing and processing of each development agreement shall be as established by the Board of Selectmen or Town Administrator. Said filing and processing fees shall be reviewed and if appropriate, revised annually.

1670. Limitations on Development Agreements:

- 1671. Nothing in this bylaw may be construed to permit the Town of Bourne to require a Qualified Applicant to enter into a Development Agreement.
- 1672. A development agreement will commence and terminate as agreed by the parties, in writing, except as otherwise provided in this Section.
 - a. Where the Cape Cod Commission is not a party, a Development Agreement shall not exceed ten (10) years, however, provisions in the Development Agreement pertaining to the preservation of open space and park areas, and agreement to pay for maintenance of utilities and other infrastructure may exceed such ten year limitation.
 - b. Where the Cape Cod Commission is a party, a Development Agreement may extend for a longer period of time than that noted above, as set forth in Section 7 of the Code of Cape Cod Commission Regulations of General Application, as revised.
- 1673. A development agreement may not be used to prevent the Town of Bourne or other governmental agency from requiring a Qualified Applicant to comply with the laws, rules and regulations and policies enacted after the date of the Development Agreement, if the Town of Bourne or other governmental agency determines that the imposition and compliance with the newly effective laws and regulations is essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.

1680. Amendments and Rescission:

- A. Where the Cape Cod Commission is not a party to the Development Agreement, any party to the agreement may petition the Town of Bourne to amend or rescind the Development Agreement. The petitioning party shall provide notice to all parties to the agreement and to the Cape Cod Commission of its intention to amend or rescind the agreement by providing such parties and the Cape Cod Commission with a copy of the petition seeking such amendment or rescission.
- B. When the Town of Bourne initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement and to the Cape Cod Commission. The process for amendment or rescission shall follow the procedures for adoption outlined above.
- C. When the Cape Cod Commission is a party to the Development Agreement, any other party to the development agreement may petition the Commission to amend or rescind the Development Agreement. Such petition shall be made in writing, on a form provided by the Cape Cod Commission. The petitioning party shall provide notice to all parties to the Development Agreement and to the Commission of its intention to amend or rescind the agreement by providing such parties and the Commission with a copy of the petition seeking such amendment or rescission.
- D. When the Commission initiates an amendment or rescission, it shall provide notice, in writing, to all other parties to the agreement. The process for amendment or rescission shall follow the procedures for adoption outlined above.

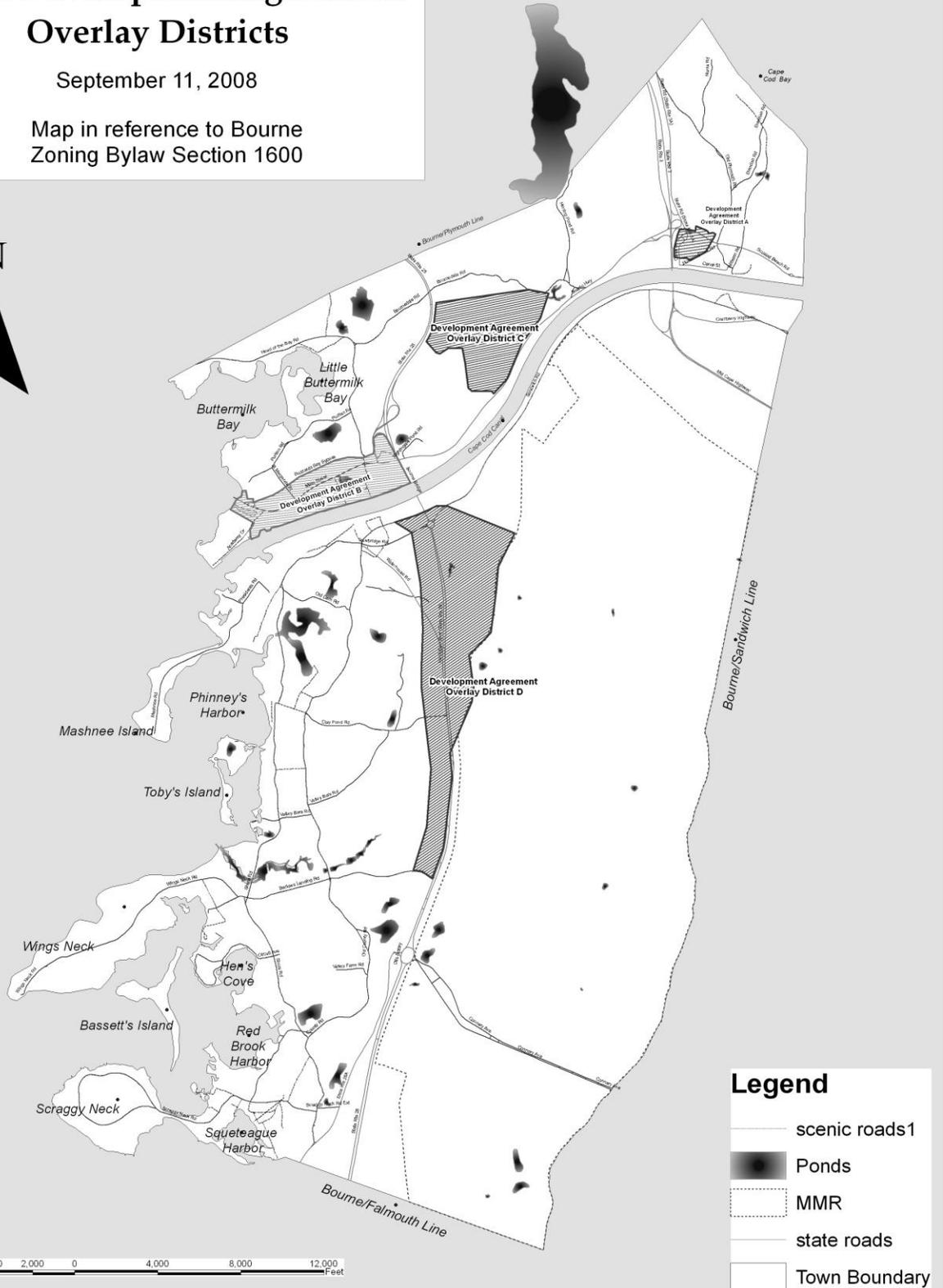
1690. Enforcement and Severability

- 1691. Enforcement. A Development Agreement is a binding contract which is enforceable in law or equity by a Massachusetts court of competent jurisdiction.
- 1692. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the zoning bylaw.

Bourne Development Agreement Overlay Districts

September 11, 2008

Map in reference to Bourne
Zoning Bylaw Section 1600



MOTION: We move the Town so vote.

VOTED: Ayes 161; Nays 30 – declared the motion passes by more than a 2/3rds vote.

ARTICLE 21: To see if the Town will vote to appropriate a sum of money for the rehabilitation and replacement of electrical wiring and lights at Keith Field, or take any action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the Town vote to appropriate from the sum of \$97,000.00 for the purposes of this Article and to meet this appropriation to transfer the sum of \$97,000.00 from the Overlay Surplus Account.

VOTED: the Ayes have it; declared the motion passes.

ARTICLE 22: To see if the Town will vote to appropriate a sum of money for the demolition and removal of property located at 35 Old Plymouth Road, Sagamore Beach, or take any action relative thereto.

Sponsor - Board of Selectmen

MOTION: We move that the town vote to indefinitely postpone this Article.

VOTED: the Ayes have it; the motion passes; declared the motion passes.

ARTICLE 23: To see if the Town will vote to amend Section 2100 of the Bourne Zoning Bylaws by adding to Section 2110 "Types of Districts" the following new Districts.

Sponsor – Planning Board

Add to 2110 Types of Districts

DOWNTOWN DISTRICT	DTD
DEVELOPMENT AGREEMENT OVERLAY DISTRICT	DOD

And further by adding to Section 2140 "District Purposes" the following language

Add to 2140 District Purposes

DOWNTOWN DISTRICT - DTD: To provide for a mixed use zone in Downtown Buzzards Bay that fulfills the goals, objectives and action strategies of the *Town of Bourne Local Comprehensive Plan 2007* achieves the following purposes:

- a) To facilitate a higher density mix of commercial, entertainment, civic, educational, recreational, marine and residential uses.
- b) To create an environment that is a desirable place to live, work and socialize.
- c) To create a network of attractive streets, intermodal transportation modes and open spaces.
- d) To create a downtown that serves residents, employees, students and visitors alike.
- e) To connect the downtown with the waterfront.
- f) To preserve and enhance the distinctive characteristics of buildings and places significant in their architecture or to the history of Bourne, and to maintain and improve settings for such buildings and places with compatible designs.

The Downtown District (DTD) contains four (4) subdistricts including the Downtown Core (DTC), Downtown Waterfront (DTW), Downtown Gateway (DTG) and Downtown Neighborhood (DTN). The Downtown District regulations are contained in Section 2800 of the Zoning Bylaws.

DEVELOPMENT AGREEMENT OVERLAY - DOD: To enable the Town of Bourne to enter into a consensual binding contract between two or more parties, typically between a land owner/developer and government agency; to allow the Town to gain certain public benefits and to provide protection for land owner/developer against regulatory changes.

Or take any other action relative thereto.

MOTION: We move the Town so vote.

VOTED: Ayes 160; Nays 19 – declared the motion passes by more than a 2/3rds vote.

ARTICLE 24: To see if the Town will vote to amend the **Bourne Zoning Bylaw** by adding the following new definitions to Section V of the Bylaw, or take any other action relative thereto.

Sponsor – Planning Board

Art Gallery: A facility for display and sale of works of individual fine art pieces, not mass produced, consisting of one or more of the following: paintings, drawings, etchings, sculptures or hand-crafted jewelry, woodworks, furniture, or leatherworks; may include the sale of related objects and services.

Artist's Loft: A place designed to be used as both a dwelling and a place of work by an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as drawing, vocal or instrumental music, painting, sculpture, photography, graphics, media arts, and writing.

Automated Banking Facility (ATM): An automated device, which is operated by the customer that performs banking or financial transactions.

Business Offices: Business offices include all types of offices, other than professional offices as defined elsewhere in this ordinance, which are defined as a room, or group of rooms used for conducting the affairs of a businesses, service industry, or government entity.

Business Support Services: Establishments engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments. Typical uses include office equipment and supply firms, small business machine or computer repair shops, convenience printing and copying establishments, or hotel equipment and supply firms.

Clinic, Dental or Medical: A building or portion of a building in which the primary use is the provision of health care services to patients or clients. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, and other related medical services or a laboratory which provides similar analytical or diagnostic services. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services.

Conference Center: A facility which provides meeting halls for conferences, seminars, training and other similar functions for large numbers of people. A conference center shall be considered to be an accessory use to a hotel.

Convenience Store Gas Station: A facility associated with the sale of prepackaged food items and other retail goods, primarily for self-service by the consumer, which also offers the retail sale of gasoline from pumps.

Cottage Industry: The creation of products and services that are home-based, rather than factory-based. Products and services must be unique and distinctive, and not mass-produced.

Fraternal or Social Organization Lodge: A building or land used for the activities of an association of persons for the promotion of a nonprofit common objective, such as literature, science, politics, and good fellowship (not accessory to, or operated as, or in connection with a tavern, eating place, or other place open to the public), which meets periodically and may be limited to members.

Museums: A public or private facility, including an aquarium, established for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest, designed to be used by members of the public for viewing, with or without an admission charge. Such activity may include, as an accessory use, the sale of memorabilia, crafts work, artwork, and related items; and the conduct of meetings and social events.

Packaging and Delivery Services: The packaging and delivery of parcels as a retail service use including the sale of ancillary goods typically used in the packaging and shipping of parcels.

Parking Facility: When identified as a permitted Principle Use within a zoning district the term parking facility refers to either structured parking (such as a multi-level parking garage or parking deck), or a surface parking lot, which are not accessory uses to another permitted use in the district.

Performing Arts Facility: An enclosed space suitable for a variety of cultural arts performances, permanently available for the primary principal use of public performing arts presentations such as plays, dance, concerts and other incidental use such as meetings spaces, exhibits and presentation space, studios, classrooms, and galleries.

Personal Services Establishment: An establishment engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, barber shop, beauty shop, dry cleaner, tailor, or other similar services, but not include a public laundry where clothing is laundered on-site primarily by the customer.

Professional Offices: The office of a member of a recognized profession maintained for the conduct of that profession. A profession is defined as an occupation requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field, any occupation requiring licensing by the state and maintenance of professional standards applicable to the field. This category excludes medical and dental offices and clinics but includes lawyers and realtors.

Publishing and Printing Establishment: The publishing and printing of information as a retail service use including the sale of ancillary goods typically used in the publishing and printing of information.

Rain Garden: A rain garden is a bowl shaped landscape area designed to absorb stormwater run-off from impervious surfaces. It cleanses water of pollutants by filtering water through soil and plants.

Recreational Establishment: An establishment engaged in the provision of public recreational services including bowling and billiards, miniature golf and video arcades.

Repair Services: Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses, not to include any appliances, tools or small machinery that are powered by hydrocarbon fuel.

Research and Development Facility: A business that engages in research and development of innovative ideas and technology, such as information systems, communication systems, transportation, multi-media and video technology.

Restaurant, Drive-through: An establishment whose primary business is serving food to the public for consumption on or off the premises, and which provides all or part of these services by means of a drive-through window. A drive-through window is defined as an opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.

Retail Store, General: A business or activity having as its primary function the sale or rental of merchandise or wares to the end consumer (or in providing a service(s) to individuals and households.

Retirement Housing: A facility for long-term residency exclusively by persons 55 years of age or older, which provides independent living and/or assisted living arrangements, and which may include common dining and social and recreational features, and special safety and convenience features designed for the needs of the elderly. The facility may also include the provision of services such as meals, transportation, housekeeping, personal care, or health care. Such a facility shall not be construed to mean a nursing home, group home, or residential treatment center.

Townhouse or Rowhouse: A single dwelling unit which is not above or below another dwelling unit and whose sidewalls are separated from other dwelling units by a firewall.

Workforce Housing: Residential dwelling units, offered for sale or rent, affordable to families earning between 81% and 120% of the area median income, as defined by the U.S. Department of Housing and Urban Development, and provided within a multi-family structure. Such residential dwelling units shall remain affordable in perpetuity and shall provide a deed restriction, regulatory agreement and monitoring agreement and similar documentation as may be required by and approved by the Board of Selectmen.

**** The above definitions apply only to the Downtown Bylaw ****

Development Agreement

A contract entered into between a Qualified Applicant and the Town of Bourne, and/or the Cape Cod Commission or a unit of a municipality or municipalities, or a state agency or agencies, the principal purpose of which is to negotiate and to establish the development regulations that will apply to the subject property during the term of the agreement and to establish the conditions to which the development will be subject including, without limitation, a schedule of impact fees.

Qualified Applicant

A person who is a holder of property development rights, that has a majority legal or equitable interest in the real property, which is the subject of the development agreement. An authorized agent may represent the Qualified Applicant.

MOTION: We move the Town so vote.

VOTED: Ayes 160; Nays 0 – declared the motion passes by more than a 2/3rds vote.

ARTICLE 25: To see if the Town will vote to amend the **Bourne Zoning Bylaw** by adding Section 2800 Downtown Zoning District, which reads as follows:

Sponsor – Planning Board

2800. DOWNTOWN DISTRICT (DTD)

2810. General Provisions and Description.

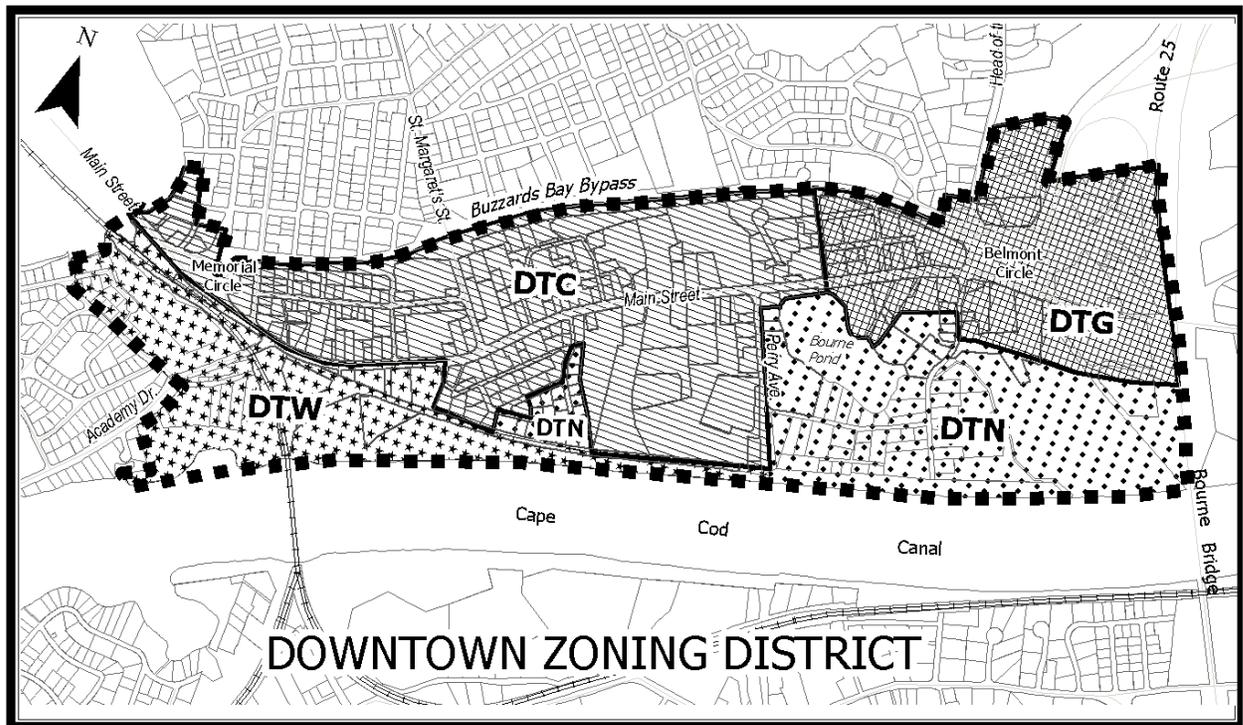
2811. Purpose and Intent. The intent of the Downtown District (DTD) is to produce a mixed use zone that fulfills the goals, objectives and action strategies of the **Town of Bourne Local Comprehensive Plan 2007**. Further, the purpose of

this district is as follows:

- g) To facilitate a higher density mix of commercial, entertainment, civic, educational, recreational, marine and residential uses throughout the district.
- h) To create an environment that is a desirable place to live, work and socialize.
- i) To create a network of attractive streets, intermodal transportation modes and open spaces.
- j) To create a downtown that serves residents, employees, students and visitors alike.
- k) To connect the downtown with the waterfront.
- l) To preserve and enhance the distinctive characteristics of buildings and places significant in their architecture or to the history of Bourne, and to maintain and improve settings for such buildings and places with compatible designs.

2812 Downtown Sub-Districts.

The Downtown District (DTD) contains four (4) subdistricts which are listed below. When this Bylaw refers to the Downtown District it is referring to the DTC, DTW, and DTG subdistrict listed here and illustrated on Map DTD-1. The Downtown Neighborhood Subdistrict (DTN) is included in the Downtown District but not regulated under the following bylaw. For the purpose of regulation, it remains in the R-40 zoning district.



Subdistrict Full Name	Short Name/Map Symbol	Previous Zoning District
Downtown Neighborhood	DTN (all requirements of the R-40 remain in effect)	R-40
Downtown Core	DTC	B-1 and Portion of B-2
Downtown Waterfront	DTW	Portion of B-2
Downtown Gateway	DTG	Portion of B-2

2813 Characteristics of the Downtown District

DTN - The Downtown Neighborhood (DTN) district remains as residential and is not regulated under Section 2800. Residential dwellings may be single-family or two-family as permitted in the current Residential 40,000 (R-40) zoning district. In addition to a primary residential structure, a home occupation may be permitted under Section 4110.

DTC - The Downtown Core (DTC) district is a higher density mixed-use area. Residential dwellings are generally included in multiple-use structures. Non-residential uses are varied and include retail stores, entertainment facilities, restaurants, civic, offices and lodging uses. Ground floor commercial uses are mandatory on certain designated frontages.

DTW - The Downtown Waterfront (DTW) district is identical to Downtown Core (DTC) above except that certain uses shall be limited as provided for in this section.

DTG – The Downtown Gateway (DTG) district includes certain areas around Belmont Circle. This district is identical to Downtown Core (DTC) except that certain travel-related uses are provided for in this section.

2814 Relationship to Other Bylaws

Due to the critical importance of the revitalization of the Downtown District this section of the Zoning Bylaw shall be used and interpreted primarily on its own. Certain other general sections of the Bylaw shall continue to apply to this District including the following:

- 1230 – Site Plan Review
- 2600 – Development scheduling
- 3100 – Lowland regulations
- 3200 – Sign Regulations
- 3400 – Environmental controls
- 4400 – Earth removal
- 4500 – Motor vehicle services
- 4900 – Seasonal Conversions
- Section V - Definitions

Where there are differences between this and other sections of the Bylaw, and where expressly identified or described herein, this section shall control.

Applicability of this Section

- a) **Building Expansion/Repair on Non-Conforming Lot:** The expansion, repair, alteration or replacement of any legally conforming building or structure in existence before the adoption of this bylaw shall not require a variance or special permit solely on the basis that the lot is rendered dimensionally non-conforming by the minimum or maximum lot area or lot frontage and/or maximum building façade length provisions established in this bylaw, provided that the expansion complies with current setback requirements.
- b) **Building Expansion/Repair Exceeding Lot Coverage:** The expansion, repair, alteration or replacement of any legally conforming building or structure in existence before the adoption of this bylaw proposed to be expanded in a manner that increases lot coverage in excess of the maximum lot coverage provisions established herein shall require a special permit.
- c) **Transitional Exemptions:** This bylaw shall not apply to any development that has received site plan approval or a special permit prior to the adoption of this bylaw, provided that said site plan approval and/or special permit is exercised within one year of approval.
- d) **Site Plan Review:** All development within the Downtown Zoning District shall comply with the provisions of Section 1230, Site Plan Special Permit Review. Refer to Table DTD-1 below for individual use performance standards to be used as additional site plan review standards.

2820. ALLOWABLE USES

2821 Table of Allowable Uses

The Table of Allowable Uses (Table DTD-1) establishes the uses that are permitted by right (P), by Special Permit (SP), or not permitted (N) in the Downtown District (DTD). For all uses allowed by Special Permit in the Downtown Zoning Districts, the Planning Board shall be the Special Permit Granting Authority (SPGA).

TABLE DTD-1: ALLOWABLE USES IN THE DOWNTOWN DISTRICT		
LAND USE CLASSIFICATION	PERMITTED BY:	FUNCTIONAL STANDARDS AND SPECIAL PERMIT CRITERIA
RESIDENTIAL USES		
Accessory Apartment Unit	SP	See Section 2827 (except subdistrict DTN see Section 4120)
Mobile Homes	N	

Live/Work Unit and Artist's Loft	P (GFL)	The work activities shall not adversely impact the public health, safety, and welfare, or the livability, functioning, and appearance of adjacent property.
Single-Family Detached Dwelling	N	
Two-family and Three Family Detached Dwelling	SP (GFL)	Not permitted on Main Street A perimeter green space of not less than ten (10) feet in width shall be provided. Such space shall be planted and maintained as green area and to be broken only in a front yard by a driveway and/or entry walk.
Townhouse and Rowhouse	P	Allowed by SP if fronting on a Primary Street and if ground floor is not in commercial use*
		If abutting a Residential District, shall fall within one of the following areas: 1) within 200 feet of Primary Streets, 2) within 200 feet of business, commercial, and civic uses, or 3) abutting an area already developed for multifamily use.
		Buildings shall be setback 0 to 15 feet from the frontage line. Buildings at street intersections shall be set back at least 6 feet but not more than 15 feet from the frontage line and side street lines. Setback requirements shall apply to the enclosed portion of the buildings only. The area between the building setback (including decks and unenclosed structures) and the street line shall be landscaped.
		Direct vehicular access from the street, garage and carport entrances shall not be closer to the street property line than any other portion of the front façade of the building.
		All driveways that serve townhouses shall be located on either private or public alleys.
		Each townhouse or rowhouse project shall consist of buildings of connected units. There shall be at least three (3), and no more than nine (9), connected units in each building.
		Each townhouse or rowhouse lot shall include a private yard meeting the minimum district requirements for open space. A wall or solid fence, not less than five (5) feet in height, is required on side zoning lot lines where a private yard adjoins such zoning lot lines.
Retirement Housing	P (GFL)	The facility may also include the provision of services such as meal services, transportation, housekeeping, personal care, or health care. Such a facility shall not be construed to mean a nursing home, group home, or residential treatment center.
		The minimum lot area shall be 12,000 s.f or 1,000 s.f multiplied by the number of sleeping rooms, whichever is greater.
		A Retirement Housing lot shall fall within one of the following areas: areas close to heavily traveled streets; areas close to business, commercial, and civic uses; areas already developed for multifamily use.
Apartment Building and Workforce Housing	SP (GFL)	Not permitted on Main Street.
		A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway and/or entry walk.
		The site or lot upon which one or more apartment buildings are proposed shall be located: 1) within 200 feet of Primary Streets, 2) within 200 feet of business, commercial, and civic uses, or 3) abutting an area already developed for multifamily use.
		Each building shall be separated from other such buildings by a minimum of twenty (20) feet, and have no fewer than three (3) nor more than ten (10) dwelling units.

		<p>Landscaped or Natural Open Space areas shall include a) those portions of the lot devoted to plantings, including lawns and grass areas b) wooded land, and pedestrian-oriented paved or unpaved areas devoted to social or recreational use in common by the residents of the building or complex provided that such areas are kept essentially open to the out-of-doors and are at ground level.</p> <p>No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms).</p>
Converted Dwelling	SP	<p>A structure attached to an existing residence, or a detached structure may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met.</p> <p>A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot.</p> <p>The SPGA shall issue a Special Permit in accordance with the provisions of this section only after finding the subject parcel in the DTD would not be adversely affected by the multiple dwelling use and that the uses permitted in the district would not be noxious to the proposed multiple dwelling use.</p> <p>There shall be no significant change in the exterior of the building, except that the SPGA may authorize modification or alteration of a building if such modification or alteration restores or enhances the building's character or its effect on the neighborhood.</p> <p>The proposed conversion shall be suitably located in the district in which it is proposed, as deemed appropriate by the SPGA.</p> <p>No detached structure shall be converted under these provisions unless it has an exterior footprint of at least 500 square feet.</p> <p>A landscape plan appropriate for the project shall be included in the application.</p>
Mixed Use Developments - Building containing dwelling units in combination with stores or other permitted business or commercial uses.	P (GFL)	<p>New construction must include at least 33% residential uses of total square footage and a minimum of two (2)-story building.</p> <p>There shall be no dwelling units, nor portions thereof other than entries thereto as required, on the first floor. No more than ten percent (10%) of the gross floor area on the first floor shall be associated with or incidental to, whether for storage or other purposes, the residential uses on upper floors.</p>
LODGING		
General Lodging or Boarding Use Functional Standards:		
The number of bedrooms available on each lot for lodging is limited by the required parking spaces for each guest room in Section 2850.		
The SPGA may allow a restaurant as a second principal use, along with lodging related consumer services as accessory uses, under a Special Permit for an inn.		
There shall be no individual cooking facilities. Meals may be provided to lodgers/boarders/roomers, but not to members of the general public not lodged at the establishment unless granted a Special Permit as stated above.		
Hotel or Motel (greater than 12 rooms)	SP	<p>Minimum lot size of 1,500 square feet per unit.</p> <p>The SPGA may allow a restaurant as a second Principal use, along with hotel/motel-related retail and consumer services as accessory uses, under a Special Permit for a hotel or motel.</p>
Inn (up to 12 rooms)	P	The owner or manager of the Inn shall reside on the premises.
Boarding House and Bed & Breakfast (up to 5 rooms)	P	<p>The Bed and Breakfast shall not use more than 2/3 of the gross habitable floor area of the primary building.</p> <p>The owner or manager of the lodging or boarding house shall reside on the premises.</p>
Single Room Occupancy Facility (S.R.O.)	N	
School Dormitory	SP (GFL)	See Section 2827
OFFICE USES		
Office Building	P	See Section 2827
Medical or Dental Office	P	See Section 2827

Personal Services	P	See Section 2827
Veterinary Clinic/Animal Hospital	SP	Animal hospitals shall not be located closer than one hundred (100) feet to any residential property, restaurant or hotel. All animals must be housed overnight in completely enclosed buildings. The SPGA may stipulate that appropriate sound mitigation devices be installed and that fences, walls, and/or vegetation be installed to screen the site where animals will be maintained out of doors.
Home Occupation.	SP	See Section 4120
Professional Office	P	See Section 2827
Cottage Industry	SP	The operation shall not require unenclosed structures or outside storage. It shall emit no air pollution or noise pollution. It shall average no more than fourteen (14) total deliveries or shipments per week. It shall be limited to no more than four (4) persons total on the largest work shift.
INSTITUTIONAL AND PUBLIC USES		
Non-profit educational institution, including any educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions, or bodies politic, or by a religious sect or denomination.	P	See Section 2827
Kindergarten, day nursery or other agency for the day care of children.	P	See Section 2827
For-profit trade, professional, or other educational institution.	SP	See Section 2827
Place of Worship and associated on site uses	P	See Section 2827
Public Library or Museum	P	Shall be a not-for-profit institution
Public park, playground or other public recreation facility.	P	See Section 2827
Cemetery	N	
Private lodge or club	P	Operated for members or employees only, where the chief activity is one not customarily conducted as a gainful business.
Service building or other non-academic facility related to the operation of Mass. Maritime Academy, National Marine Life Center, or other institutions.	P	Owned or managed by a college or university, but principally located outside of the Downtown District.
Transformer Station or Other Energy Facility or Use.	SP	Excluding any office, storage, or repair use unless otherwise allowed.
Telephone exchange, Radio or TV station, Broadcasting Facility, Recording Studio or Other Communication Use.	SP	Excluding any office, storage, or repair use unless otherwise allowed.
		No tower or other facility structure shall contain any signs or other devices for the purpose of advertisement.
		The visible portions of support facilities and structures such as vaults, equipment buildings or enclosures and utilities shall be constructed out of and/or finished with non-reflective materials.
		All towers, antennas, antenna support structures and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures in the surroundings.
		All building-mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building.
		All satellite dishes shall be of mesh construction, unless technical evidence is submitted demonstrating that this requirement is infeasible. Microwave dishes are exempted from this provision.

		All wireless communication facilities shall be protected against unauthorized climbing or other access by the public.
		Whenever feasible, design and siting of towers shall avoid the need for application of Federal Aviation Administration (FAA) lighting and painting requirements. Except as required by the FAA, towers shall not be artificially lighted.
		Landscape plans shall be submitted with the application and shall identify all existing vegetation, and indicate which vegetation is to be retained on-site, and shall show all proposed new vegetation and other landscape treatments.
		Co-Location - All new wireless communication facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communication facilities, towers, buildings or other structures whose height, location and characteristics meet the needs of the proposed facility.
Government Administration Building; Fire or Police Station	P	Only office and emergency services; no outdoor storage or repair facilities
Other governmental use not specifically listed herein.	SP	Only office and emergency services; no outdoor storage or repair facilities
Bus Shelter	P	See Section 2827
Convention or Conference Center	SP	See Section 2827
Exhibition Center	SP	See Section 2827
Public Art	SP	See Section 2827
Art Gallery	P	See Section 2827
Performing Arts Facility	P	See Section 2827
Outdoor Auditorium	P	See Section 2827
Parking Lot or Structure (surface lots and structures below and above ground)	P	See Section 2827
Passenger/Transit terminal	SP	Excluding any office, storage, or repair use unless otherwise allowed by the regulations of the district.
Playground	P	See Section 2827
Sports Stadium	SP	See Section 2827
RETAIL BUSINESS AND CONSUMER SERVICE USES		
Retail Establishments		
General Retail Store	P	In the DTD District General Retail Stores shall exclude bulk retail sales, garden materials or equipment (for example, lumber, electrical and heating fixtures, plant nurseries); and motor vehicle retail or wholesale sales and related equipment sales, leasing, rental, or repair.
Convenience Store	SP	Limited to a maximum of 2,000 square feet.
		Illumination of the store shall be limited to hours of operation, except for purposes of security. For the sale of prepared and packaged food or beverage. Display & sales to be primarily conducted within the building.
Personal Care Services		
Personal services establishments	P	See Section 2827
Laundry or dry-cleaning shop, or self-service dry-cleaning or laundry.	SP	See Section 2827
Food Services		
Restaurant, Cafeteria, or Similar Place.	P	For serving food or beverage to persons inside the building; No drive through facilities or services are permitted in the DTD District.
Restaurant, Drive-Through.	N	

Grocery, bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage.	P	Display & sales to be primarily conducted within the building.
Refreshment stand, drive-in, or other place for the serving of food or beverages to persons outside the building.	SP	No Drive-through facilities or services are permitted in the DTD District
Consumer Services		
Bowling alley, dance hall, arcade or other indoor commercial amusement or assembly use.	SP	Permitted only if determined to be compatible with the intent of said district and the uses allowable therein.
Live Theater or Movie Theater	P	See Section 2827
Funeral Establishments	SP	A parking plan shall be submitted to the SPGA prior to approval.
Photographer's Studio	P	See Section 2827
Shop of a bicycle mechanic, printer, blacksmith, builder, carpenter, caterer, electrician, lawnmower mechanic, mason, painter, plumber, roofer or other member of a recognized trade.	P	All work and storage to be conducted within a building.
		All trade shop operations shall undertake all reasonable measures to prevent noise, vibration, dust, fumes or odors from creating a disturbance or nuisance beyond the limits of the establishment. No operations shall be allowed which are hazardous by reason of potential fire, explosion, radiation, or similar hazard.
Bank, loan agency, real estate, insurance or other business or professional office providing services to the public in person on the premises.	P	See Section 2827
Business or professional office not providing services to the public in person on the premises.	SP (GFL)	Shall not be located on the ground floor of buildings fronting on Main Street.
		Shall be allowed only as a second principal use, where the first principal use is a frontage lot on Main Street.
		Where located in an existing dwelling, the residential character of the structure and site shall be maintained; and employs no more than 5 persons who work on-site.
Business Support Service	P (GFL)	See Section 2827
Child Care Center	P	See Section 2827
Clinic, Dental or Medical	P	The sale of merchandise is allowed only as an accessory use.
Auction gallery for exhibition sale by auction, so-called "tag sales" and so-called "flea markets".	SP	See Section 2827
Shop of a potter, ceramist, sculptor, silversmith, jeweler, lapidary, weaver, clockmaker, musical instrument maker, wood carver, graphic artist, leather worker (not including tanning or processing), candle maker, or similar craftsperson.	P	All work and storage to be conducted within a building.
Kiosk	SP	See Section 2827
Push cart	SP	See Section 2827
Liquor store	SP	See Section 2827
Adult entertainment	N	
RESEARCH AND INDUSTRIAL USES		
College	P	See Section 2840
High School	SP (GFL)	See Section 2840
Trade School	SP (GFL)	See Section 2840
Elementary School	SP (GFL)	See Section 2840

Medical or Dental Laboratory	SP (GFL)	See Section 2840
Light Industry	SP (GFL)	The operation will not require unenclosed structures or outside storage. It will usually be housed in existing structures. It will emit no air or noise pollution. It will generally have no more than eight (8) total deliveries or shipments per day. It will be limited to no more than twenty-five (25) persons on the largest work shift.
Research and Development or Testing facility	SP (GFL)	The SPGA may grant a Special Permit for a research and development use, provided that it consists only of office or similar uses and meets the provisions of Section 2800.
	SP (GFL)	All outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts. No operation shall create noise, vibration, dust, fumes, or odors that are a nuisance beyond the lot line, and further no operations shall be hazardous by reasons of potential fire, explosion, or radiation. No research or testing to be conducted outdoors unless a Special Permit is granted for this purpose.
Publishing, data processing, light manufacturing, light assembly including computer hardware and software, and scientific products with associated offices and distribution facilities.	SP (GFL)	In the DTD District, the SPGA may grant a Special Permit for a use under this section, provided that they proposed use consists only of office or similar uses and meets the provisions of Sections 2800. All outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts. No operation shall create noise, vibration, dust, fumes, or odors, that are a nuisance beyond the lot line, and further, no operations shall be hazardous by reason of potential fire, explosion or radiation.
MOTOR VEHICLE RELATED USES		
Automobile and Truck Rental	N	Office only permitted; no storage of vehicles
Automotive salvage yard for the dismantling, storage and sale of parts for automobiles and light trucks.	N	
Motor Vehicle Service Station	SP	Shall only be allowed in the DTG Subdistrict on properties with frontage on Belmont Circle or on Main Street within 500 feet of Belmont Circle.
		Shall be limited to minor repairs, unless conducted within the building.
		In the DTD where permitted, automobile service stations, with or without repair garages, shall comply with the following: Lot size shall be at least ten (10,000) square feet. Pumps, lubricating and other outdoor service devices shall be located at least thirty- (30) feet from the front, side and rear lot lines. All stored fuel and oil, including underground tanks, shall meet State fire codes. All automobile parts and dismantled vehicles are to be stored within a building, and no repair work is to be performed outside a building.
		A canopy must be attractively designed with low impact, traditional designs, All portions of canopies shall be located at least twenty (20) feet from the front, side and rear lot lines and all canopy lighting shall be recessed to reduce glare.
Convenience Store Gas Station	SP	Subject to the same functional use requirements as Convenience Store above
		Subject to the Same functional use requirements as Automobile Gasoline and Repair Station
Car Wash	N	
Commercial Parking Lot or Parking Garage	P	See Section 2827
Establishment for repair of motor vehicles	SP	Shall be limited to minor repairs, unless solely conducted within a building.
		Shall not be permitted on frontage lots on Main Street
		Shall not to include sale of fuel.
Motor vehicle sales	N	
Boat sales	SP	Shall not be permitted on frontage lots on Main Street
Sale of auto parts, excluding installation and repair services.	SP	Shall not be permitted on frontage lots on Main Street except on properties with frontage on Belmont Circle or on Main Street within 500 feet of Belmont Circle.

		Shall include inside sales only.
Truck terminal	N	
Packaging and Delivery Services	SP	Shall not be permitted on frontage lots on Main Street
		It shall not include the bulk storage of parcels on-site but may include the sale of ancillary goods typically used in the packaging and shipping of parcels.
Automated Banking Facility (ATM)	SP	See Section 2827
Drive-through window	SP	This use is prohibited in the DTD, with the exception that banks allowed as a primary use may seek a special permit to construct and operate a drive-through window.
EXTENSIVE USES		
Farmstand or Farmers Market - Open market, salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce).	P	During June, July, August and September, at least 25% of the products sold shall be produced by the tenants on which the facility is located or made from products so produced.
Outdoor Recreational Use (Private)	P	Any structure shall be solely accessory to the operation of the outdoor recreation activities.
Commercial Greenhouse	SP	Shall not be permitted on frontage lots on Main Street between Academy Drive and St. Margarets Street
Marina Uses	P	In order to support water-dependent uses, for buildings and structures used as a marina and/or used in the building, sale, rental, storage and/or repair of boats, so long as such buildings or structures exist as of the date of the adoption of this bylaw, the following dimensional regulations shall apply: maximum building height: 45 feet, maximum lot coverage: 90%.
Recreational establishment (Private)	P	Miniature golf and video arcades shall be permitted by Special Permit under Section 2827.

* Primary streets include Main Street, St. Margaret's Street, Wallace Ave, Cohasset Ave, Academy Drive, Washington Ave, and the South Side of the Bypass

GFL = Ground Floor Limitations in accordance with Section 2822

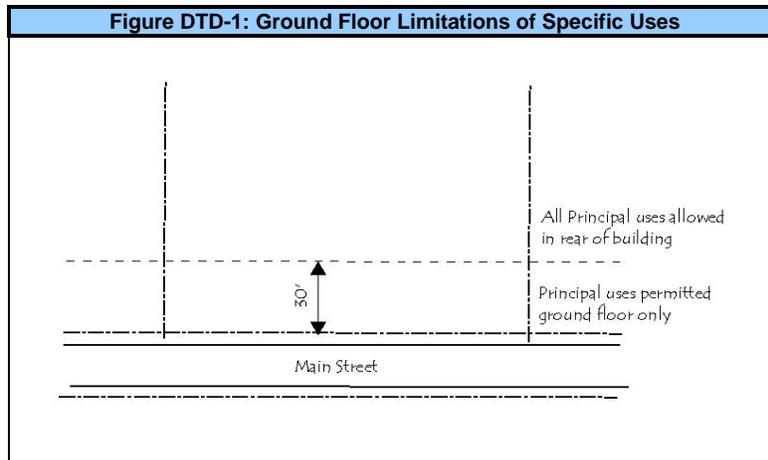
SP = Special Permit

N = Not Allowed

P = Permitted

2822 Ground Floor Limitations of Specific Uses (GFL)

For lots with frontage on and orientation toward Main Street and located between Memorial Circle and Belmont Circle, uses denoted by a (GFL) on Table DTD-1 are allowed above the ground floor only, with the exception that uses denoted by a (GFL) may occur on the first floor in the rear portion of such a building only when, at a minimum, the first thirty (30) feet of ground floor building space fronting on Main Street is occupied by a permitted principal ground floor use as illustrated in Figure DTD-1 below. In this case a Main Street entrance to the use or uses at the rear of the building is allowed. The Planning Board may grant an exception to this requirement under the Special Permit procedures and criteria in Section 2827 and Section 2840.



2823 Permitted Accessory Uses

- a) Entertainment and/or dancing, as an accessory use to a full service food service establishment, subject to the following requirements:
 - Food is served to customers at tables by waitpersons
 - Bar seats and bar places do not exceed 20% of restaurant seats
 - Any dance floor area shall not exceed 500 sq. ft., or 10% of the floor area of the restaurant, whichever is less.
- b) Automated banking facilities (ATM) in compliance with the requirements of Table DTD-1 and Section 2827.

2824 Nonconforming Uses

The change of a nonconforming use to another nonconforming use is prohibited in the Downtown Zoning District.

2825 Definition of Uses

The definitions contained in Section V of the Bourne Zoning Bylaws shall apply to this section.

2826 Uses Not Provided For (Conditional Use Permit)

Provision is made for unanticipated future uses. In order for a use to obtain a permit under this provision, it must meet the following standards and criteria:

- a) The use must not be specified as permitted by right or by special permit in the Downtown District.
- b) The Planning Board shall submit written findings as to whether:
 - 1) The use is of the same character as those permitted (including as special permit uses) within the district. This excludes any use existing illegally or as a non-conforming use.
 - 2) The use will not be detrimental to the other uses within the district or to the adjoining land uses. In making a decision under this criterion, the Board shall consider whether the proposed use would attract similar uses and, if so, whether this would be detrimental to the planned development of the area as set forth under this section and the Local Comprehensive Plan.
- c) In making its findings, the Planning Board shall state the permitted use most similar to the proposed use. The proposed use shall then meet all standards in this Bylaw for the similar permitted use, including site plan review, parking and landscaping.
- d) Upon positive findings under b). i. and b). ii. above, the proposed use shall be brought before the Planning Board for a special permit. Upon positive findings by the Board and approval for all necessary state permits, a conditional use permit may be issued.

2827 Special Permit Granting Authority and General Criteria

Within the Downtown Zoning District (DTD), the Planning Board shall be the Special Permit Granting Authority (SPGA). The Planning Board shall follow the Functional Standards and Special Permit Criteria in Table DTD-1

and Section 2840 when acting on a special permit application. In addition to the criteria set forth in Table DTD-1, the Planning Board shall find that the issuance of the special permit is consistent with the general district design and performance objectives including that the development meets one or more of the following criteria:

- a) The development provides for or supports mixed use development where appropriate;
- b) The development maintains or improves pedestrian access and outdoor public spaces;
- c) The development contributes to the historic and maritime character of the Downtown Area;
- d) The development eliminates or minimizes curbcuts and driveways on Main Street;
- e) The development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront;
- f) The development provides for or contributes to alternative transportation or travel demand management; and/or
- g) The development provides housing where appropriate and provides an appropriate mix of affordability levels and life cycle opportunities.

2830. DIMENSIONAL STANDARDS

2831 Table of Site and Building Dimensional Standards

TABLE DTD-2: SITE AND BUILDING DIMENSIONAL STANDARDS FOR THE DOWNTOWN DISTRICT		
(Establishes the lot, bulk, height and setback requirements)		
STANDARD	BY RIGHT	BY SPECIAL PERMIT
BASE RESIDENTIAL DENSITY		
Market Rate Housing	1 unit/3,500 s.f. of Lot Area	1 unit/2,000 s.f. of Lot Area
Mixed Income Housing (Section 2842)	1 unit/2,500 s.f. of Lot Area	1 unit/1,500 s.f. of Lot Area
BUILDING HEIGHT		
Principal Building	4 stories maximum (52 feet)	Maximum height to be determined by the SPGA under criteria in Section 2827 and 2838
	2 Stories Minimum (22 feet)	1 story minimum with 15 feet height required for front façade by SPGA under criteria in Section 2827 and 2838
Outbuilding	2 stories maximum	Not Applicable
Building Height Special Requirements	On Primary Streets (Figure DTD-2), building that have residential uses facing the primary street on the first floor shall raise the first finished floor at least 2 feet above sidewalk grade.	
	On Primary Streets, stories at the sidewalk level in non-residential use shall be no less than 12 feet in height from the finished floor to finished ceiling.	
	A single tower on a building defined as a habitable portions of a building above the roof level with a foot print less than 240 square feet, shall not be subject to height limits.	
	Basements that emerge less than 4 feet From finished grade or attics not exceeding 4 feet at the knee wall shall not constitute an additional story.	
LOT OCCUPATION		
Lot Area	3,500 square feet	No Minimum
Lot Width	40 feet minimum	25 feet minimum
	180 feet maximum	500 feet maximum
Lot Coverage	80% maximum	100% maximum
Floor Area Ratio (FAR)	2:1 maximum	3:1 maximum
BUILDING SETBACK		
Primary/Front	0 feet minimum 15 feet maximum	30 feet maximum under criteria in Section 2835
Front Setback Exceptions	The maximum front yard setback only applies to portions of a building meeting the minimum façade requirement. On Primary Street intersections, the maximum setback for chamfered corners shall be 20 feet from the lot corner to the center of the building façade that faces the lot corner. All structures fronting the Buzzards Bay Bypass shall be set back at least 10 feet from the property line. All structures on Main Street between Perry Avenue and Belmont Circle shall be set back at least 10 feet from the right of way line.	
Primary/Side	0 feet minimum	Not Applicable

	24 feet maximum	No Minimum
Primary/Rear	10 feet minimum	No Minimum
Outbuilding/Front	20 feet minimum	10 feet minimum
Outbuilding/Side and Rear	5 feet minimum	No Minimum

2832 Dimensional Terms and Applications

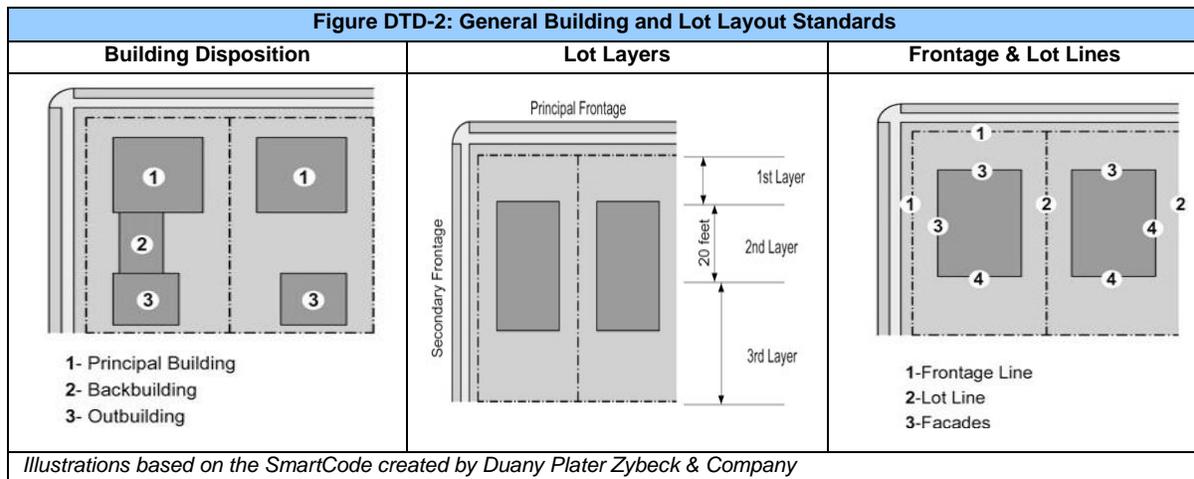
Building Height: Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridgeline. The purpose of height limits are intended to control the overall scale of the buildings. The height standards for all structures are stated in Table DTD-2. Additional exceptions for Building Height in the DTD may be granted by the SPGA.

Building Coverage: The purpose of the building coverage standards is to promote development consistent with the desired character of DTD. The maximum building coverage allowed is stated in Table DTD-2.

Building Story: The vertical distance from top to top of two successive tiers of beams, joists or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Building Setbacks: The purpose of required building setbacks are to promote streetscapes that are consistent with the desired character of the DTD. The required minimum and maximum building setbacks are stated in Table DTD-2. Allowable encroachments into required setbacks and recesses by special permit are identified in Table DTD-2.

Building Disposition: This dimension approximates the location of the structure relative to the boundaries of each individual lot. Figure DTD-2 illustrates building disposition and is used as a guideline for appropriate building types in the Downtown District.



Driveway/Curb Cut: Any access point onto a roadway. This may include, but is not limited to, an entrance to a parcel, or an intersection with another roadway.

Driveway Interconnection: A private driveway connection between two lots that does not require traveling on the public roadway system.

Floor Area Ratio: Floor Area Ratio (FAR) is the ratio of the total building gross floor area to the total lot area. The purpose of the Floor Area Ratio (FAR) standard is to regulate the amount of use (the intensity) allowed on a lot. FAR provides a means to match the potential amount of uses with the desired character of the district. FAR also work with height, setback, and building coverage standards to control the overall bulk of development. The floor area ratios are stated in Table DTD-2. These FARs apply to all development.

Grade Plane: A reference plane representing the natural, undisturbed ground level adjoining the proposed building at all exterior walls. Where the ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six (6) feet from the building, or between the building and the lot line, whichever point is closer.

Ground Floor: The floor located at the street level, closest to the naturally occurring grade.

Habitable Space: Space in a structure designed and suitable for living, sleeping, eating or cooking.

Highest Roof Plane: The roof plane having the highest ridge and highest average height (exclusive of cupolas and parapets) or the flat roof that is higher than any pitched roof.

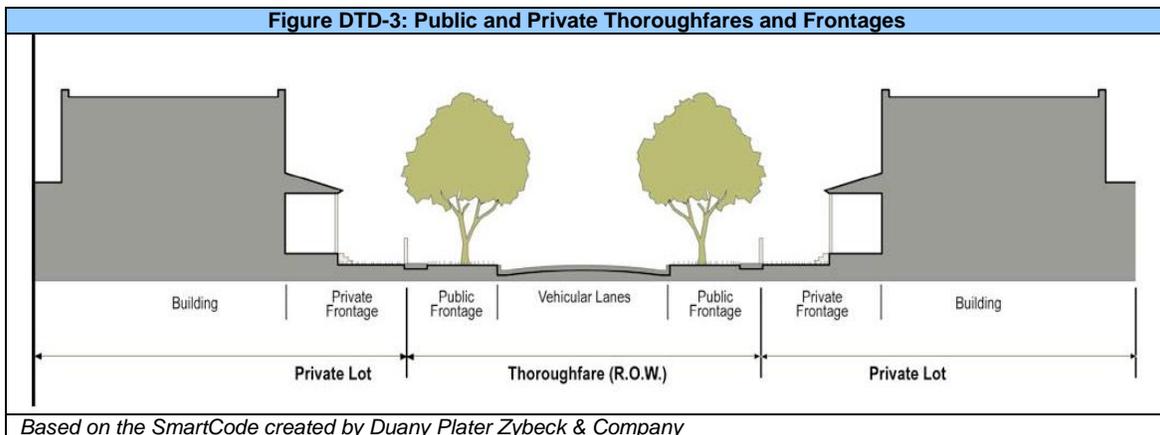
Lot Size: The purpose of the lot size requirements is to ensure that development on a lot will, in most instances, be able to comply with all site development standards. The lot size standards also promote new lots that are practical to develop, now and in the future. The lot sizes are stated in Table DTD-2.

Lot Coverage, Maximum: A measure of the portion of a site that is impervious (i.e. does not absorb water) including but not limited to all areas covered by buildings, structures, parking surfaces and structures, driveways, roads, sidewalks and any area of concrete asphalt, except as otherwise defined herein. The remaining area of a site shall be maintained as natural vegetation or landscaped area.

Open Space: Specific open space designs should be prepared in accordance the Planning Board site plan review process in Section 1230 and in accordance with Section 2860 and 2870 of these bylaws.

Private Frontage: The area between the building and the lot lines. Specifying private frontage is important as it determines the manner in which the building facade is presented to the pedestrian. (See Figure DTD-3).

Public Frontage: The area between the private lot line and the edge of the vehicular lanes. (See Figure DTD-3). It usually includes walkways, planters and lighting (i.e. such as the public sidewalk).



Residential Density Calculation: In calculating the number of residential units permitted, fractional units of less than five-tenths (0.5) shall be rounded down to the nearest whole number and fractional units of five-tenths (0.5) or greater shall be rounded up to the nearest whole number. Any rounding of fractional units shall be limited to a single final calculation for any development.

Street Line: The edge of the public layout of the street, or public right-of-way as defined by the sidewalk, whichever is greater.

Total Floor Area: Shall mean Gross Floor Area as defined in Section V of the Bourne Zoning Bylaws, and shall include additions and auxiliary buildings.

Through Lots: A through lot shall be defined as a lot with frontage of at least ten (10) feet on Main Street that also abuts on another public street or way (the "alternative street or way"), but shall not include a corner lot.

2833 General Building Disposition and Configuration

General building disposition and configuration requirements are as follows:

- a) One principal building at the frontage, and one accessory building to the rear of it, may be built on each lot as shown in Figure DTD-2 above.
- b) Buildings shall be disposed in relation to the boundaries of their lots according to Table DTD-2 and Figure DTD-2.
- c) Lot coverage shall not exceed that shown in Table DTD-2.
- d) Facades shall be built parallel to the principal frontage line or parallel to the tangent of a curved principal frontage line. (See Figure DTD-2).

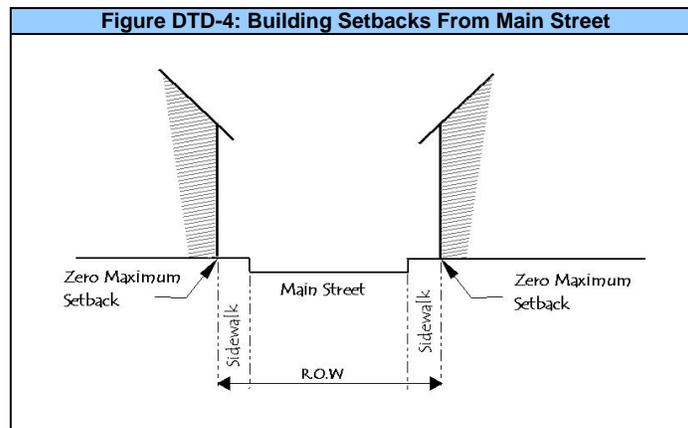
- e) Setbacks for principal buildings shall be as required in Table DTD-2.
- f) Rear setbacks for outbuildings shall be measured from the centerline of the alley or rear lane easement. In the absence of rear alley or lane, the rear setback shall be as required in Table DTD-2.
- g) Loading docks and service areas shall be permitted on frontages only by special permit from the Planning Board.
- h) Buildings shall have their principal pedestrian entrances on a frontage line. (See Figure DTD-2)

2834 Floor Area Ratio Bonuses

The maximum floor area ratio for any development within the DTD shall be as specified in Table DTD-2. An additional bonus floor area ratio of 50% may be granted by special permit for a mixed use development that has at least 50% of its parking spaces located in an enclosed structure.

2835 Applicability of Setbacks

- a) **General Requirements:** The use of setbacks for front and side yards as prescribed in Table DTD-2 will be permitted only when the area is used for pedestrian access, outdoor accessory uses, or to facilitate access to rear of the lot for parking and loading. Site plans shall be provided demonstrating that the setback area accomplishes these objectives and creates an inviting environment for pedestrians (i.e. concrete/brick pavers, designated dining or retail areas, street trees and furniture, decorative lighting consistent with equipment used by the Town). Where rear yard setbacks are required, site plans will demonstrate that appropriate screening is provided (i.e. trees, shrubbery and fencing as needed).
- b) **Building Setbacks From Main Street:** The building setback from the Main Street right-of-way line may range from zero (0) to fifteen (15) feet for the front and street side facade so that the building visually reinforces the building facade line of the street (See Figure DTD-4).



c) **Existing Front**

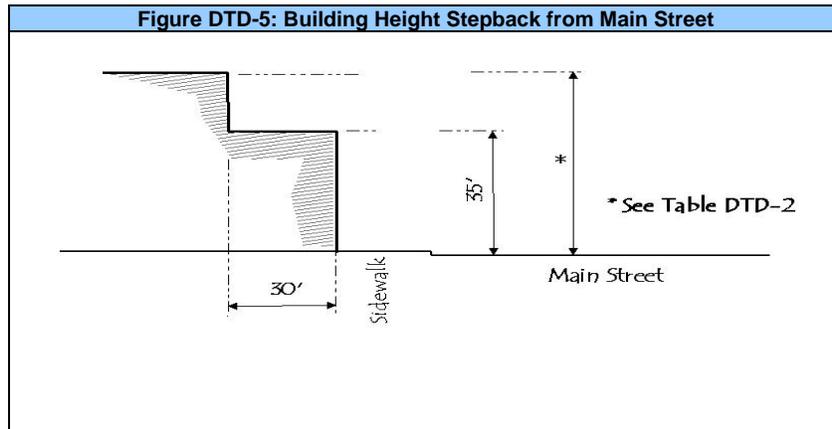
Building Setback

Performance Standards: Existing buildings within the DTD district not currently located at the fifteen (15) foot maximum building setback may be altered or expanded so long as the maximum building setback is equal to twenty (20) feet or less, and provided that one or more of the SPGA criteria in Section 2838 below is accomplished.

2836 Building Height and Bulk

- a) **Minimum Building Height:** New buildings must be constructed to a height of two (2) or more stories at 22 feet. New single story buildings and alteration of existing single story buildings (excluding change of use) in the Downtown District is only permitted by Special Permit from the Planning Board. Where permitted, new and altered single story buildings shall provide façade improvements and front elevations that are at least fifteen (15) feet in height above street elevation and constructed in materials and style consistent with applicable design guidelines in Appendix 1.
- b) **Maximum Building Height:** The maximum height by right of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 52 feet or four (4) stories. The maximum height may be increased by right to 56 feet when the roof pitch is in the range of 6 in 12. By Special Permit, the Planning Board may approve taller buildings than prescribed in the Table DTD-2 if such additional height is consistent with the goals for the Downtown District, provides economic and civic benefits to the Town and surrounding district, and is consistent with the applicable design guidelines in Appendix 1.
- c) **Building Height Stepback on Main Street** - In order to reduce shadowing effects, the maximum building height within 30 feet of the r-o-w layout of Main Street shall not exceed two stories or 35 feet for lots with frontage on Main Street between Memorial Circle and Belmont Circle. Uses accessory or supplemental to the

uses contained in the fronting building are encouraged on the rooftop area of the step back portion of the building (i.e. rooftop gardens, dining areas, terraces, or similar uses. (See Figure DTD-5 below).

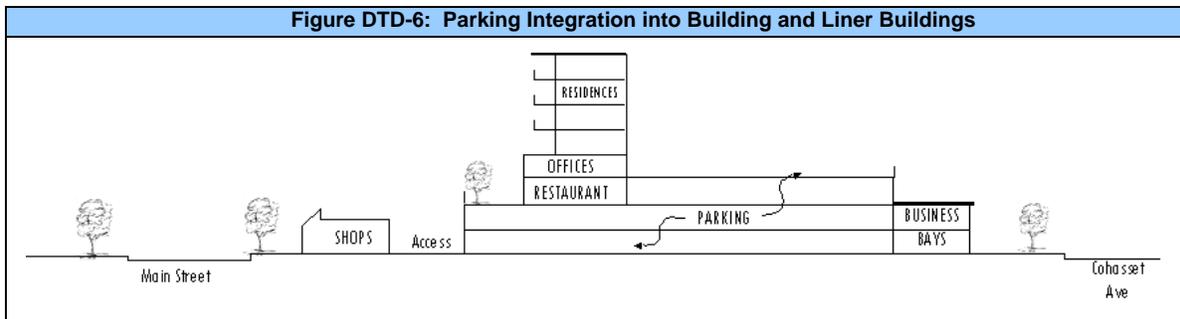


- d) **Height of Rooftop Equipment:** Accessory rooftop equipment may extend four (4) feet above the allowed building height provided that it is set back from the exterior wall(s) by at least 10 feet, and enclosed or screened by a parapet, or with materials compatible with the building, so as not to be visible from the ground. Accessory equipment shall not exceed 20% of the roof area. Where head house structures are necessary, they shall not exceed eight (8) feet in height, shall be setback from the exterior wall(s) by at least 10 feet, and shall not exceed 20% of the roof area.
- e) **Façade Length:** Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.
- f) **Roof Pitch:** Where pitched roofs are used, a 6 in 12 inch pitch or greater is required. Pitched roofs less than this shall require a special permit. Flat roofs combined with rooftop amenities (green roofs and gardens, stormwater capture systems, outdoor accessory uses, etc.) are encouraged for buildings greater than two stories.
- g) **Building Separation:** Limited separation between adjoining buildings should be designed to allow for limited vehicle and pedestrian access to the rear. (See Figure DTD-2).

2837 Building Height and Bulk Bonuses for Public Parking

This bonus is applicable to a range of development sizes, but it may be more practical and feasible for large projects on larger lots of 30,000 square feet or more. The maximum height and floor area ratio may be increased by the SPGA subject to the following:

- a) **Parking Integrated into Building** - An area equal to the gross floor area of the first story shall be allocated to the Town for **public parking**. This public parking area shall be at ground level or within the first two stories of a parking structure (above or below ground). The area allocated to the Town shall be at least thirty (30%) of the total parking spaces to qualify for approval.
- b) **Liner Buildings** - Parking lots or structures that are completely surrounded by liner buildings at least 30 feet in depth along all primary and secondary street frontage lines and waterways, except for dedicated openings to the parking lot or structure. In no case shall the parking structure exceed the height of the liner building.



- c) **Parking Covenants** - The applicant must sign a covenant to ensure the public parking spaces will be open to the public for the life of the development; to identify the times when public parking will be open to the public; and to specify the operational and maintenance responsibilities for the public parking. The covenant is subject to approval by the Board of Selectmen on behalf of the Town. The covenant shall meet the approval of Town Counsel as to form, and be recorded in the Registry prior to issuance of the first building permit for the project.

2838 Dimensional Relief from the SPGA

Within the Downtown Zoning District, the Planning Board, acting as the SPGA, may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard setbacks, floor area ratio limits, façade length requirements, ground floor window requirements, and through lot requirements, when such relief is necessary to ensure that a proposed development is consistent with the general special permit criteria set forth in Section 2827 above. The SPGA may vary the maximum building setback for the building façade, or any portion thereof, and may allow buildings to be set back from the front and/or street side property line where it would result in meeting the following criteria:

- a) General Design Objectives - Better alignment of buildings, improved design of the building facade, or where necessary to accommodate shop entrances, arcades, plazas, sidewalk cafes, permanent public spaces, pocket parks, or landscaping required pursuant to the provisions of this section or as allowed by permit, and so long as such increase in building setback will not create significant interruption of the alignment of any sidewalk constructed on public or private property or will not otherwise interfere with pedestrian access.
- b) Outdoor Activity Zones - The area between the building setback and the street line provides permanent public plazas, sidewalk cafes, public spaces or amenities that are attractive and inviting for pedestrians.
- c) BFE Compliance - Increased front setback is necessary to meet the Base Flood Elevation (BFE) restrictions in a way that is both attractive to pedestrians and meets accessibility and safety requirements.
- d) ADA Compliance - Increased front setback is necessary to meet the Americans with Disability Act (ADA) requirements. Where possible, required ramping should be located primarily on the side of the building as opposed to directly in front of the building. Where ramping is required in front of the building, it should be designed to also provide an attractive and inviting space to pedestrians.

SECTION 2840 - PERFORMANCE & FUNCTIONAL STANDARDS

2841 General Performance Standards

- a) Local Comprehensive Plan - In any permit proceeding (Site Plan Review, Subdivision Review, Special Permit), the applicant must demonstrate that relevant goals in the Town of Bourne Local Comprehensive Plan are satisfied.
- b) Access and Circulation - In any permit proceeding, consideration shall be given to possibilities for improvements to pedestrian and vehicular circulation. At a minimum, the applicant/landowner shall propose alternatives for closing, sharing, or consolidating curb cuts, creating easements and links with adjoining uses or properties, moving parking areas to rear yards, merging parking areas to more effectively and efficiently use land, and upgrading sidewalks, paths, and crosswalks.
- c) Use of Existing Buildings - Full use of buildings existing on the date of adoption of this section is allowed. Full use of first floors may be allowed on an unrestricted basis for all uses permitted in the district. Full use of upper floors may be allowed on an unrestricted basis for all permitted uses only if all bylaw requirements are fully satisfied on the ground floor.
- d) Non-Complying Sites and Structures - Consistent with this section of the Zoning Bylaws, the Planning Board may consider permitting substantial alteration to, or demolition and reconstruction of, non-complying structures.
- e) Historic Preservation - A change of use of existing buildings that are listed as contributing or are eligible for listing on the National Register of Historic Places or the State Inventory of Historic Places shall be allowed with the following provisions:
 - 1) External architectural features are preserved and/or restored, and in particular, to the extent possible, historically significant exterior facades are preserved or restored.
 - 2) Original rooflines, to the greatest extent possible, are preserved.
 - 3) Any necessary restoration should follow the preservation guidelines outlined in the Secretary of Interior Standards or the Massachusetts Historic Commission standards.

2842 Performance Standards for Residential Uses

- a) General Residential Use Performance Standards

- 1) Residential developments containing 10 or more units shall include a minimum of 10% of the total number of units available to low and moderate-income residents in accordance with the Commonwealth of Massachusetts standards for affordable housing.
- 2) The number of dwellings on each lot is limited by the required number of parking spaces for each dwelling under Section 2850 and the base density in Table DTD-2.
- 3) New residential uses are allowed by right above the ground floor in existing or new buildings with frontage and orientation on Main Street, St. Margaret's Street, Wallace Avenue, Washington Avenue, Cohasset Avenue and Academy Drive. All other allowable residential uses require a special permit from the Planning Board if dwelling units are located at ground level and accessed by these public streets.

2843 Performance Standards for Non-Residential Uses - See Table DTD-1

2844 Performance Standards for Adaptive Reuse Developments - Reserved

2845 Performance Standards for Transit Oriented Developments (TOD) - Reserved.

SECTION 2850 OFF-STREET PARKING AND LOADING STANDARDS

2851 Purpose and Intent

It is the intent and purpose of these regulations to provide accessible, attractive, secure, properly lighted, well-maintained and screened off-street parking facilities for residents and visitors. These regulations are also intended to reduce traffic congestion and hazards and to assure the maneuverability of emergency vehicles by requiring adequate, appropriately-designed and well-placed provision of off-street parking and loading in proportion to the needs generated by different types of land use. The requirements for adequate, appropriately- designed and well-placed parking and off-street loading are intended to protect neighborhoods from the effects of vehicular noise and traffic generated by adjacent nonresidential land uses. The regulations regarding off-street parking and loading prescribed under this section supersede the requirements under Section 3300 of the Bourne Zoning Bylaws unless otherwise indicated below.

2852 General Parking and Circulation Objectives and Requirements

In general, applicants and the Town should seek to preserve and expand the supply of public and private parking spaces. In certain cases, however, it may be preferable to shift, consolidate or delete parking spaces to help achieve other goals related to streetscape design, district vitality or public safety. Parking and circulation shall be designed to provide for the maximum pedestrian safety, ease traffic flow, and facilitate access/egress on the property, while minimizing the need for impervious surfaces. General parking and circulation criteria are as follows:

- a) Parking shall be accessed by an alley or rear lane, when such are available.
- b) Parking shall be located within the second and third Lot Layers as illustrated in Figure DTD-2.
- c) Parking lots shall be masked from the frontage by buildings or appropriate landscaping as specified in Section 2860.
- d) A minimum of one bicycle rack place shall be provided within the public or private frontage for every 15 vehicular parking spaces.
- e) The vehicular entrance of a parking lot or parking structure on a frontage shall be no wider than 24 feet.
- f) Required off-street parking areas shall not be used for sales, dead storage, repair, dismantling or servicing of any type or kind.
- g) Required off-street parking areas for five (5) or more automobiles shall have individual spaces that are designed, maintained and regulated so that no parking or maneuvering incidental to parking shall be on any public street or sidewalk and so that any automobile may be parked and unparked without moving another automobile.
- h) All off street parking areas shall be surfaced with asphalt, bituminous or concrete material, clay brick or concrete paving units, and maintained in a smooth, well-graded condition.
- i) If artificially lighted, such lighting shall be so designed and arranged that light is directed downward and away from any adjoining property used or zoned for residential purposes, and so designed and arranged as to shield public roadways and all other adjacent properties from direct glare or hazardous interference of any kind.
- j) Parking areas shall be arranged for the convenient access and safety of pedestrians and vehicles.
- k) Parking areas shall be arranged so that no vehicle shall be required to back from such facilities directly onto public streets.
- l) Parking areas shall be fitted with curbs, motor vehicle stops or similar devices so as to prevent vehicles from overhanging on or into public rights-of-way or adjacent property.

2853 Table of Required Parking Spaces

Where on-site or controlled parking is necessary and required, the applicant shall provide, at a minimum, the amount required in the table below. This reduced parking requirement, compared to Section 3300 of the Zoning Bylaw, recognizes the availability and broad distribution of existing public parking and the pedestrian characteristics of the Downtown District.

TABLE DTD-3: REQUIRED PARKING SPACES IN THE DOWNTOWN DISTRICT	
TYPE OF USE	REQUIRED PARKING
RESIDENTIAL USES	
Accessory dwelling or Live/Work Unit	Minimum of 1 space per dwelling unit
Multi-family dwelling (buildings with 3 or more dwellings)	1.5 spaces per dwelling unit plus 1 guest space for every 10 units
Senior citizen apartment or condominium building	1 space per unit plus 1 guest space per every 10 units
LODGING	
Inn (12 or less guest rooms)	1 space per guest room, employees and for the operator
Hotel	1 space per guest room or suite and 1 space per managers unit; Banquet and meeting rooms shall provide 6 spaces per 1,000 square feet of seating area (<i>restaurants shall be figured separately</i>)
OFFICE	
General offices	2 spaces per 1,000 square feet of net office space
Medical or dental offices	4 spaces per 1,000 square feet of net office space
Service businesses (financial and personal)	3 spaces per 1,000 square feet of net office space
RETAIL AND SERVICE	
Retail/commercial use	2.5 spaces per 1,000 square feet of gross floor area
Restaurant, café, bar, and other eating and drinking establishments	10 spaces per 1,000 square feet of gross floor area

- a) Non-Defined Parking - Uses and parking requirements not defined in Table DTD-3 above, the applicant shall provide an amount equal to fifty (50%) of the required spaces under Section 3300 of the Zoning Bylaw.
- b) Fractional Spaces – When the number of required parking spaces for a particular use or building results in a fractional space, any fraction less than one half (1/2) shall be disregarded and any fraction of one half (1/2) or greater shall be counted as one (1) required space.
- c) Change of Use - A permitted use can be changed to another permitted use, and any permitted principal or accessory use can be intensified, without increasing the required off-street parking requirements of Section 2853, provided that as of the date of the adoption of this bylaw, there is:
 - 1) No increase in gross square footage of the building; and
 - 2) No reduction in existing parking spaces required pursuant to Section 2853 and
 - 3) There is no added outdoor use requiring the provision of parking according to Section 2853, except outdoor dining; and
 - 4) Parking space requirements for residential dwelling units shall be one parking space for one-bedroom units and two parking spaces for units with two or more bedrooms.
- d) Expanded Uses - Parking spaces shall be provided for expanded building area, and for expanded outdoor uses, as follows:
 - 1) Fifty percent (50%) of the spaces required under Section 3300 for all uses other than residential dwelling units.
 - 2) Parking space requirements for residential dwelling units shall be one parking space for one-bedroom units and two parking spaces for units with two or more bedrooms.
- e) Required Bicycle Facilities - One bicycle parking space shall be provided for every fifteen off-street vehicular parking spaces.

2854 Parking Reduction Methods

- a) Shared Parking Reduction Factor - Where possible, shared parking among mixed uses is strongly encouraged. The required number of spaces in Table DTD-3 may be reduced if mixed uses are compatible and can demonstrate that such a reduction would still provide adequate parking. The Planning Board may grant a special permit for reduction in required spaces according to Figure DTD-7 below upon a reliable showing of lesser parking need for a particular mix of use.

Figure DTD-7: Shared Parking Reduction Factor

- c) Site Access - Parking shall be accessed from an alley or secondary street when possible. If parking is accessed from a primary street, there shall be only one point of access. Where the access crosses any pedestrian path, the intersection shall be clearly marked and lighted for the safety of the pedestrian. A parking lot or garage opening shall not exceed 2 lanes in width.
- d) Through Lots - A through lot with at least ten (10) feet of property line abutting Main Street is presumed to have frontage on Main Street. For through lots, the lot shall provide vehicular access off of the alternative street or way unless otherwise permitted by special permit.

2856 Parking Facility Design Standards

- a) Parking Space and Lot Design Standards – The parking design standards described in Section 3300 of the Bourne Zoning Bylaw shall apply in the DTD unless specifically addressed in this bylaw.
- b) Parking Structures Design Standards - Parking structures (above and below ground) are allowed and encouraged in the DTD. All off-street parking structures shall comply with the following minimum provisions:

Angle of Parking	Length of Parking Space	Width of Parking Space	Aisle Width
60° or less (one-way); 90° (one-way)	18 ft.	8.5 ft.	18 ft.
90° (two-way)	18 ft.	8.5 ft.	24 ft.

- c) Grass Parking - Grass parking is allowed as supplemental parking for any land use where excess parking is necessary on a temporary basis in addition to required parking in the DTD District. Some specific applications may include places of worship, parks and recreation facilities, or public and private schools. Off-street parking facilities surfaced with turf grid systems for both required parking and excess parking, shall:
 - 1) Have the access aisles surfaced with asphalt, concrete material, clay brick or concrete paving units.
 - 2) Be so maintained such that the grass does not constitute a nuisance by virtue of its appearance or condition and is graded in a level condition.
 - 3) Comply in all other respects with the requirements of this section.

2857 Loading Areas

- a) Required Loading Spaces – The number of loading spaces shall be determined by the type and size of use as follows:

Residential	1 space: 20 – 99 units
	2 spaces: 100 or more units
Non-Residential	1 space: minimum
	2 spaces: 50,001 – 100,000 sq. ft.
	3 spaces: 100,001 – 150,000 sq. ft.
	4 spaces: 150,001 sq. ft. or more
Mixed Use	Per requirements above

- b) Dimensions - The minimum dimensions of any required off-street loading space shall be a clear horizontal area of ten (10) feet wide by twenty (25) feet deep, exclusive of platforms and piers, and a clear vertical space fourteen (14) feet high.
- c) Accessibility - Each off-street loading space shall be directly accessible from a street or alley without crossing or entering any other required off-street loading space. Such loading space shall be accessible from the interior of the building it serves and shall be arranged for convenient and safe ingress and egress by truck or truck and trailer combinations, so no truck or trailer shall be required to back from such facilities directly onto public streets. Required off-street loading areas shall not be used for sales, dead storage, repair, dismantling or servicing of any type or kind.
- d) Shared Loading Areas - Collective, joint or combined provisions for off-street loading facilities for two or more buildings or uses may be made, upon the approval of the Planning Board, provided that such off-street loading facilities are sufficient in size and capacity to meet the combined requirements of the several buildings or uses and are designed, located and arranged to be usable thereby.

SECTION 2860 - STREETScape DESIGN & PEDESTRIAN AMENITIES

2861 Intent

In any permit proceeding, consideration shall be given to possibilities for enhancement of and improvements to streetscape design and pedestrian amenities, consistent with the Bourne Local Comprehensive Plan. At a minimum, the applicant shall propose a streetscape design that may include, but is not limited to: planting of street trees; terraces and landscaped areas; park benches, sidewalks or other pedestrian paths; doorways, porches, and entries that provide transition for and bridge the gap between public and private space; and ornamental parking and building lighting that is appropriate in style and design in the DTD District.

2862 Public Frontages

- a) Street Trees - The Public Frontage (see Figure DTD-3) shall include trees planted in a regular spacing pattern of a single species. The introduced landscape shall consist primarily of durable species tolerant of salt and soil compaction
- b) Lighting - Within the public frontages, the spacing and illumination level of lighting may be regulated by the Planning Board to accommodate specific site conditions, such as building entrances, parking areas, sidewalks and trails.
- c) Overhead Utilities - Wherever feasible, power lines shall be buried, or moved behind buildings.

2863 Site Landscaping Standards

- a) The first layer of private frontage shall be landscaped or paved to match the fronting public frontage.
- b) Trees shall be a species with shade canopies that, at maturity, remain clear of building frontages.

2864 Storage Areas

Exposed storage areas, machinery, garbage “dumpsters,” service areas, truck loading areas, utility buildings and structures shall be screened from view of abutting properties and streets using plantings, fences and other methods compatible with the goals of this section. Where feasible, shared use and designated areas for garbage dumpsters shall be required.

2865 Outdoor Uses

Outdoor uses are encouraged where applicable as accessory uses to retail, restaurant and entertainment uses.

2866 Temporary Street Banners

Temporary street banners used for the purpose of informing the general public of community events and activities may be permitted with approval of the Board of Selectmen. Street banners shall be hung in prescribed locations by the Town above Main Street, securely fastened to buildings or designated structures, maintain a minimum height of 16 feet above the street, constructed of durable materials, used solely for community events, and remain in place for no more that three (3) weeks prior to the event.

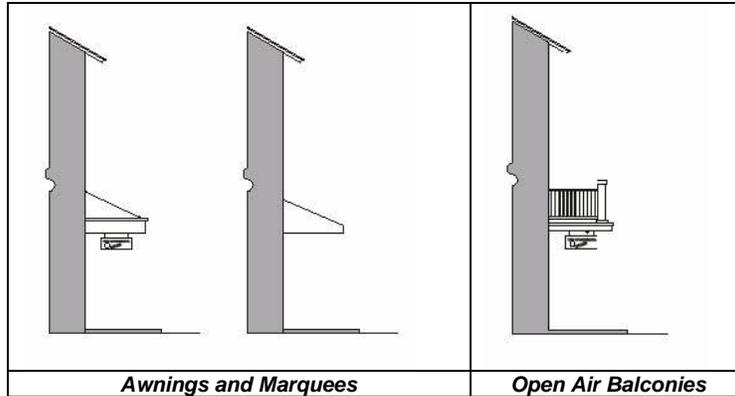
2867 Lighting Standards

- a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90 degrees from the vertical pole or building wall on which it is mounted.
- b) Flood, area and up-lighting is not allowed.
- c) Reflectors and shielding should be provided to minimize all light at the property lines of the parcel to be developed.

2868 Private Frontage Overlaps Permitted

The SPGA may provide relief from the zero front yard setback for Awnings, Marquees, Balconies, Galleries, Arcades and Projecting Signs as shown in Figure DTD-8 below. These building structures are allowed to protrude up to eight (8) past the property line into the public right of way provided that they are not in conflict with parking and travel lanes, and street trees and other furnishings. All awnings, marquees, open air balconies, and associated projecting signs shall be a minimum of eight (8) feet above the ground, and require a authorization from the Board of Selectmen consistent with Bourne General Bylaws.

Figure DTD-8: Example of Private Frontage Overlap of Public Sidewalk with Awnings, Marquees and Open Air Balconies



2869 Utilities and Services

- a) Mechanical - Mechanical equipment, whether ground level or rooftop shall be screened from view of adjacent properties and public rights-of-way and designed to be an integral part of the building.
- b) Trash - Trash containers shall be fully screened on 3 sides with solid walls a minimum of six feet high with a solid front gate, six feet high, which shall be kept, closed. Trash compacters shall be enclosed to minimize noise.
- c) Stormwater - Rain gardens, bioswales, pervious pavers, and other low impact design techniques to reduce and treat on-site stormwater are encouraged.

SECTION 2870 – LANDSCAPING

2871 General Landscaping Requirements

- a) Existing significant trees and shrubs shall be maintained to the maximum extent possible.
- b) The front yard landscaped setback from the road lot line shall be ten (10) feet, unless otherwise specified. Within the DTD, landscaped setback from all residential property lines shall be fifteen (15) feet unless otherwise specified.
- c) In addition to natural vegetation that is retained, the Front Yard Landscaped Setback shall be landscaped with a combination of indigenous grasses, trees and shrubs commonly found in Southeast Massachusetts.
- d) All developments must be adequately landscaped with low water use plants and provide habitat value whenever possible. No plantings shall obscure site entrance and exit drives and road intersections. Planting areas should serve as storm water treatment areas often referred to as “rain gardens”, as such they should be designed in a way that they are slightly depressed below adjacent parking or sidewalk grades with run-off directed to these areas. Plantings, while encouraging drought resistance, should be capable of withstanding seasonally wet conditions.
- e) Street trees - One deciduous tree with 3-inch minimum caliper is required to be planted within front setback for every 30 feet of frontage of property if front setback is greater than 10 feet. Trees in paved areas shall have a minimum 25 square feet of permeable area for growth. Trees in islands shall have a minimum of 50 square feet of permeable area for growth. All landscaped areas shall be continuously maintained, irrigated, and fertilized. Plant materials shall be organically maintained to maximum extent possible.

2872 Parking Lot Landscaping

- a) Trees - One 3-inch minimum caliper low water use, low maintenance tree must be provided for every 10 parking spaces and must be located within 50 feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of lots shall be credited towards this requirement.
- b) Five (5) or more spaces – 6-foot landscape buffer must be provided between property lines and parking spaces. The landscape buffer must screen parking with a dense hedge providing year-round screening or a fence must be constructed with no more than 50% open space between the panels. Hedges and fences may be subject to other regulation.
- c) Ten (10) or more spaces – 6-foot landscape buffer must be provided between a building and a surface area parking lot or drive except at entrances, building loading, and utility locations.
- d) Twenty (20) or more spaces - at least 10% of the interior parking lot must be landscaped. Planting along the perimeter shall not be considered as part of the 10%. Interior planting beds are ideally continuous to allow for

maximum plant bed size and are constructed as rain gardens to control storm water. No landscaped island shall be less than 6' wide, except that in parking lots with 51 or more parking spaces where the minimum island width shall be 10'.

- e) Plant materials - shall be low water use and low maintenance and be of a sufficient size to create an attractive appearance. Where mulch is used, it shall not be placed in such a manner that it will wash into catch basins or drainage pipes in the lot or in adjacent roadways.
- f) Landscaping of Pre-existing parking lots - Upon the expansion of an existing parking lot containing 20 or more parking spaces and/or an alteration of a structure, or a change or extension of a use which increases the parking requirements by 5 or more spaces according to the standards of Sections 2853, the entire existing parking lot shall be brought into compliance with this section.

2873 Front Yard Landscaping

Front yard landscape is not required if front setback is zero. When the front setback is greater than zero, those portions of the front yard not occupied by pedestrian amenities and public spaces shall be landscaped. Street trees are required consistent with Section 2881 if front setback is greater than 10 feet.

2874 Fences

No fence shall exceed a height of 6 feet (8 feet when abutting a residential district) from the grade plane unless a granted a special permit from the SPGA.

SECTION 2880 - SIGNS

All development shall comply with the applicable signage requirements contained in Section 3200, Sign Regulations, of the Bourne Zoning Bylaws except that internally illuminated signs are prohibited in the Downtown Zoning District.

Or take any action relative thereto.

MOTION: We move the Town so vote.

VOTED: Ayes 156; Nays 30 – declared the motion passes by more than a 2/3rds vote.