SECTION I ADMINISTRATION AND PROCEDURE 1

1100. PURPOSE..... 1

1200. ADMINISTRATION..... 1
1210. Inspector of Buildings, Zoning Enforcement. 1
1220. Certification..... 1
1230. Site Plan - Special Permit Approval..... 1
(1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244)
1250. Professional Inspection..... 9
(1251, 1252)
1260. Enforcement. 9
(1262)
1270. Penalties. 10
1280. Non-Criminal Violation Procedures. 10
(1281, 1282, 1283)

1300. BOARD OF APPEALS 10
1310. Establishment. 10
1320. Powers. 11
1330. Special Permits. 11
(1331, 1332, 1333)
1340. Lapse of Variance 12

1400. PLANNING BOARD AND BOARD OF SELECTMEN..... 12
1410. Planning Board Associate Members 12
1420. Considerations..... 12

1500. APPLICABILITY..... 12

1600. DEVELOPMNET AGREEMENT..... 12
1610. Purposes and Intent..... 12
(1611, 1612)
1620. Authority. 12
1630. Parties to Development Agreements. 14
(1631)
1640. Negotiation and Execution of Development Agreements……. 14
(1641, 1642, 1643, 1644, 1645)
1650. Elements of Development Agreements..... 14
(1651, 1652)
1660. Procedural Requirements for Inclusion or Exclusion of the Cape Cod Commission as a Party to the Agreement..... 15
(1661, 1662)
1670. Limitations on Development Agreements..... 17
(1671, 1672, 1673)
1680. Amendments and Rescission..... 18
1690. Enforcement and Severability. 18
(1691, 1692)

1700. VALIDITY 18

SECTION II USE AND INTENSITY REGULATIONS 19

2100. ESTABLISHMENT OF DISTRICTS 19
2110. Types of Districts 19
2120. District Boundaries 20
2130. Divided Lot 20
2140. District Purposes 20

2200. USE REGULATIONS 22
2210. Application. 22
2220. Use Regulation Schedule 23
2230. Scenic Development District 26
(2231, 2232, 2233)
2240. Accessory Scientific Uses. 27

2300. NON-CONFORMING USES 27
2310. Abandonment. 27
2320. Extension or Alteration. 27
2330. Previously Issued Permits. 27
2340. Use Change. 27
2350. Mobile Home. 27

2400. DIMENSIONAL REGULATIONS 28
2410. Applicability. 28
2420. Contiguous Lots. 28
2440. Two or More Principal Buildings. 28
2450. Nonconforming Lots. 28
(2451, 2452, 2453, 2454, 2455, 2456, 2457)
2460. Lot Bounds. 29
2470. Water Resource District. 29
2480. Lot Shape. 29
2490. Back Lot Division. 30
(2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498)

2500. INTENSITY OF USE SCHEDULE 31

2600. DEVELOPMENT SCHEDULING 32
2610. Purpose and Intent 32
2620. Definitions 32
2640. Rate of Residential Development 33
2650. Exemptions 33
2660. Issuance of Building Permits 34
2670. Appeals 34
2680. Effective Date 34
2690. Annual Report 34

2700. FLEXIBLE RESOURCE DEVELOPMENT 35
2710. Applicability 35
(2711, 2712)
2720. Purpose and Intent 35
2730. Procedural Requirements 35
(2731, 2732, 2733, 2734, 2735)
2740. Standards and Dimensional Requirements 37
(2741, 2742, 2743, 2744)
2750. Other Requirements 38
(2751, 2752)
2760. Permitted Uses 39
(2761, 2762)

2800. DOWNTOWN DISTRICT (DTD) 39
2810. General Provisions and Description 39
(2811, 2812, 2813, 2814, 2815)
2820. Allowable Uses 44
(2821, 2822, 2823, 2824, 2825, 2826, 2827)
2830. Dimensional Standards 57
(2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838)
2840. Performance and Functional Standards 65
(2841, 2842, 2843, 2844, 2845)
2850. Off-Street Parking and Loading Standards 67
(2851, 2852, 2853, 2854, 2855, 2856, 2857)
2860. Streetscape Design and Pedestrian Amenities 74
(2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869)
2870. Landscaping 76
(2871, 2872, 2873, 2874)
2880. Downtown (DTD) Sign Regulations 77
(2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890)

SECTION III GENERAL REGULATIONS..... 85

3100. LOWLAND REGULATIONS..... 85
3110. Floodplain Overlay District Provisions. 85
(3111, 3112)
3120. Cranberry Bogs..... 86

3200. SIGN REGULATIONS 87
3210. General Sign Regulations..... 87
3220. Residence or Government Districts..... 88
3230. Scenic Development Districts..... 88
3240. Allowed Signs. 88
3250. Off-Premise Directional Sign. 89

3300. PARKING REQUIREMENTS..... 89
3310. Number of spaces..... 89
3320. Table of Requirements 90
3330. Surfacing..... 91
(3331, 3332)
3340. Egress Standards 91
(3341, 3342, 3343, 3344)
3350. Backing 93
3360. Off-street Queues 93
3370. Loading Facilities..... 93
3380. Unregistered Vehicles..... 93
3390. Storage Trailers & Storage Containers 94
(3391, 3392, 3393, 3394)

3400. ENVIRONMENTAL CONTROLS 95
3410. Interferences..... 95
3420. Wastes 95
3430. Air Quality..... 95
3440. Electronics 95
3450. Lighting..... 96
(3451, 3452, 3453, 3454)
3460. Wind Energy Conversion Systems (WECS)..... 97
(3461, 3462, 3463, 3464, 3465, 3466, 3467)
3470. Solar Photovoltaic System (SPS) Ground Mounted..... . 108
(3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3483, 3484)

3500. LANDSCAPING AND SCREENING..... 116
3510. Parking Lot and Buffer Plantings. 116
(3511, 3512, 3513, 3514, 3515, 3516)
3520. Erosion Control..... 117
3530. Screening. 117
3540. Parking and Loading Area Setbacks..... 118
3550. Corner Visibility. 118
3560. High Fences or Walls..... 118
3570. Natural Cover Removal..... 118
3580. Security 118

SECTION IV SPECIAL REGULATIONS 120

4100. ACCESSORY USES 120
4110. Home Occupations. 120
4120. Accessory Dwelling. 120
(4121, 4122, 4123)

4200. SPECIAL RESIDENTIAL USES 121
4210. Mobile Homes. 121
4220. Campers and Trailers. 121
4230. Mobile Home Parks. 121
4240. Campgrounds. 122
4250. Village Mixed Use Developments 122
4260. Nonconforming Affordable Lots 123
(4261, 4262, 4263, 4264, 4265, 4266, 4267, 4268, 4269)

4300. BOURNEDALE OVERLAY DISTRICT 126
4310. Applicability 126
4320. Use Regulations 126
(4321, 4322, 4323)
4330. Dimensional Regulations 126
(4331, 4332, 4333, 4334, 4335)

4400. EARTH REMOVAL 127
4410. Plan 127
4420. Screening. 127
4430. Restoration 127
4440. Bond 127

4500. MOTOR VEHICLE SERVICES 128
4510. Egress 128
4520. Pedestrian Relationship 128
4530. Queues. 128

4600. OPEN SPACE COMMUNITY 128
4610. Applicability. 128
4620. Objectives. 128
4630. Procedures 128
(4631, 4632, 4633, 4634, 4635, 4636, 4637)
4640. Requirements 130
(4641, 4642, 4643, 4644, 4645, 4646)
4650. Housing to Meet Community Needs 135
(4651, 4652, 4653, 4654)

4700. WATER RESOURCE DISTRICT..... 136
4710. Purpose. 136
4720. Use Regulations. 136
(4721, 4722, 4723)
4730. Design and Operation Guidelines. 138
(4731, 4732, 4733, 4734, 4735)
4740. Special Permits. 139
(4741, 4742, 4743, 4744)
4750. Violations. 141

4800. OTHER SPECIAL DISTRICTS 141
4810. Sensitive Use District 141
(4811, 4812, 4813, 4814)
4820. Marine Center Overlay District 142
(4821, 4822, 4823, 4824, 4825, 4826, 4827, 4828)

4900. SEASONAL CONVERSION..... 147
4910. Applicability. 147
4920. Requirements. 147
(4921, 4922, 4923)
4930. 147

SECTION V DEFINITIONS 148

APPENDIX I ARCHITECTURAL DESIGN STANDARDS AND GUIDELINES

SECTION I ADMINISTRATION AND PROCEDURE

1100. PURPOSE

This Zoning Bylaw is enacted pursuant to and under the authority of Chapter 40A of the General Laws and amendments thereto. Its purpose is to guide the sound development of the Town of Bourne, including the provision of housing for residents of all income levels, as well as the other purposes identified in Section 2A of Chapter 808 of the Acts of 1975.

1200. ADMINISTRATION

1210. Inspector of Buildings. No building shall be erected, externally altered, or moved without a building permit and no such permit as required by the Commonwealth of Massachusetts State Building Code shall be issued unless the Inspector of Buildings has indicated in writing his determination that the requirements of the Zoning Bylaw have been met by the proposal.

Zoning Enforcement. The Inspector of Buildings shall serve as the Chief Zoning Enforcement Officer for the enforcement of the Bylaw. The Town Administrator may appoint in addition to the Chief Zoning Enforcement an Enforcement Officer(s), to serve under the authority and supervision of the Chief Zoning Enforcement Officer, for the purpose of taking actions on violations and any other lawful actions necessary or appropriate to ensue compliance with this Bylaw.

Applications for building permits shall be accompanied by three prints of a plan of the lot, drawn to scale, showing the actual boundaries and dimensions of the lot, showing the exact location, use, and size of any existing or proposed structures, and showing any existing and proposed streets and ways within or adjacent to the lot.

1220. Certification. Land may not be substantially altered or changed in use without certification by the Inspector of Buildings that such action is in compliance with then applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law. Responsibility for obtaining permits and certification shall be that of the owner of the premises.

1230. SITE PLAN - SPECIAL PERMIT APPROVAL

Site Plan – Special Permit approval is required for any addition, expansion or construction of any commercial, industrial, retail and/or mixed-use structure or development, except as may be more specifically provided elsewhere in the Zoning Bylaw.

1231. Purpose Of Site Plan - Special Permit Approval

The purpose of Site Plan - Special Permit Approval is to further the intent of the Zoning By-Law of the Town of Bourne by reviewing proposed uses and structures to ensure that new development or redevelopment which may have significant impacts upon abutting land, the neighborhood, or the Town, are designed in a manner which complies with the Zoning By-Law and addresses other community needs such as the protection of abutting landowners from unnecessary noise, glare or other inconvenience and provides for adequate parking and traffic management, waste disposal, drainage and other environmental protection.

1232. Authority

The Planning Board shall be the Special Permit Granting Authority for Site Plan-Special Permit Approval in accordance with the Use Regulation Schedule as set forth in Section 2220 and as described in Section 1233 herein.

1233. Projects Requiring Site Plan - Special Permit Approval

Before being approved or disapproved by the Inspector of Building, applications for building permits for the following must be accompanied by a site plan - special permit endorsed with the approval of the Planning Board.

A. Mobile home parks and campgrounds
B. Uses permitted under Section 2232 for Scenic Development Districts
C. All other applications for new development with a gross floor area greater than 1600 square feet or redevelopment resulting in a gross floor area of 1600 square feet and any development or redevelopment resulting in the construction or exterior alteration of any commercial, industrial, retail and/or mixed use structure; also any applications including:
    1. Any change in the number of parking spaces
    2. Alteration of egress, utilities, drainage, or lighting
    3. The change, alteration or expansion of use of any commercial, industrial, retail and/or mixed use structure;
    4. The change, in whole or in part, of any residential use to a non-residential use,
    5. Change of an existing use or structure, which constitutes a more intensive use of land, which includes any use which changes any pattern of pedestrian or vehicular movement within the site or in relation to adjacent properties or streets including access by emergency vehicles, or creates more pedestrian or vehicular traffic than the existing use.

1234. Application

A. The petitioner shall provide nine (9) copies the application and of the site plan for Site Plan - Special Permit Approval. One (1) application and plan shall be filed with the Town Clerk, and eight (8) copies of said application and plans, including the date and time of filing certified by the Town Clerk, shall be filed with the Planning Board.

B. Each application shall be accompanied by the required fee. (The fee schedule is listed in the Planning Board Regulations.)

1235. Waivers

A. The intent of Site Plan- Special Permit approval is to ensure that any development which may have significant impacts upon the abutting land, neighborhood, or the Town is reviewed for the purpose of assuring compliance with the Zoning By-law as well as to minimize negative effects on abutters and the community at large. When, in the opinion of the Planning Board, the alteration or reconstruction of a structure does not substantially change the relationship of the structure to the site or to abutting properties and structures, the Planning Board may determine that submission of a site plan - special permit approval is not required. Upon application on a form approved by the Planning Board, such a determination may be made at a meeting of the Planning Board by an affirmative vote of a majority of the Planning Board present, and in no event less than five (5) members, and all abutters must be notified by certified mail, return receipt requested, at least seven days prior to the meeting at which such vote is to be taken. The involved structure shall be as shown on a site plan previously approved under this section or on a plan showing sufficient information as determined by the Planning Board to allow the Planning Board to make a decision. Such plan, with all proposed changes shown thereon, shall be included with the application for waiver. Notice of final action shall be sent to the applicant and to the Inspector of Buildings.

B. Denial. If determined that Site Plan - Special Permit approval is required, a new application for Site Plan – Special Permit must be filed.

C. Each application for a wavier shall be accompanied by the required fee. (The fee schedule *is listed in the Planning Board Regulations.)*

1236. Procedures

A. Initial Submittal

Eight (8) copies of the materials required for Site Plan Special Permit Review shall be submitted to the Planning Board, one (1) copy shall be transmitted to the Town Planner. Forthwith upon receipt, the Town Planner shall determine whether the submitted materials are sufficiently complete for review and properly before the Planning Board, using a checklist, and within five (5) business days of receipt of the material shall notify the applicant and the Planning Board of those findings. If in disagreement with completeness determinations by the Town Planner, an applicant may request that the Planning Board Chairman or his designee make the completeness determination or the applicant may appeal to the full Planning Board at the next scheduled hearing.

B. Distribution

Once materials are determined to be complete, submitted materials shall be made available for public inspection in the office of the Planning Board, and copies shall be distributed to all Town officials or agencies which have made a standing request for such materials or whose action on the proposal is required, with a request for their review and comment to the Planning Board by the time of the Planning Board's Public Hearing.

All recommendations to the Planning Board must be in writing. Failure of Boards to make recommendations prior to the date of the scheduled hearing shall be deemed to be acceptance of the plan.

C. Professional Review Fees

The applicant shall bear the costs of any outside planning or engineering consultants requested by the Planning Board. (See Section 1252)

1237. Public Hearing

The Planning Board shall hold a public hearing prior to a decision on the Site Plan - Special Permit application with timing and notice as required by Sections 9 and 11 of Chapter 40A.

That hearing shall not be scheduled until after the Planning Board has been notified that complete materials have been submitted, and shall be coordinated with other agencies to, if possible, have the time and place of the Planning Board's Public Hearing coincide with the initial hearing for any Town agencies requiring hearings on the proposal. Notice of the Public Hearing and the proposals to be reviewed shall be provided to all agencies to which the submittals have been submitted, and also to abutters or others in cases where the Board determines that potential issues in the review merit that level of notice.

1238. Decision Criteria

The Planning Board shall base its decision on the Site Plan – Special Permit as set forth in criteria stated herein and as called for in Section 1331, except as may be more specifically provided elsewhere in the Zoning Bylaw.

The Planning Board shall file its decision in accordance with timing and notice as required MGL Chapter 40A Sections 9 and 11.

A. Criteria

1. General

a) Compliance with all requirements of the Zoning By-Laws of the Town of Bourne

b) Integration into the existing terrain and surrounding landscape, and protection of abutting properties and community amenities.

c) Preservation of unique or significant and historical features;

2. Environmental

a) Protection of unique or significant environmental or scenic features.

b) Ensure the ability of existing and proposed septic and water supply systems to serve the proposed use of the site.

c) All drainage shall be recharged on site based on a calculated 25-year storm and designed so that run-off shall not be increased, groundwater recharge is maximized, pollution impacts are minimized and neighboring properties will not be adversely affected. Stormwater design shall incorporate Best Management Practices as prescribed in the Massachusetts Stormwater Handbook or Bourne Subdivision Regulations or other standards, which may be adopted by the Planning Board or Town of Bourne.

d) Adequate measures are provided to prevent erosion, silting, or other instability both during and after construction. The Planning Board may require that the applicant submit either a report from the Soil Conservation Service or soil loss calculations prepared by a soils scientist or engineer in cases where doubt as to adequacy of proposed measures exists.

e) Avoid outdoor lighting glare on adjoining properties.

3. Design

a) Effective use shall be made of topography, landscaping, and building placement to maintain, to the degree feasible, the character of the neighborhood.

b) Development shall avoid, to the extent feasible, major topographic changes, removal of existing trees, impact on steep slopes, flood plains, scenic views and wetlands.

c) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other design techniques. Variation in detail, form and siting shall be utilized to provide visual interest and to avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation and separation between buildings.

d) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other relatively unsightly uses shall be screened to protect neighbors from objectionable features.

e) Electric power, telephone, cable TV and other such utilities shall be installed underground unless specifically waived.

4. Traffic and Internal Circulation

a) The site plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjacent ways. Curb cuts are to be at an absolute minimum and joint access driveways between adjoining properties shall be encouraged.

b) Visibility of parking areas from public ways shall be minimized. Adequate access to each structure for fire and service equipment is provided as determined by the Planning Board. Where access is anticipated for fire vehicles or other large trucks or service vehicles access drive width shall be not less than 16 feet, and the driveway geometry at intersections or comparable turning points shall at minimum provide 14 feet vertical clearance and shall meet the AASHTO requirements for a standard WB-40 semi-trailer, or meet the following, unless the Planning Board, after consultation with the Fire Department, determines that alternative standards are made appropriate by peculiarities of the site design or anticipated use. Where access by fire vehicles or other large trucks is not anticipated, access adequacy shall reflect consistency with the performance intent of the geometric standards of

Subdivision Regulations of the Bourne Planning Board and the fire equipment access requirements of 527 CMR 25.

CROSS-DRIVE WIDTH (feet)

	Inner radius of driveway				
Angle	**15’**	**20’**	**25’**	**30’**	**40’**
30°	16’	16’	16’	16’	16’
60°	19’	19’	19’	18”	16’
90°	22’	21’	21’	18’	16’
120°	23’	22’	22’	18’	16’
150°	24’	22’	22’	18’	16’

c) If a traffic study is required by the Planning Board, the study shall describe estimated average daily and peak hour vehicle trips to be generated by the site. The study shall describe traffic flow patterns for both vehicles and pedestrians, and provide for adequate access to and from the site and adequate circulation within the site. In describing the number of vehicle trips, the plan may use the following documentation but the Planning Board will place heavy emphasis on the impact of seasonal traffic situations as related to the Town of Bourne in considering this requirement:

- Institute of Traffic Engineers (ITE) - Trip Generation Report (latest edition) with estimates for seasonal increases.

- Actual traffic surveys at similar complexes in a similar seasonal area.

The Planning Board shall withhold approval of any site plan- special permit application which it determines is in violation of the Zoning Bylaw, but the Board's site plan approval shall not be construed as approval regarding aspects of the application, such as environmental controls, not described in the information submittals.

B. Required Submittals

1. A Registered Professional Land Surveyor and Registered Professional Civil Engineer shall prepare all site plans. (Unless granted a wavier by the Planning Board)

2. Site plans shall be submitted as follows:

a) Five (5) copies reduced on standard 11” x 17” sheets, three (3) copies, full scale, on standard 24" x 36" sheets, each sheet shall be prepared at a defined scale suitable for the content of the topic covered on the sheet and shall include the following:

b) The location and boundaries of the lot, adjacent street/ways and a list showing names and addresses of direct abutters and abutters to the abutters within 300 feet,

c) Existing and proposed topography showing 2 foot contours showing benchmark used, significant land features, natural and man made, including, but not limited to, the location of wetlands, streams, bodies of water, drainage swales and areas subject to flooding,

d) Existing and proposed vegetation,

e) Existing and proposed structures, including use, dimensions and all elevations,

f) The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location, number and size of parking spaces.

g) The location and description of all proposed on site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems,

h) The location, size (length & width) and description of signs, proposed and existing,

i) The location and description of existing and proposed open space or recreation areas, if any,

j) A plan for the control of erosion before and after construction,

k) A traffic study if required by the Planning Board.

3. Landscape Plan (consistent with Section 3500 Landscaping and Screening)

4. Lighting Plan (consistent with Section 3400 Environmental Controls)

5. Architectural Plans, including floor plans, and elevations. Buildings greater than 35,000 cubic feet require plans prepared by a registered architect or engineer (P.E., Civil). Floor plans shall show the existing and proposed uses.

6. Such additional materials as may reasonably be required by the Planning Board in order to make the determinations required for a Site Plan Review - Special Permit.

7. Revisions must be submitted to the Planning Board seventy-two (72) hours before a scheduled hearing.

8. An asbuilt site plan must be submitted depicting final locations of all structures and site related appurtenances before an occupancy permit is issued.

1239. Security

The Planning Board in conjunction with the Site Plan –Special Permit approval process or in the rectification of a violation, may require the posting of a bond or other security to secure faithful and satisfactory performance, in such sum and in accordance with such conditions as the Board may determine necessary, consistent with guidelines to be adopted by the Planning Board for the administration of this provision.

a) Exception - The Board need not require security where there is full assurance of compliance with the site plan – special permit approval.

b) Amount – The security shall be approved as form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer; and shall be in an amount determined by the Planning Board sufficient for restoration of affected lands and property. Security shall be deposited with the Town Treasurer.

1240. Violations

Violations of the approved site plan – special permit approval shall be subject to:

Notification. Upon notification of a violation of a site plan – special permit approval the Planning Board shall confer with the Inspector of Buildings as to the extent of the infraction. If determined that the site is in violation of the Zoning Bylaw or conditions of approval the Planning Board may upon its own motion or on the recommendation of the Inspector of Buildings or a petition of any interested person notify the grantee by certified mail, return receipt requested, at least seven days prior to the meeting to appear before the Board to rectify the violation. In event the violation cannot be rectified then the Planning Board may rescind approval. (See section 1241 Rescission)

1241. Rescission.

The Planning Board, on its own motion or on the petition of any person interested, shall have the authority to rescind the approval of a Site Plan –Special Permit if, after notice to the grantee and a hearing held thereon, it determines that one or more of the conditions stated for its approval has not been satisfied or complied with by said grantee.

1242. Enforcement

1. Any Site Plan - Special Permit approval issued under this section shall lapse within two years if a substantial completion of the requirements of the Site Plan has not taken place. Such permit may be extended for reasonable cause.

2. The Applicant must file the approved Site Plan Special Permit with the Registry of Deeds and furnish Book & Page Number to the Inspector of Buildings prior to receiving a building permit.

1243. Final Action

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

1. A written denial of the application stating the reasons for such denial; or

2. The issuance of a Site Plan - Special Permit approval, subject to any conditions, modifications, and restrictions that the Planning Board may deem necessary.

1244. Amendments

The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

1250. Professional Inspection.

1251. Developer's Responsibility. Construction on projects under a single building permit involving either one or more structures (other than one- and two-family dwellings) each containing 35,000 cubic feet of volume or more, or involving 50 or more dwelling units, irrespective of type, shall be done with the inspection of a registered professional engineer or architect, retained by the developer. Such engineer or architect shall periodically, as requested by the Inspector of Buildings, attest that all work being done under his supervision is being done in accordance with the plans as approved for a building permit, in accordance with any Board of Appeals stipulations, and in accordance with all applicable Town and state codes and regulations. Discrepancies from the above noted by such engineer or architect shall be reported forthwith to the Inspector of Buildings.

1252. Professional Review Fees.

a) Special Permit Granting Authorities may require that applicants deposit reasonable fees in a Review Escrow Account for the employment of outside consultants as required for review of application materials, special studies and inspection of work being done.

b) The Special Permit Granting Authority shall have authority to expend funds from the Review Escrow Account, upon request of the Planning Board, for services of professional consultants for efforts which are not to be performed by Town employees. The applicant may appeal the selection of the consultant, as provided at Section 53G of Chapter 44 G.L.

c) The account shall be restored by the developer to its original level upon written notice by the Special Permit Granting Authority that expenditures from it have decreased it to less than one-third (1/3) its original amount. The account shall be closed and remaining uncommitted funds returned to the developer upon issuance of a certificate of occupancy, final release of any security, or permit disapproval.

d) Similarly, the Planning Board may require that applicants deposit reasonable fees for the employment of outside consultants as required for review of application materials, special studies, and inspection of work being done in conjunction with proposals subject to Site Plan Review.

1260. Enforcement. The Inspector of Buildings/Chief Zoning Enforcement Officer, the Enforcement Officer(s) and any Assistant Inspector of Buildings shall take such action as may be necessary to enforce full compliance with the provisions of the Zoning Bylaw and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Town Administrator to the Town Counsel.

1262. Requests for Enforcement. Whenever a violation of this bylaw occurs or is alleged to have occurred, any person may file a signed written Request for Enforcement with the Inspector of Buildings /Chief Zoning Enforcement Officer who shall record the filing of such request. The Chief Zoning Officer or the Enforcement Officer(s) shall promptly investigate, and take appropriate action thereon. If determined that no enforcement action is required, notice in writing shall be provided to the person who has filed such request of the determination not to take any action, and shall state the reasons therefore, all within fourteen (14) days of the receipt of such request. Any person aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within thirty (30) days after the receipt of the decision of the Chief Zoning Enforcement Officer or Enforcement Officer(s).

1270. Penalties. Any person violating any of the provisions of this Bylaw shall be fined $50 for each offense. Each day that such violation continues shall constitute a separate offense.

1280. Non-Criminal Violation Procedures. The Inspector of Buildings/Chief Zoning Enforcement Officer and/or Enforcement Officer, hereinafter referred to as the enforcing person(s), shall, upon taking cognizance of a violation of this Zoning Bylaw, or of a specific rule or regulation or permit condition which he or she is empowered to enforce, shall proceed as follows as an alternative to initiating criminal proceedings or civil action.

1281. Warning. To provide opportunity for voluntary compliance, the enforcing person shall first give written warning that unless the violation is abated within twenty days thereafter, a notice for Court appearance will be given, as provided at Section 1282. However, the enforcing person may give notice for Court appearance without such warning in the cases of violations creating immediate threats to health or safety, repeated violations, or violations involving signs, structures, or uses potentially remaining in place for fewer than twenty days.

1282. Notice to Appear. Following the twenty days (or immediately, as provided at 1281 above), the enforcing person shall give to the offender a written notice to appear before the Clerk Magistrate of the Barnstable First District Court at any time during regular Court hours, not later than twenty-one (21) days after the date of such notice.

1283. Notice Procedures. The notice shall specify the fine for the offense(s). Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place of the offender's appearance before the Court. Such notice shall be signed by the enforcing person, and shall also be signed by the offender whenever practicable in acknowledgement that such notice has been received. Any notice and enforcement of any violation shall be in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 21D, as from time to time amended.

1300. BOARD OF APPEALS

1310. Establishment. The Board of Appeals shall consist of five members and three associate members, who shall be appointed by the Selectmen and act in all under this Bylaw in the manner prescribed by Chapter 40A of the General Laws as amended.

1320. **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws, and by this Bylaw, those powers being to hear and decide applications for Special Permits upon which the Board is empowered to act under this Bylaw; to hear and decide petitions for variances, excluding variances for use; to hear and decide other appeals from any aggrieved person, officer, or board, or the Cape Cod Planning and Economic Development Commission, to issue comprehensive permits as provided by Sections 20-23, Ch.40B, G.L., and in special cases to issue withheld building permits, as provided by Section 81Y, Ch.41, G.L.

1330. **Special Permits.** Application for Special Permits shall be made to the Town Clerk, with a copy forthwith being given to the Special Permit Granting Authority (SPGA) by the applicant. A public hearing shall be held prior to decision on the application with timing and notice as required by Sections 9 and 11 of Chapter 40A.

1331. **Decision Criteria.** The following shall be the basis for decision on special permits, except as may be more specifically provided elsewhere in this Bylaw. Special permits may be granted by the SPGA after demonstration by the applicant that the proposed use will not have adverse effects which over-balance its beneficial effects for either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following, among others:

a) pedestrian and vehicular flow and safety;

b) adequacy of utilities and other public services;

c) impact on natural environment;

d) impact upon nearby developed premises;

e) visual compatibility with the surroundings;

f) in Water Resource Districts, contribution to cumulative impact upon public water supplies.

g) Impact upon the Town's needs for year-round housing available for persons of all income levels.

1332. **Documentation.** At the time of application, the applicant shall submit documentation regarding each of the above considerations which are germane. The Special Permit Granting Authority may refer such documentation to the Planning Board, Conservation Commission, Engineering Department, or other authorities, as appropriate, for technical review and comment.

1333. **Lapse of Special Permit.** If the rights authorized by special permit are not exercised within two years of the date of grant of such permit, such rights shall lapse and no longer be of any further force or effect, provided however, that time spent awaiting the determination of an appeal under Section 17 of General Laws C40A shall not be counted as part of said two year period, and provided further, the Special Permit Granting Authority, if substantial use has not commenced, or if in the case of a permit for construction, if construction has not begun, may for good cause, by a majority vote, grant the holder of said special permit additional time, to time certain, to exercise the rights under said permit, provided the holder of the permit has timely requested such extension

in writing to the Special Permit Granting Authority.

1340. Lapse of Variance. In accordance with the provisions of Massachusetts General Law C40A, Section 10, Paragraph 3, if the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, such rights shall lapse and no longer be of any force or effect, provided however, that the Board of Appeals in its discretion and upon written request by the grantee of such rights, may extend the time for the exercise of such rights for a period not to exceed six months, and provided further, that the application for such extension is filed in writing with the Board of Appeals prior to the expiration of such one year period.

1400. PLANNING BOARD AND BOARD OF SELECTMEN

1410. Planning Board Associate Members. As authorized in Section 9 of Chapter 40A, there shall be two associate members of the Planning Board. Such associates shall act on special permit applications when designated to do so by the Planning Board Chairman, in cases of absence, inability to act, or conflict of interest on the part of any member of the Board, or in the event of a vacancy on the Board. The associate members shall be appointed by majority vote of the Selectmen and members of the Planning Board, in the same manner as for filling a vacancy, with initial term of one year for the first appointed and two years for the second appointed, and terms of three years thereafter.

1420. Considerations. In instances where this Bylaw provides for Special Permits to be acted upon by the Planning Board or the Board of Selectmen, those actions shall be based upon the considerations of Section 1330.

1500. APPLICABILITY

Where the application of the Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

1600. DEVELOPMENT AGREEMENT

1610. Purpose 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)*

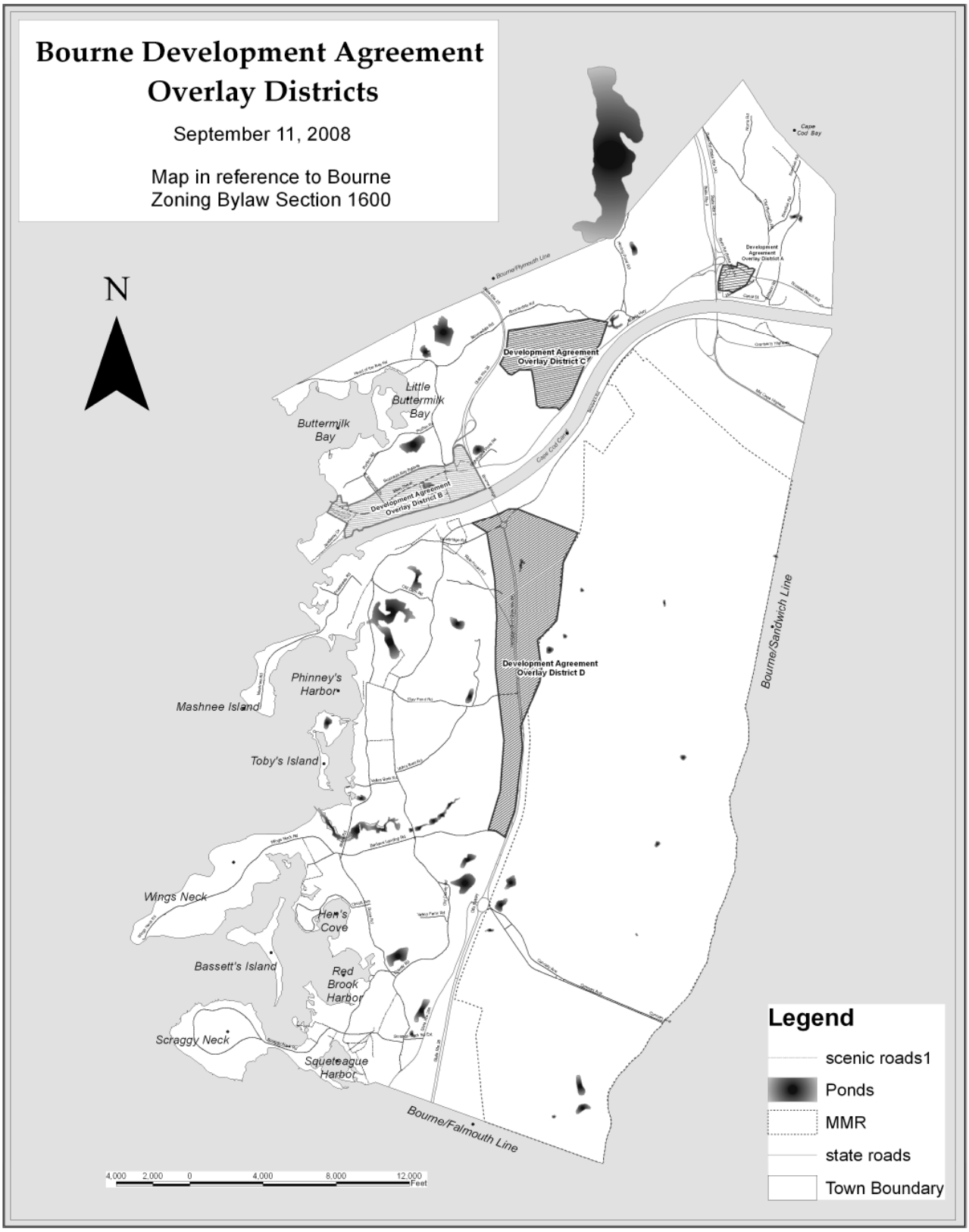
1611. The Town of Bourne adopts this section under the Home Rule Authority of Article 89 of the Amendments to the Massachusetts Constitution, and the provisions of the Cape Cod Commission Act Sections 6 and 14 of Chapter 716 of the Acts of 1989, as amended and Chapter D, Development Agreement Regulations.

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.


Bourne Development Agreement
Overlay Districts
September 11, 2008
Map in reference to Bourne
Zoning Bylaw Section 1600
N
Development Agreement
Overlay District A
Development Agreement
Overlay District B
Development Agreement
Overlay District C
Development Agreement
Overlay District D
Little
Buttermilk
Bay
Buttermilk
Bay
Phinney's
Harbor
Mashnee Island
Toby's Island
Wings Neck
Hen's
Cove
Bassett's Island
Red
Brook
Harbor
Scraggy Neck
Squeteague
Harbor
Bourne/Sandwich Line
Bourne/Falmouth Line
Legend
scenic roads1
Ponds
MMR
state roads
Town Boundary
4,000 2,000 0 4,000 8,000 12,000
Feet

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.

1700. VALIDITY

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

SECTION II USE AND INTENSITY REGULATIONS

2100. ESTABLISHMENT OF DISTRICTS

2110. Types of Districts. For purposes of this Bylaw, the Town of Bourne is hereby divided into the following types of districts:

RESIDENCE DISTRICT	R-80
RESIDENCE DISTRICT	R-40
VILLAGE BUSINESS DISTRICT	V-B
BUSINESS DISTRICT	B-1
BUSINESS DISTRICT	B-2
BUSINESS DISTRICT	B-3
BUSINESS DISTRICT	B-4
SCENIC DEVELOPMENT DISTRICT	SDD
GOVERNMENT DISTRICT	GD
WATER RESOURCE DISTRICT	WR
SENSITIVE USE DISTRICT	SUD
TRAFFIC MANAGEMENT DISTRICT	TMD
BOURNEDALE OVERLAY DISTRICT	BOD
DOWNTOWN DISTRICT	DTD
DEVELOPMENT AGREEMENT OVERLAY DISTRICT	DOD
MARINE CENTER OVERLAY DISTRICT	MCOD
SOLAR PHOTOVOLTAIC OVERLAY DISTRICT	SPOD
FLOODPLAIN OVERLAY DISTRICT	FOD

The boundaries of these districts are defined and bounded on the map entitled "Zoning Map, Bourne, Mass.", dated June, 1966, on file with the office of the Town Engineer. That map and all explanatory matter thereon is hereby made a part of this Bylaw.

Water Resource Districts are hereby created covering the area described on the map entitled Water Resource Districts, dated April 1, 1980, and revised through February 7, 1996, on file with the office of the Town Engineer and Town Clerk. That map and all explanatory matter thereon is hereby made a part of this Bylaw.

Sensitive Use and Water Resource Districts shall be considered to be superimposed over any other districts established in this Bylaw. Land in a Water Resource District shall be subject to the requirements of Section 4700 and land in a Sensitive Use District shall be subject to the requirements of Section 4800, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

Traffic Management Districts shall be considered to be superimposed over any other districts established in this Bylaw, and comprise the following areas:

- all land in the SDD Scenic Development District; and

- all land in the R-40 District bounded on the southwest by the Bourne Bridge, on the southeast by the Cape Cod Canal, on the northwest by the B-2 Business District and the SDD Scenic Development District, and on the northeast by the SDD Scenic Development District; and

- all land in the R-40 District bounded on the southwest by the Bourne Bridge, on the northwest by the Cape Cod Canal, on the southeast by Sandwich Road, and on the northeast by the extension of the northeasterly boundary of the Scenic Development District,

all as shown on the map entitled 'Traffic Management Districts', dated August 15, 1996.

The Floodplain Overlay District (FOD) is established as an overlay district. The FOD is comprised of all Special Flood Hazard Areas as designated on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) dated July 16, 2014, on file with the office of the Town Clerk and Engineering Department.

Land in the FOD shall be subject to the requirements of Section 3100, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

2120. District Boundaries. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto; when appearing to follow tidal shoreline shall coincide with the mean low water line. When not locatable in any other way, boundaries shall be determined by scale from the map.

2130. Divided Lot. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than 30 feet into the other district by Special Permit of the Planning Board.

2140. District Purposes. District purposes are as follows:

RESIDENCE R-80 and RESIDENCE R-40: To ensure continuance of a residential environment, with any development carefully related to environmental capacities and existing character.

VILLAGE BUSINESS V-B: To provide for village-oriented business compatible with small scale environs and nearby residences.

BUSINESS B-1: To provide high-intensity generally pedestrian-oriented activity concentrations at village centers.

BUSINESS B-2: To accommodate general business development in areas serviced by major traffic arteries, and where conflict with residential development will not be substantial.

BUSINESS B-3: To reserve areas for business development without single-family residential development, in areas of 10 acres or more well suited by utilities, access, topography, and surroundings for such use.

BUSINESS B-4: To provide for business development along arterial routes with careful control over environmental and traffic impacts.

SCENIC DEVELOPMENT DISTRICT SDD: To gain intensive use of land, while at the same time preserving or enhancing highway views of the canal, ocean, or bay, preserving or enhancing landscaping and tree cover, minimizing visibility of parked autos and the intrusion of commercial signs, and avoiding creation of hazards or congestion. Each Scenic Development District created on the Zoning Map shall be not smaller than 40 acres in extent, shall be accessible directly via state-owned highway, and shall be so located that ocean or canal visibility exists or can reasonably be expected to be gained.

GOVERNMENT DISTRICT GD: To provide for necessary governmental functions on publicly owned land.

WATER RESOURCE DISTRICT WR: To protect the public health by preventing contamination of the ground and surface water resources providing water supply for the Town.

SENSITIVE USE DISTRICT SUD: To provide for rarely encountered uses whose consequences for their surroundings warrant Town Meeting consideration of individual sites.

BOURNEDALE OVERLAY DISTRICT BOD: To provide for the preservation of resources that are unique to the Bournedale area and which are fundamental to the character of the areas.

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.

THE MARINE CENTER OVERLAY DISTRICT shall be considered to be superimposed over any other districts established in this Bylaw, and to apply to those areas as shown on the map entitled 'Marine Center Overlay District,' dated March 22, 2007.

SOLAR PHOTOVOLTAIC OVERLAY DISTRICT SPOD: To promote the goals of the Local Comprehensive Plan and the Commonwealth of Massachusetts Green Communities Act, by providing expedited project plan review and design standards for large-scale, ground-mounted solar photovoltaic systems.

FLOODPLAIN OVERLAY DISTRICT FOD: To enable the Town of Bourne to participate in the National Flood Insurance Program (NFIP) and ensure compliance with the NFIP regulations in all areas as defined as 100-yr floodplain on the Flood Insurance Rate Map (FIRM) provided by FEMA, and further defined by the Flood Insurance Study (FIS) and as regulated in Section 3110 of this Bylaw.

2200. USE REGULATIONS

2210. Application. Uses shall be permitted in any district only in accordance with the following table. For uses allowed on Special Permit for an exception, the Special Permit Granting Authority is indicated as follows:

"BA" - Board of Appeals

"SP*" - Board of Appeals, except Planning Board for development requiring site plan review under Section 1230…".

"S" - Board of Selectmen

"PB" - Planning Board

"SPR/SP" – Planning Board, a use authorized after review under Site Plan –Special Permit as provided in Section 1230.

"SPR" – Planning Board, a use authorized after site plan review by the Planning Board.

See Section 2230 for uses allowed in the Scenic Development District.

2220. Use Regulation Schedule

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
PRINCIPAL USES					
RESIDENTIAL USES					
Single-family dwelling	Yes	Yes	Yes	No	No
Two-family dwelling[3]	Yes[5]	Yes	Yes	No	No
Conversion of single-family into two-family without substantial alteration in exterior appearance[3]	BA	BA	BA	BA	No
Multifamily dwelling[3]	No[2]	No[2,11]	No[2,11]	No	No
Taking not more than six persons as boarders or lodgers in a dwelling by a family resident therein[3]	Yes	Yes	Yes	Yes	No
Mobile home parks, subject to Section 4200	No	No	SPR/SP	No	No
Campgrounds, subject to Section 4200	No	No	SPR/SP	No	No
Residential Social Service Facility[1,3]	BA	BA	BA	No	BA
Transient dwelling	No[2]	SP[2]	SP[2]	No	No
OPEN USES					
Farm or nursery without retailing	Yes	Yes	Yes	Yes	Yes
Farm or nursery with retailing	SPR [12]	SPR[12]	SPR[12]	SPR[12]	SPR [12]
Standard or Par-3 golf courses	SPR/SP	SPR/SP	SPR/SP	SPR/SP	No
INSTITUTIONAL USES					
Patriotic, fraternal organizations, clubs, if not conducted for profit	SPR [12]	SPR [12]	SPR [12]	SPR [12]	No
Religious purposes, non-profit educational uses; philanthropic institutions	SPR [12]	SPR [12]	SPR [12]	SPR [12]	SPR [12]
Municipal use voted at Town Meeting, or other public use not more specifically cited	SPR [12]	SPR [12]	SPR [12]	SPR [12]	SPR [12]
Hospital, nursing home	SPR/SP	SPR/SP	SPR/SP	SPR/SP	No
TRANSITIONAL USES					
Use of dwelling as temporary real estate office[4]	Yes	Yes	Yes	Yes	No
Open Space Community, subject to Section 4600	PB[5]	PB	PB	PB	No

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
COMMERCIAL USES					
Technology Campus	No[10]	No	SPR/SP	SPR/SP	No
Motor vehicle service stations, subject to Section 4500	No	SPR/SP	SPR/SP	No	No
Commercial recreation	No	SPR/SP	SPR/SP[7]	SPR/SP	No
Adult uses, subject to Section 4800	No	No	SP*[6]	No	No
Bank	No	SPR/SP	SPR/SP	SPR/SP	No
Restaurant	No	SPR/SP	SPR/SP	SPR/SP	No
Restaurant Fast Food, Takeout	No	SPR/SP	SPR/SP	SPR/SP	No
Professional or Business Office	No	SPR/SP	SPR/SP	SPR/SP	No
Retail Sales					
If having service to patrons while in motor vehicles	No	SPR/SP	SPR/SP	SPR/SP	No
If gasoline sales occur on the same premises	No	SPR/SP	SPR/SP	SPR/SP	No
Under 1,600 square feet gross floor area, and also fewer than 200 vehicle trip ends per average business day[8]	No	SPR [12]	SPR [12]	SPR [12]	No
More floor area or trip ends	No	SPR/SP[9]	SPR/SP	SPR/SP	No
Animal kennels or animal hospitals, funeral homes	BA	BA	BA	BA	No
Hotels[3], Motels[3], or similar establishments	No	SPR/SP	SPR/SP	SPR/SP	No
Flea Market	No	No	S	S	No
Manufacturing, processing, research	No	No	SPR/SP	SPR/SP	No
Contractor's Yard	No	No	SPR/SP	SPR/SP	No
Junkyards, earth removal, subject to Section 4400	No	No	SP*	SP*	No
Wholesaling, bulk storage, or other business use meeting requirements of Section 3400	No	SPR/SP	SPR/SP	SPR/SP	No
Extensive resort development, subject to Section 4600	SPR/SP[5]	SPR/SP	SPR/SP	No	No
Village Mixed Use Development, subject to Section 4250	No	PB	PB	No	No
Commercial Wind Energy System (CWES) per Section 3460	No[10]	No	SPR/SP	SPR/SP	SPR/SP
Neighborhood Wind Energy System (NWES) per Section 3460	SPR/SP	SPR/SP	SPR/SP	No	No

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
OTHER PRINCIPAL USES					
Seasonal Conversion	---------- (See Section 4900) ----------				
Other use having externally observable attributes similar to one above	--------- As regulated above ---------				No
All other uses	No	No	No	No	No
Solar Photovoltaic Systems Ground-Mounted	No[13]	No	No[13]	SPR[12]	No
ACCESSORY USES					
Accessory dwelling (See Section 4120)	BA	BA	BA	No	No
Home occupation, subject to Section 4100	Yes	Yes	Yes	Yes	No
Roadside stand for sale of produce largely raised on the premises	Yes	Yes	Yes	Yes	No
Up to three guest houses[3]	Yes	Yes	Yes	Yes	No
Signs, subject to Section 3200	Yes	Yes	Yes	Yes	No
Fishing-related activities	SP*	Yes	Yes	Yes	No
Residential Wind Energy System (RWES) per Section 3460	SPR/SP	SPR/SP	SPR/SP	No	No
Other customary accessory uses	Yes	Yes	Yes	Yes	No

FOOTNOTES TO SECTION 2220 Use Regulation Schedule.

1. Provided that all Building Code, Health, and Zoning Bylaw requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.

2. Except PB in an Open Space Community (see Sections 4610 and 4642).

3. Special lot area rules apply: see Section 2500 and its footnotes.

4. If serving exclusively the subdivision or apartment complex in which it is located. Occupancy permits for such use shall be issued only for six-month periods, renewable only while development is being completed.

5. Except "NO" in R-80.

6. In Sensitive Use District only.

7. In so much of the B-4 district as lies between Clay Pond Road and Barlow's Landing Road no commercial recreation is allowed except for indoor exercise and health accommodations. (No coin or token operated amusement devices shall be permitted as a principal use.)

8. Trip ends (a trip beginning or ending) to be estimated based upon the most recent edition of the Institute of Transportation Engineers Trip Generation Manual.

9. Except "Yes" in B-1.

10. Except "PB" in the Bournedale Overlay District, to be permitted only under provisions of Section 2700 Flexible Resource Development.

11. Development subject to Section 4250 - Village Mixed Use developments

12. Site Plan Review (SPR) shall adhere to the same requirements of Section 1230 excluding special permit criteria.

13. Except "Yes" in the Solar Photovoltaic Overlay District, as permitted under the provisions of Section 3470.

2230. Scenic Development District

2231. Any use permitted in an R-40 District is permitted in a Scenic Development District.

2232. In addition, the Planning Board acting under Section 2233 may grant a Special Permit for an exception to allow hotels, motels, or professional offices and if operated accessory to and in the same structure as one of the above, restaurants, gift shops, or other retailing oriented to tourist trade.

2233. Special Permits for uses allowed under Section 2232 shall be granted only for development conforming with the following:

a) Lot area shall equal at least five acres for all uses requiring a Special Permit, and if more demanding, lot area shall be not less than 40,000 square feet per "activity unit", where one dwelling unit, one guest unit, or 150 square feet gross floor area in any other commercial use equals one activity unit.

b) Lot coverage by building and other impervious surfaces shall be not more than 20%.

c) Front yard not less than 200 feet, and contain no parking area within 100 feet of the street line.

d) The required side and rear yards shall be 50 feet to contain no parking or signs.

e) Lot frontage for all uses requiring Special Permits shall be not less than 400 feet.

f) Building height not in excess of 35 feet.

g) No outdoor storage, waste receptacles, or outdoor display of goods shall be visible from a public way.

h) No buildings shall be floodlit, and parking areas shall be illuminated only by shielded lights not higher than 15 feet.

i) All other requirements of the Bylaw (signs, parking, etc.) must be observed.

2240. Accessory Scientific Uses. The Board of Appeals may grant a Special Permit for a use accessory to a scientific research, scientific development, or related production activity, whether or not on the parcel as such activity.

A Special Permit shall be granted where the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

2300. NON-CONFORMING USES

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

2310. Abandonment. A nonconforming use or structure which has been abandoned or not used for a period of two years or more shall not be reestablished and any future use shall conform with this Bylaw.

2320. Extension or Alteration. Preexisting nonconforming structures or uses may be extended or altered only as follows.

a) No such extension or alteration shall be permitted unless a supportive finding is made:

- in cases where the use requires a special permit, by the Special Permit Granting Authority (SPGA) designated to act on special permits for that category of use, or

- where no such special permit is required, by the Zoning Board of Appeals.

b) The required finding is that the requested extension or alteration will not be substantially more detrimental to the neighborhood than is the existing nonconforming use, and requires a simple majority of those voting. Prior to action on such requested finding, notice of the meeting where the action will be taken shall be provided in the same manner as for a special permit hearing.

2330. Previously Issued Permits. Construction or operations under a building or Special Permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

2340. Use Change. Premises may be changed from one nonconforming use to a different nonconforming use as listed in Section 2220 only on Special Permit from the Board of Appeals. Such permit shall be granted only for uses whose externally observable attributes are no more damaging to or inharmonious with the environs than those of the use being replaced, where traffic generated by the proposed use will not excessively exceed that normally expected in the neighborhood, where no nuisance or hazard will be created, and where the proposed use is no more objectionable to the neighborhood, but not otherwise.

2350. Mobile Home. A mobile home located not in conformance with requirements of this Bylaw may not be replaced on the same site with a different mobile home.

2400. DIMENSIONAL REGULATIONS

2410. Applicability. The erection, extension, alteration, or moving of a structure or the creation or change in the size or shape of a lot (except through a public taking) must meet the requirements set forth in Section 2500, Intensity of Use Schedule, unless otherwise expressly provided by this Bylaw or by Section 6 of Ch.40A, G.L.

2420. Contiguous Lots. Existing non-conforming lots must meet the requirements of 40A, General Laws, Section 6 Massachusetts General Laws.

2440. Two or More Principal Buildings. Not more than one single-family dwelling (other than a guest house) shall be erected on a lot except in an Open Space Community. Two or more other principal buildings may be erected on a lot only if lot area requirements can be met for each such building without counting any land area twice. In addition, each such building must be served by access, drainage, and utilities determined by the Inspector of Buildings to be functionally equivalent to those required for separate lots by the Planning Board under its Subdivision Regulations.

2450. Nonconforming Lots.

2451. Applicability. July 1, 2006 shall be the effective date of this section subject to a favorable two-thirds vote of Town Meeting and subject to approval by the Attorney General.

a) Permits pending before the following Town entities; Board of Health, Conservation Commission, Board of Selectmen, Sewer Commissioners, Zoning Board of Appeals and/or Inspector of Buildings, on or before the effective date of this section shall be exempt from these requirements.

2452. Exemptions. Increases in area, frontage, width, yard or depth requirements of this Bylaw shall not apply to a lot, either vacant or with an existing dwelling for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements, and had less than the proposed requirement but at least 5000 square feet of area and 50 feet of frontage.

2453. Maximum Gross Floor Area. The aggregate floor area of all structures newly built or expanded on a residential non-conforming lot shall not exceed the percentage of lot area shown in Table 2456.

2454. Maximum lot coverage. Total building footprint area of all structures, including decks and other structures, whether roofed or not, located on a non-conforming lot shall not exceed the percentage of lot area shown in Table 2456.

2455. Maximum building height. No structure shall be built or modified to exceed building height shown in Table 2456.

2456. Table

Nonconforming Lot Size (square feet)	Maximum Gross Floor Area To Lot Area	Maximum Lot Coverage	Maximum Building Height
Less than 6,000	25%	25%	25 feet
6,000 to 7,000	25%	25%	26 feet
7,001 to 8,000	24%	25%	27 feet
8,001 to 9,000	24%	25%	28 feet
9,001 to 10,000	23%	25%	29 feet
10,001 to 11,000	23%	25%	30 feet
11,001 to 12,000	22%	24%	31 feet
12,001 to 13,000	22%	23%	32 feet
13,001 to 14,000	21%	22%	33 feet
14,001 to 15,000	21%	21%	34 feet
15,001 or more	20%	20%	35 feet

2457. Departure. The Board of Appeals may for "good cause" grant a Special Permit for departure from the requirements of Table 2456 but only in the case of Maximum Gross Floor Area and Maximum Lot Coverage in either case provided that all the following are shown:

Good and sufficient cause; Failure to grant the departure would result in exceptional hardship to the applicant; or conflict with existing laws.

The departure must be the minimum necessary to afford relief and not exceed an increase greater than **ten** percent **(10%) of the calculated area**.

Example: Lot Size 10,000 s.f. x 23% = 2300 s.f. (GFA allowed).
Maximum relief allowed upon evidence of exceptional hardship, 2300 s.f. x 10% = 230 s.f.
Total GFA = 2530 s.f.

2460. Lot Bounds. Each corner of any lot created on a plan endorsed by the Planning Board subsequent to May 1, 1979 shall, prior to foundation construction, be marked by a granite or concrete bound not less than 30" long and not less than 5" in least dimension, said bounds to be set by a registered land surveyor.

2470. Water Resource District. Single and two-family dwellings located within a Water Resource District shall be governed by the Lot Area Requirements of the R-40 District if more restrictive than otherwise applicable requirements.

2480. Lot Shape. No lot shall be created so as to be so irregularly shaped or extended that the square of the lot perimeter exceeds thirty (30) times the gross lot area for any lot in excess of 80,000 square feet, or twenty-two (22) times the gross lot area for any other lot.

A lot may exceed the shape factor of 22 or 30 only if the portion intended for building is designated on the plan and said portion is connected to the frontage and meets the shape and zoning requirements of the area in which it is located.

2490. Back Lot Division. A parcel with no other contiguous land in common ownership may be divided into two or three lots, one of which has less than the normally required frontage, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a Special Permit granted by the Planning Board. Such divisions shall be authorized if meeting each of the following, but not otherwise.

2491. The lot having reduced frontage must have frontage of at least 35 feet. The 35 foot width must continue for the entire length of the access strip.

2492. The lot having reduced frontage must contain at least twice as much lot area as otherwise required, without counting any portion of its access strip (the portion of the lot between the street and the point where lot width equals 100 feet or more).

2493. The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.

a. The lot shall have a uniform yard setback requirement of 25 feet from all property lines.

b. Within the setback, vegetation shall be retained and supplemented as necessary to obscure visibility.

2494. All other requirements specified in Section 2400 Dimensional Regulations must be met, except that calculations for the requirements of Section 2480 Lot Shape shall exclude the access strip.

2495. No lot having less frontage than normally required shall be approved by the Planning Board if its access strip abuts another such lot which is or was in the same ownership either at the time of application or at any time within the preceding five years.

2496. Egress from the created lots must involve no greater hazard owing to grade and Zoning Bylaw visibility limitations than would be normal for a standard lot in the same vicinity.

a. A vehicle turnaround must be provided to the satisfaction of the Fire Department.

b. The access drive must be setback a minimum 10 feet from the lot lines.

2497. Reduction of privacy and damage to the natural environment must be no greater than would be expected fro standard land division at that location. Stormwater must be designed so that post-development runoff is contained on site and does not exceed pre-development runoff.

2498. The proposal must be determined by the Planning Board to not circumvent the intent of the Subdivision Control Law.

Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board 'Lot _____ approved for reduced lot frontage'.

2500. Intensity of Use Schedule

D I S T R I C T	R-80[k,m]	GD[n] SDD[g,n]	R-40[m]	B-1[a,m,p,r] V-B[a,m]	B-2[j,n,p]	B-3[n]	B-4[n]
Minimum lot area of first dwelling unit (s.f.)[e.f]	80,000	40,000	40,000	20,000	20,000	20,000	40,000
Minimum lot frontage (ft.)[o]	150	150	125	125	125	125	150
Minimum front yard (ft.)[c]	40	40	30	0[l]	30[i]	30	30[i]
Min. rear & side yard (ft.)	25	25	15	12[d]	12[h]	12	30
Maximum lot coverage (%)[s]	10	10	20	100	50	50	25
Max. building height (ft.)[q s]	40	40	35	35	35	35	40
Min. usable open space (% of lot area)	40	40	20	-----	20	20	40

a. Requirements of the B-3 District shall apply to permitted dwellings.

b. (Not Used)

c. Required front yard shall not exceed the average setback on adjacent lots within 50 feet of the subject lot. Corner or through lots shall maintain front yard requirements for both frontages.

d. Side and rear yards not required for nonresidential structures with walls of fire resistive construction as defined by the current building law, except where such structures would adjoin a Residence District or a use normally permitted in a Residence District.

e. Water Resource Districts in compliance with Section 2470.

f. Increase by 100% for two-family dwelling and for each guest house, but not for an accessory dwelling authorized under Section 4120. Guest houses not to be within 30 feet of any principal structure. For hotel, motel, or similar establishments, lot area must be increased by 3,000 square feet per guest unit for each guest unit after the first.

g. For uses permitted under Section 2232 (Scenic Development District) intensity requirements of Section 2233 substitute for these.

h. Increase to 25 feet where abutting a residential use or district.

i. Increase to 50 feet for front yards adjoining MacArthur Boulevard. Section 3540 notwithstanding, no parking, loading, or storage areas shall be located within a required front yard. Within a required front yard, no trees of over 6" diameter shall be removed except as necessary for egresses, safe visibility, or removal of dead or diseased trees.

j. Requirements of the R-40 District shall apply to permitted dwellings.

k. Area required for guest house in R-80 District shall be computed as if in R-40 District. Guest houses not to be within 30 feet of any principal structure.

l. Maximum front yard shall be twenty-five (25) feet. However, no maximum setback is required for development where a building exists and is to be retained on the lot. Greater front yard depth may be authorized on special permit by the Planning Board upon its determination that lot shape and site design make greater depth to be of net benefit to the community.

m. No antenna or tower, other than those exclusively used by amateur radio operators, shall exceed a height of 40 feet above ground level at the base of the antenna or tower or the average finished grade on the street side of the building to which it is attached.

n. No antenna or tower, other than those exclusively used by amateur radio operators, shall exceed a height of 40 feet above ground level at the base of the antenna or tower or the average finished grade on the street side of the building to which it is attached, unless authorized by special permit granted by the Planning Board, upon the Board's determination that the antenna or tower is of the minimum height necessary for its purpose; is set back at least the height of the tower or antenna from any property line or is otherwise determined by the Planning Board to pose no hazard on abutting premises in the event of structural failure; and has been located, landscaped, and fenced or otherwise secured so as to minimize hazard and visual intrusion. Such permit shall require removal within one year of disuse.

o. For lots in the Traffic Management District, greater frontage may be necessitated.

p. Application of this table to Village Mixed Use Developments authorized under Section 4250 shall be as provided at Section 4250 c).

q. Increase allowable height by five feet for roof elements having a slope of 4" or more per foot.
(Note: The roof element with the 4” or greater slope must comprise at least 50% of the roof area for the increased height bonus)

r. Except building height in B-1 zoning district increase of allowable height by Special Permit by the Planning Board.

s. Nonconforming lots must meet the standards of Section 2450.

2600. DEVELOPMENT SCHEDULING

2610. Purpose and Intent. The purpose and intent of this Section is to insure a constant and harmonious pace of residential development in the Town of Bourne so that said rate of development shall not exceed the ability of the Town to provide adequate schools, roads, public safety protection and the capital outlays necessary to safeguard the health, welfare and safety of current and future residents of the Town of Bourne.

2620. Definitions.

Applicant - Individuals, corporations, partnerships, trusts and any other legal entity or form of doing business in which the applicant of record holds a legal or beneficial interest of ownership of greater than one (1) percent.

Calendar Year - The period beginning January 1 and ending December 31.

2640. Rate of Residential Development.

The Inspector of Buildings shall issue no more than 120 building permits for the construction of new residential dwelling units in a single year, together with any additional exemptions as hereinafter provided.

2650. Exemptions.

The limitation on the number of building permits that may be issued in any calendar year under Sec. 2640 herein, shall not be applicable to the following circumstances which are hereby expressly exempted therefrom:

a) Non-conforming separate lots protected under the terms of M.G.L. C. 40A, Sec. 6, 4th paragraph.

b) Lots shown on an approved subdivision plan, which was approved prior to the effective date of this bylaw, for a period of up to eight (8) years from the date of the endorsement of such original approval, as provided under the terms of M.G.L. C. 40A, Sec. 6, 5th paragraph.

c) The construction of a new dwelling unit which is a replacement for a dwelling unit which had been previously located upon the same lot.

d) A single family dwelling on a lot held in separate ownership and by the same owner for at least two (2) years, to be owned and occupied by the owner of said lot.

e) Bourne Affordable Housing Units, as defined in section V, accessory dwellings pursuant to a Special Permit issued under section 4120, Dwelling units to be built under any Commonwealth or governmental program or statute, including the Bourne Housing Authority, categorizing said unit(s) as low or moderate income housing, or otherwise defined or described as an Affordable housing unit, provided that such housing units have deed restrictions to ensure that they must remain affordable for no less than the maximum time period specified by the program or statute, and in the absence of any such stated time period, the deed restriction shall be permanent.

f) Dwelling units to be built under a legally enforceable occupancy restriction that limits occupants to only those who are aged fifty-five (55) years or older.

g) Dwellings authorized by a Special Permit granted by the Planning Board in accordance with Sec. 1330 of this Bylaw on condition that the Applicant has submitted documentation demonstrating to the satisfaction of the Planning Board that in light of this location, occupancy, or design, the units will have an unusually low impact on Town services and will not overburden any of them, or will provide net substantial benefit to the community as set forth in Sec. 2610 herein.

h) Dwelling units exempt form zoning bylaw changes by the Massachusetts General Laws expressly including Chapter 40A, Section 6.

2660. Issuance of Building Permits

a) Applications for building permits shall be dated and time-stamped upon receipt by the Inspector of Buildings. Building permits shall be issued on a first-in-time basis in twelve (12) even monthly amounts, with any unissued permits to be carried forward for issuance in the subsequent month until the authorized number of permits have been issued. No unissued building permits shall be carried forward from one calendar year to the next.

b) No Applicant shall submit a Building Permit Application within ten (10) days from the date of their last previous Building Permit Application submission, and no Applicant shall receive more than three (3) Building Permits in any given month.

c) It is the express intention of this provision that no Applicant shall employ any scheme or devise in order to obtain more building permits than said Applicant is lawfully entitled to under the terms of this Bylaw.

2670. Appeals. Any Applicant that is aggrieved by any decision of the Inspector of Buildings concerning the administration of this Bylaw, shall have a right of appeal to the Zoning Board of Appeals under the procedures as set forth in Sec. 1320 of this Bylaw. Any such appeal shall be filed in writing within thirty (30) days of the occurrence of the events being complained of by said aggrieved Applicant. The Board of Appeals, after due notice and public hearing shall have the authority to take appropriate action, if any, to insure that the procedures as set forth in Sec. 2660 herein have been adhered to.

2680. Effective Date.
This new and substituted bylaw, Section 2600, shall be effective Monday, July 1, 2002. Any Special Permit Application for the construction of residential dwellings or requests for the subdivision of land pursuant to the Subdivision Control Act M.G.L. C. 41, Sec. 81K-81GG filed with and date stamped by the Town Clerk on and after said July 1, 2002 shall be governed under the provisions of Sec. 2640 herein. For the period July 1, 2002 to December 31, 2002, the number of building permits allowed under Sec. 2640 shall be half the number as therein stated for a full calendar year.

2690. Annual Report.
The Inspector of Buildings shall annually, as soon as practicable, provide the Town Administrator and Board of Selectmen, Planning Board, and the Town Clerk, a report of the number of residential building permits he has issued the previous calendar year, broken down by the category they were issued under, Sec. 2640 or as an exemption under Sec. 2650 (a) through (g).

Said annual report shall be a public document and shall be available at the Selectmen's Office for Town Boards and committees and interested members of the public to obtain a copy thereof.

2700. FLEXIBLE RESOURCE DEVELOPMENT.

2710. Applicability. The following provisions are applicable only within the Bournedale Overlay District. Within that district, the Planning Board may grant a special permit for the following, subject to the regulations and conditions herein.

2711. Technology Campus. Technology Campus use may be permitted only on premises comprising not less than 50 contiguous acres having direct access from a limited access State highway unless it can be demonstrated that access to a limited access state highway is not feasible. (See section 2752a)

2712. Major Residential Development. Major Residential Development may be permitted regardless of site size or location within the District, whether or not opting to take advantage of the flexibility provisions of Section 2700, but complying with its standards and decision criteria.

2720. Purpose and Intent

a) To allow for greater flexibility and creativity in the design of development.

b) To encourage the permanent preservation of natural and cultural resources, including open space, agricultural and forestry land, waterbodies and wetlands, other natural resources, and historical and archeological resources.

c) To reflect Bourne's traditional character and land use pattern in which small villages contrast with open land.

d) To protect scenic vistas from Bournedale's roadways and other places.

e) To facilitate the economical and efficient construction and maintenance of streets, utilities and public services.

f) To protect existing and potential municipal water supplies, and the capacity and safety of the street network.

g) To encourage a non-sprawling and efficient form of development that conforms to existing topography and natural and cultural features.

h) To minimize the total amount of disturbance on the site.

i) To preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.

j) To encourage economic development through job-producing activities complementary to traditional and seasonally fluctuating sources of employment, making use of large-scale master planned campus areas consistent with a rural setting, providing for activities whose scale or type would be inappropriate to a village center location.

k) To further the goals and policies of the Bourne Master Plan.

2730. Procedural Requirements

2731. Pre-Application Meeting. A pre-application meeting between the Planning Board

and the applicant is strongly recommended.

2732. Sketch Concept Plan. Applicants considering Flexible Resource Development are strongly encouraged to submit a Sketch Concept Plan along with a Preliminary Subdivision Plan for review by the Planning Board. One of the purposes of this review is to determine the number of lots possible in the Flexible Resource Development. For this reason, it is strongly recommended that a copy of the existing conditions plan required in Section 2733 b) below be submitted at this stage.

2733. Submittals. Submittals for Flexible Resource Development shall include the following:

a) A Flexible Resource Development Plan showing the location and boundaries of the site, proposed land and building uses, lot lines, location of open space, proposed grading, location and width of streets and ways, parking, landscaping, existing vegetation to be retained, water supply or approximate location of wells, drainage, proposed easements and methods of sewage disposal. This plan shall be prepared by a team that includes a Registered Civil Engineer, Registered Land Surveyor and a Registered Landscape Architect or Architect.

b) An accompanying Existing Conditions Plan shall depict existing topography, wetlands, waterbodies and the 100 year floodplain, all existing rights of way, easements, and existing structures, the location of significant features such as woodlands, tree lines, open fields or meadows, scenic views, watershed divides and drainage ways, fences and stone walls, roads, driveways, cart paths, and resources of historic or archeological importance.

c) If germane, a subdivision plan for consideration under the Subdivision Control Law, either preliminary or definitive, at the applicant's choice.

d) A Site Analysis showing locations of soil test pits and percolation tests, with supporting documentation on test results.

e) A statement indicating the proposed principal uses to be allowed, and their extent; and a statement of the proposed use and ownership of any open space proposed under Section 2751.

f) A natural and wildlife resources inventory prepared consistent with guidelines approved or amended and approved by vote of the Conservation Commission, and filed with the Town Clerk.

g) An historical and archeological resources inventory prepared consistent with Guidelines approved or amended and approved by vote of the Historical Commission, and filed with the Town Clerk.

2734. Review and Decision. Upon receipt of the application and the required plans, the Planning Board shall transmit one copy each to the Board of Health, Conservation Commission and, in the case of a Technology Campus, to the Economic Task Force. Within 45 days of their receipt of the application/plans, those agencies shall submit any recommendations to the Planning Board.

2735. Special Permit Decision.

a) **Findings**. The Planning Board shall approve the development upon finding that it complies with the purposes and standards of Section 2700 and sensitively respects the protection of natural resources, historic and archeological resources, and scenic resources of the site. The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

b) **Conditions**. The Planning Board shall impose conditions in its decision as necessary to ensure compliance with the purposes of this Bylaw. Approval of a Flexible Resource Development shall be conditioned to provide that no further division of land which increases the potential number of dwelling units or results in an alteration to the area to be set aside as open space may occur without an amendment to the special permit. Any alteration of lot lines or layout of ways shall require approval by the Planning Board and shall be in compliance with the requirements of these Flexible Resource Development provisions and the Subdivision Rules and Regulations.

2740. Standards and Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Section 2500 Intensity of Use Schedule, the requirements of this section shall prevail.

2741. Density Limits. The following density limits shall be observed. If the parcel lies in more than one zoning district or the development involves more than one use, the total for each district or use shall be determined separately and summed. A Flexible Resource Development application may include non-contiguous parcels, whether in the same ownership or not, and if found by the Planning Board to serve the purposes of these provisions, permitted density may be transferred between those parcels.

a) The number of dwelling units under Flexible Resource Development shall not exceed that which would be permitted under a conventional subdivision plan that complies with the Bourne Zoning Bylaw and any other applicable laws and regulations of the Town or State without bonuses or substantial waivers or variances, as determined by the Planning Board, which shall consider any submitted analytic or graphical materials in making that determination.

b) The maximum number of hotel or motel guest units in the Scenic Development District shall be as provided at Section 4333.

c) The maximum floor area permitted in a Technology Campus shall be as constrained by applicable dimensional, buffering, and parking requirements.

2742. Minimum Lot Size. The minimum lot size shall be 30,000 square feet.

2743. Minimum Frontage. The minimum frontage for lots fronting on proposed internal roadways shall be 100 feet. The sharing of driveways to reduce curb cuts is encouraged.

2744. Setbacks.

a) For Major Residential Development the Planning Board may reduce the side and rear yard setbacks required at Section 2500 Intensity of Use Schedule (but not the setbacks required at Section 4331) by up to 50% if the Board finds that such reduction will result in better design, improved protection of natural, cultural or scenic resources, and will otherwise comply with this Bylaw.

b) For Technology Campus use, all buildings and parking areas shall be set back not less than two hundred (200) feet from the perimeter of the Campus. The Planning Board may grant a special permit authorizing a reduction of the perimeter setback (except where the perimeter abuts a residential use or is conflict with section 4330). The Board must find that the reduction will result in better design, improved protection of natural, cultural or scenic resources, and greater economic benefit to the Town, and will otherwise comply with this Bylaw.

2750. Other Requirements

2751. Open Space

a) All land area not utilized for lots, roads, and drainage shall be set aside as open space.

b) Applicants are encouraged to include within the open space any of the natural or cultural resources cited at Section 4331a) and b) that occur within the site.

c) Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking.

d) Subject to the approval of the Board of Health, the Planning Board may permit a portion of the open space to be used for sewage disposal leaching systems serving the development, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or waterbodies, and enhances the site plan.

e) Open space ownership shall be consistent with Section 4645.

2752. Technology Campus Provisions.

a). **Access.** Access to a Technology Campus shall be provided directly from a limited access State highway unless it can be demonstrated that access to a limited access state highway is not feasible. It shall be the Planning Board's sole discretion to determine if access is not feasible.

The applicant shall provide sufficient information to the Planning Board before the determination is made.

If the Board approves an alternative access the applicant must submit access and roads designs consistent with the standards of the Bourne Subdivision regulations specifically section 223 Standards of Access Adequacy.

The Planning Board may require further engineering or analyses to be prepared at the expense of the applicant, employing professionals approved by the Board.

b) **Signs.** Signs oriented to existing streets outside of the Technology Campus shall comply with the requirements of the district in which the campus is located. Signs oriented internally shall comply with the less restrictive of the requirements of the district in which the premises are located or sign area limitations of 50 percent of that which is allowed signs in business districts.

c) **Open Space**. Not less than 30% of the upland area of a Technology Campus shall be preserved as open space.

2760. Permitted Uses.

2761. Technology Campus Uses. The following uses are permitted within a Technology Campus development that has been approved on special permit under Section 2735, whether or not otherwise permitted under Section 2220 Use Regulation Schedule.

a) Educational and research uses by a non-profit educational institution.

b) Research, development, and manufacturing in fields specified in the special permit for Technology Campus development, such as biotechnology, medical, pharmaceutical, physical, biological and behavioral sciences and technology; marine and environmental science, and electronics and information technology, including the production of equipment, apparatus, machines and other devices for research, development, manufacturing and advance and practical application in any such field or area, and including offices, administrative and support facilities related to any of the foregoing activities.

c) Uses accessory to the above.

2762. Major Residential Development Uses. Uses allowed in a Major Residential Development are simply those allowed in the underlying district.

2800. DOWNTOWN DISTRICT (DTD)

2810. General Provisions and Description.

2811. Purpose and Intent. The intent of the Downtown Zoning 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 space.

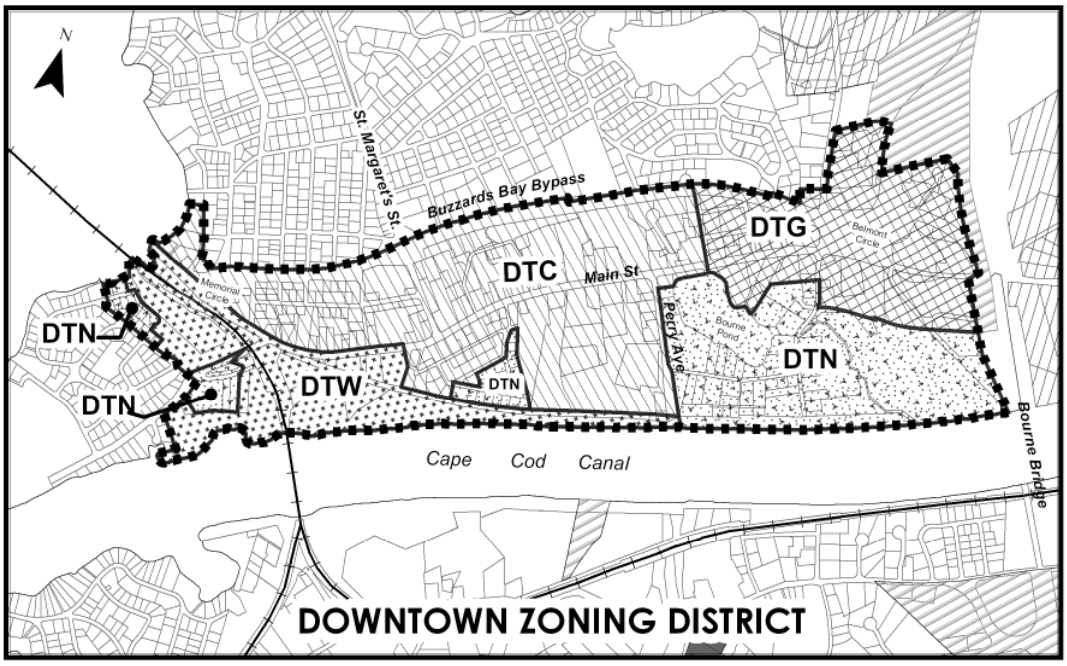
j) To create a downtown that serves residents, students and visitors alike.

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

according to 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) includes certain areas around Belmont Circle. This district is identical to Downtown Core (DTC) above 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
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 application 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 has been 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.

e) The Planning Board shall refer all developments applications in the DTD to the Design Review Committee for review of the proposal in accordance with §2815. The findings of the Design Review Committee shall be available to the Planning Board at the scheduled public hearing on the application for site plan review.

2815. DESIGN REVIEW COMMITTEE (DRC)

a. A Design Review Committee is hereby established to review development and sign applications in the Downtown District. The Design Review Committee shall make recommendations to the Planning Board, Zoning Board of Appeals, and Board of Selectmen on matters of architectural and design concerns in the review of applications for special permits/ and site plan review within the Downtown District. Architectural and design concerns shall include but not be limited to site design, building size and placement, design compatibility, exterior appearance, construction materials, finishes, landscaping, sign design and placement. The Design Review Committee shall also hear and issue a decision on all sign applications and forward their decision to the Inspector of Buildings.

b. Committee Composition:
   i. The DRC membership shall consist of five members and one alternate, preference shall be given so that the membership of the committee will include an architect, a landscape or civil engineer, a Downtown District property or business owner, a member of the Main Street Steering Committee, and a citizen at large.
   ii. The Planning Board shall appoint all members of the Design Review Committee for a term of three years, except that when the Committee is established, two appointments shall be for a two year term and the remaining appointments shall be for a one year term.

c. Applicability:
   i. The DRC shall be an advisory to the Planning Board, Zoning Board of Appeals, and Board of Selectmen for the purposes of site development.
   ii. The DRC shall hear and issue a decision on all sign applications, before a sign permit is issued by the Inspector of Buildings. The application must be accompanied by a decision approved by the DRC.

d. Procedure:

i. Development applications in the Downtown District shall be submitted to the Design Review Committee simultaneously with any application submitted to the Planning Board, Zoning Board of Appeals, or Board of Selectmen. Within 20 days of the receipt of the application the DRC shall hold a public meeting. The DRC shall transmit its recommendations in writing to the Applicant and the appropriate reviewing Board within 40 days of the receipt of the application.

Failure by the Design Review Committee to transmit its decision within the 40 day period allocated shall be considered a recommendation of approval of the application submitted, unless the applicant has granted an extension in a public meeting or in writing.

ii. Upon receipt of an application for a sign permit, the Inspector of Buildings shall immediately forward a copy thereof to the DRC. Within fourteen (14) days the DRC shall hold a public meeting. Within seven (7) days of the public meeting, the DRC shall notify the Inspector of Buildings, in writing, of its determination. Upon receipt of such notice, or upon the expiration of seven (7) days from the date of the public meeting, without having received any notification from the DRC, the Inspector of Buildings may, subject to the requirements of the DTD sign regulations, issue the sign permit.

e. Design Standards and Guidelines:

The Architectural Design Standards and Guidelines are hereby incorporated into this Bylaw as Appendix 1. These standards and guidelines are intended to guide the applicant and the DRC in the development of site and building design. The purpose and intent of the Design Guidelines are to conserve the value of the land and buildings and for the prevention of slum and blight. The Design Guidelines are not to be regarded as inflexible requirements and they are not intended to discourage creativity, invention or innovation. Strict compliance with the Design guidelines is not required unless so noted as a "Standard".

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: I) 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.
		Changes in plane and height, and the inclusion of elements such as balconies, porches, arcades, dormers, and cross gables shall be integrated into the design to enhance aesthetic qualities. Variations in wall and rooflines shall be used to reduce the massing of buildings. Roof features shall be in scale with the building's mass and complement the character of adjoining and/or adjacent buildings and neighborhoods.
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: I) 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.
		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.
		No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms).
Converted Dwelling	SP	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.
		A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot.
		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.
		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.
		The proposed conversion shall be suitably located in the district in which it is proposed, as deemed appropriate by the SPGA.
		No detached structure shall be converted under these provisions unless it has an exterior footprint of at least 500 square feet.
		A landscape plan appropriate for the project shall be included in the application.

Mixed Use Developments - Building containing dwelling units in combination with stores or other permitted business or commercial uses.	P (GFL)	New construction must include at least 33% residential uses of total square footage and a minimum of two (2)-story building.
		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.
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	Minimum lot size of 1,500 square feet per unit.
		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.
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	The Bed and Breakfast shall not use more than 2/3 of the gross habitable floor area of the primary building.
		The owner or manager of the lodging or boarding house shall reside on the premises.
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	
Kindergarten, day nursery or other agency for the day care of children.	P	
For-profit trade, professional, or other educational institution.	SP	See Section 2827
Place of Worship and associated on site uses	P	
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	
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.

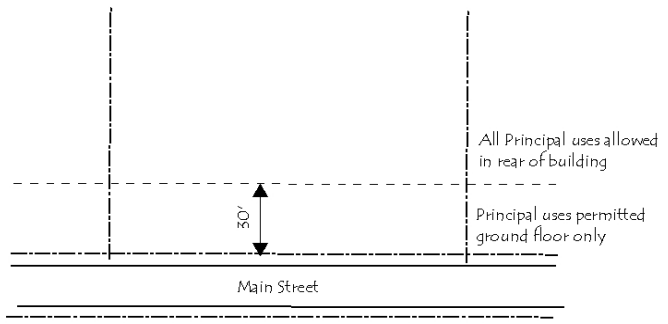
EXTENSIVE USES		
Farmstand or Farmers Market - Open market, salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce).	P	During June, July, August and September, at least 25% of the products sold shall be produced by 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.

Figure DTD-1: Ground Floor Limitations of Specific Uses



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 ranges)		
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
Market 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), buildings 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 Definitions

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.

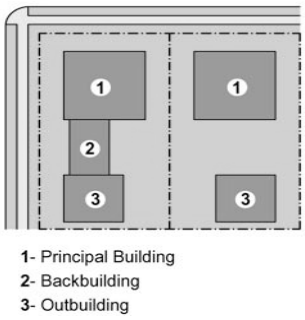
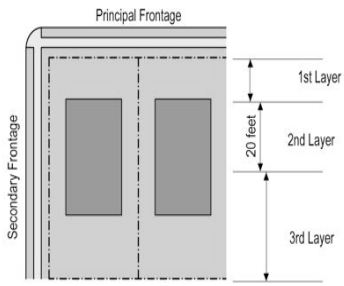
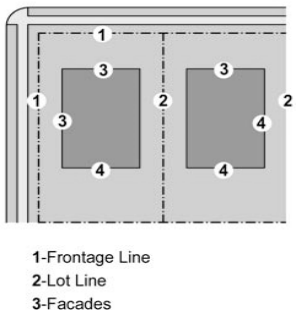
Building Coverage: The purpose of the building coverage standards is to promote development consistent with the desired character of DTD. The maximum building coverage allowed is stated in Table DTD-2.

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.

Figure DTD-2: General Building and Lot Layout Standards

Building Disposition	Lot Layers	Frontage & Lot Lines
		

Illustrations based on the SmartCode created by Duany Plater Zybeck & Company

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 having 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 minimum 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.

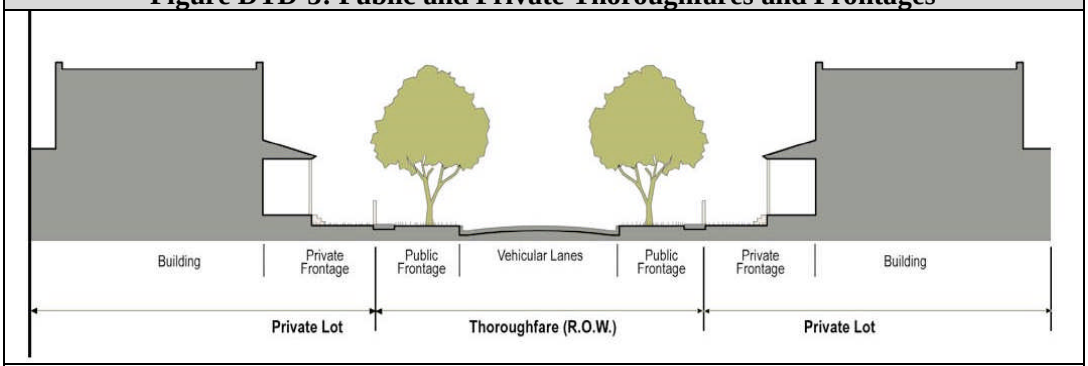
Lot Coverage, Maximum: A measure of the portion of a site that is impervious (i.e. does not absorb water) including but not limited to all areas covered by buildings, structures, parking surfaces and structures, driveways, roads, sidewalks and any area of concrete asphalt, except as otherwise defined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

Figure DTD-3: Public and Private Thoroughfares and Frontages



Based on the SmartCode created by Duany Plater Zybeck & Company

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 a lot line 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

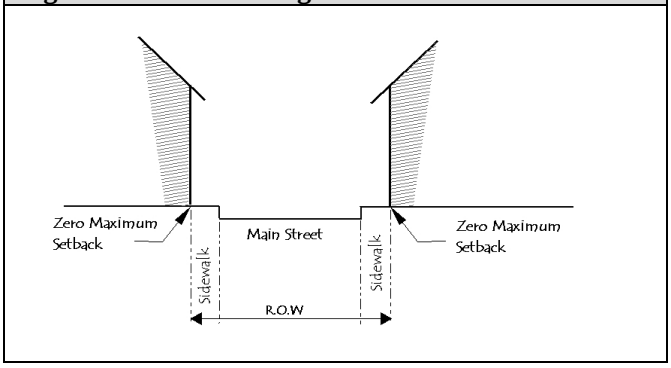
The maximum floor area ratio for any development within the DTD shall be as specified in Table DTD-2. An additional bonus floor area ratio of 50% may be granted by special permit for a mixed use development that has at least 50% of its parking spaces located in an enclosed structure.

2835. Applicability of Setbacks

a) **General Requirements:** The use of setbacks for front and side yards as prescribed in Table DTD-2 will only be permitted 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 maximum 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).

Figure DTD-4: Building Setbacks From Main Street



c) **Existing Building Front 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.

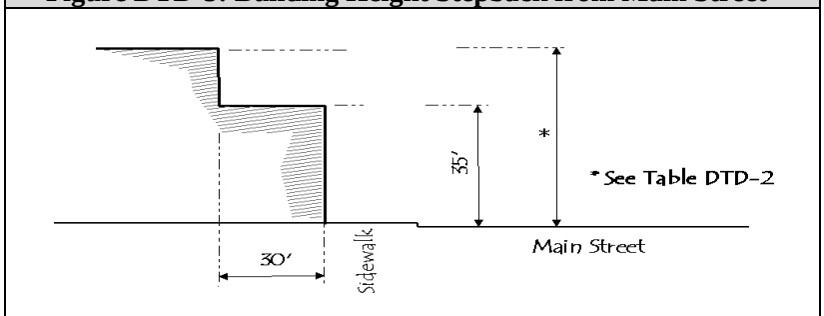
2836. Building Height and Bulk

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).

Figure DTD-5: Building Height Stepback from Main Street



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).

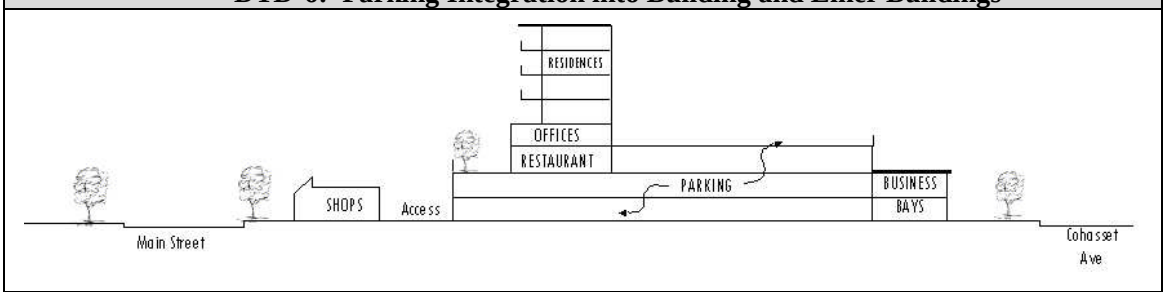
2837. Building Height and Bulk Bonuses for Public Parking

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.** The 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 linear building.

DTD-6: Parking Integration into Building and Liner Buildings



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 shall be 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 provide 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 in 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.

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) 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.

2) 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.

3) Affordable Housing:
    a. Residential developments whether new construction, alteration or expansion that results in a net increase of 10 (ten) or more dwelling 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 Department of Housing and Community Development standards for affordable housing.

    b. As an alternative to providing affordable units on site, an applicant may develop, construct or otherwise provide affordable units equivalent to those required off-site.

    c. The location of the off-site units shall be approved by the Planning Board after consultation with the Bourne Affordable Housing Partnership.

    d. Where feasible, the affordable units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule set forth in the Permit.

    e. Fees-in-Lieu-of and Affordable Housing Unit Provision:

        1) As an alternative to providing an affordable housing unit on site or off-site, an applicant may contribute funds to the "Bourne Affordable Housing Trust Fund" (Housing Trust) to be used for the development of affordable housing in lieu of constructing and offering affordable units within the proposed development or at an off-site locus.
        2) For the purposes of this bylaw the calculation of the fee-in-lieu of the construction of affordable units will be determined as a per-unit cost as calculated from regional construction and sales reports. The Planning Board will make the final determination of acceptable value, after consultation with the Bourne Affordable Housing Partnership.
        3) Payment of the Fee-in-lieu-of-units shall be made according to the schedule set forth in the conditions of the Permit.
        4) Payment made to the Bourne Affordable Housing Trust Fund in accordance with Bylaw shall be used only for purposes of providing affordable housing for low or moderate income households, as defined by the Bylaw.

5) The Housing Trust may use these funds through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments.

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.

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 *(restaurants shall be figured separately)*
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:

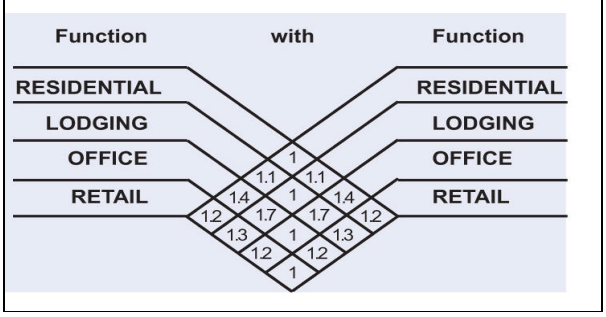
1) Fifty percent (50%) of the spaces required under Section 3300 for all uses other than residential dwelling units.
2) Parking space requirements for residential dwelling units shall be one parking space for one-bedroom units and two parking spaces for units with two or more bedrooms.

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



b) Off-Site Parking Credit - Parking requirements may be reduced by up to fifty percent (50%) with a Special Permit by the Planning Board if an off-street public parking lot of 20 spaces or more exists within 300 feet of the principal land use, and the public parking lot has ample spaces available to serve the immediate area as determined by a survey of peak hour occupancy and usage. If this rule cannot be met, the applicant can secure private off-site parking within 500 feet of the site by ownership or lease with another landowner with the following conditions:
   1) The off-site parking will be shared by more than one landowner; and
   2) The greater distance is justified because of pedestrian traffic patterns and the vitality of the area that would be part of the walk.

c) On-Street Parking Credit - All non-residential properties located adjacent to a public right-of-way where on-street parking is permitted may receive credit for one off-street parking stall for each 20 linear feet of abutting right-of-way with parallel parking. This provision shall be applied for on street parking on the same side of the street as the proposed land use, or on the opposite side of the street if the property on that side of the street does not have the potential for future development.

d) Public Parking Fund & Permit Program - Reserved

e) Traffic Circulation Improvement and Reduction Incentives - For redevelopment, the SPGA may provide relief from required parking where the applicant:

   1) Permanently eliminates and/or significantly reduces the width of existing curbcuts in a manner that improves the through flow of traffic on Main Street;
   2) Provides a perpetual agreement for one or more driveway consolidations or interconnections that will alleviate traffic on Main Street
   3) Provides a perpetual agreement specifying Transportation Demand Management measures for employees on site or within, such as carpooling, ridesharing, transit use, walking and bicycle incentives.

2855. Parking Location and Access

a) Off-Street Parking Location - Surface and above ground structured parking on Main Street shall be located in the second or third layer and masked by a streetwall or liner building. Underground structured parking may be located throughout the lot and underneath buildings. By special permit, surface and above ground structured parking may be allowed on the front of the lot behind the front façade of the primary building and screened with sufficient landscaping. It shall be limited to a single row of vehicles and associated turning space. Also within the DTD District, to the extent feasible, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.

b) Curbcuts and Driveways - New curb cuts on existing public ways in the DTD shall be minimized. No more than one curb cut on Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Main Street within 200 feet of any intersection. New curbcuts on Main Street should only be allowed where the curbcut leads to parking for at least twenty (20) vehicles. Driveways should not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide.

To the extent feasible, access to business for purposes of delivery or parking shall be provided through one of the following methods:

1) Through a common driveway serving adjacent lots or premises
2) Through existing side or rear streets and access points thus avoiding the principal thoroughfare; or
3) Through designated public loading spaces on street or in existing municipal lots.

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 3330 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. f
	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-five (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 (2) 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.

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 than three (3) weeks prior to the event.

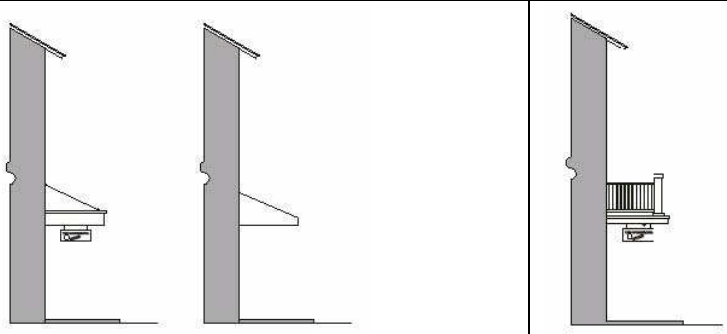
2867. Lighting Standards

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 shall 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) feet 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 an 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



Awnings and Marquees	*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.

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.

2880. DOWNTOWN (DTD) SIGN REGULATIONS

2881. General DTD Sign Regulations.

a) No person shall erect, modify or move any signs within the DTD without first obtaining a permit from the Inspector of Buildings. The Inspector of Buildings shall not issue a sign permit without first receiving the approval of the Design Review Committee.

b) Permit Applications shall be accompanied by six (6) copies of a site plan showing the location of the sign, sign elevation drawings showing the proposed size, supporting structure, materials, and color.

c) Upon receipt of an application for a sign permit the Inspector of Buildings shall immediately forward all materials to the Design Review Committee. (See §2815)

d) No signs shall be located in any public right of way, except for awnings or projecting signs with the approval of the Board of Selectmen; after receiving a recommendation from the Design Review Committee.

No sign shall be attached to a tree or utility pole whether on public or private property.

Signs shall not flash, blink or fluctuate.

This sign bylaw shall be used in conjunction with the Architectural Design Standards and Guidelines incorporated herein as Appendix 1.

2882. Non-Conforming Signs

a) When a business with a nonconforming sign is replaced with a new business, the nonconforming sign shall be removed and replaced with a permitted conforming sign.

b) Any sign that is erected, modified or moved must conform to these regulations; non-conforming signs must be removed and replaced upon the occupancy of a new business.

c) If any nonconforming sign or portion thereof that is damaged or destroyed by any means shall not be reconstructed except in conformity with this bylaw.

2883. Sign Construction and Maintenance

a) All permanent signs shall be professionally constructed of high quality durable materials.

b) Sign switches, conduits and panel boxes shall be concealed from view.

c) Signs shall be designed to be vandal and weather resistant.

d) Signs shall be properly maintained so that they are in proper working order and do not endanger the public.

e) Signs must be removed within 30 days of a business or tenant vacating the premises. The sign shall be removed to the satisfaction of the Inspector of Buildings.

f) When a sign is removed due to replacement or termination of the lease, the tenant or owner shall fill and paint any holes caused by the removal of the sign.

2884. Multi-Tenant Projects

a) Multi-tenant structures or multiple structures which display more than one exterior sign shall implement an exterior sign program. Sign programs serve to create a coordinated project theme of uniform design elements including: color, lettering style, material, and placement. Each business should have a consistent palette of signs designed in a similar character and style.

b) The sign program shall be initially approved by the Design Review Committee.

c) Once a sign program is approved, the Inspector of Buildings may issue a sign permit upon receiving approval from the Town Planner. Signs must conform with these guidelines, and to the previously approved sign program.

2885. Permanent Signs

a) **Primary Occupancy Signs.** The primary sign is the main sign used to identify a business. A primary sign is any sign painted on or attached parallel to the face of the building, including individually mounted letters, painted signs, and awning signs.

1) One primary sign for each storefront or building facade that fronts a public street or alley is permitted. The primary sign shall not exceed one (1) square foot per 1 foot of frontage, subject to meeting other sign design criteria.

2) The design of the primary sign shall be integrated with and compliment the overall design of the facade. The location of the sign shall be centered above the storefront and below the second floor windows.

3) The primary sign may be a projecting sign or awning sign to enhance pedestrian visibility.

b) **Pedestrian Signs.** Pedestrian signs are small signs, typically projecting signs supported by a decorative bracket, which are located above the storefront entry and are oriented to the pedestrian.

1) One pedestrian sign for each storefront is permitted. The pedestrian sign shall be no larger than 2 feet by 3 feet, subject to meeting the other design criteria.

2) The bottom of pedestrian signs shall be located at least 8 feet above the sidewalk, and be rigidly supported.

3) The pedestrian sign shall be supported by decorative chain or bracket, designed and constructed with a high level of craftsmanship and detail. Creative signs that "symbolize" the business are encouraged.

c) **Monument or Freestanding Signs.** Monument and free-standing signs are located adjacent to the right of way independent of the building. Monument and free-standing signs must be located outside the sight triangle area so as not to obstruct views of vehicles at the intersection.

1) Monument or freestanding signs are allowed in addition to the primary and pedestrian signs when a building's front entrance is set back at least 15 feet from the street. The maximum allowable height of all signs is eight feet, except that the Design Review Committee may allow up to 12 feet if found that such height is necessary for the site and is compatible with the appearance, scale and character of the area. The sign shall not exceed an area no larger than 30 square feet per sign face, subject to meeting other design criteria.

2) A monument sign shall be set onto a base or frame, presenting a solid, attractive and well-proportioned appearance that complements the building design and materials.

3) A freestanding sign is a sign supported by two or more columns, uprights or braces in, or upon the ground.

4) Height (of a sign): The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

c) **Directory and Upper Floor Signs.**

1) For two or more story multiple-tenant buildings, one small directory sign with nameplates of the individual tenants is permitted on the ground floor. The maximum letter height for tenant names is 2 inches.

2) Where a second or third story tenant has a separate entry door on the street, a small projecting pedestrian sign is permitted, in keeping with the guidelines for pedestrian signs. Such signs shall be placed near the tenant street entry.

3) Commercial uses on second floor of multiple story buildings that do not have ground floor occupancy may have a window sign in addition to otherwise permitted building-mounted or free-standing signs. One window sign is permitted per framed window area and cannot exceed 15% of the total second floor glass area.

d) **Window Signs.** Any sign placed within a window facing the street.

1) Window signs above the second floor are not permitted. The maximum letter height for window signs is 12 inches. Second floor window signs shall be non-illuminated, and shall consist of paint, gold-leaf or similar high-quality graphic material on the glass surface.

2) One window sign is permitted per enterprise on the ground floor. Window signage shall not cover more than 25% of the window area, excluding the area of any glass doors, or one square foot per one foot of

frontage, whichever is less.

3) Permanent Interior window and door signage shall be professionally designed and constructed. Signs made of gold leaf and other high-quality graphic materials that compliment the storefront display are permitted.

4) Window signs constructed of paper, cardboard, plastic, chalk- or white-board signs are prohibited. Except that one 11”x 17” civic or charitable poster or flyer may be placed in a storefront window.

5) Any graphics, displays, or sign panels with lettering more than one inch high, mounted within four feet of a window shall be considered a window sign, except for the following:
   - Displays with lettering less than one inch high;
   - Products on shelves for sale to the public, or
   - Signs depicting hours of operation. (11” x 17” maximum)

2886. Special Signage

Special signage are additional artistic signs that identify the business and convey a message through the use of a pictorial or graphic image, and may include a limited amount of wording that is clearly secondary to the artistic quality of the sign.

a) Flags

1) One flag per storefront, not exceeding 3 feet by 5 feet that conveys a message of “open” or “sale” is permitted. The lowest point of the flag must be at least 8 feet above the surface of the sidewalk or pedestrian way. Flag must be removed daily at the close of business.

2) Flags must be mounted on a decorative bracket attached perpendicular to the building face.

b) Murals

1) Life-size murals painted on the wall surface of a building may be permitted upon approval of the Design Review Committee to ensure the artwork complements the design of the building in color, shape and location on the building.

c) Menu Holders

1) An exterior menu holder is permitted on the facade of a restaurant.

2) The menu holder shall be limited to the size of two pages of the menu utilized by the establishment.

3) A menu holder shall be located so as not to cause a safety hazard to pedestrians.

4) The menu holder shall not be used for additional business identification or additional signage.

5) Free standing “A” Frame menu boards may be allowed upon approval of the Design Review Committee. Must be removed at the close of business.

d) Off-Site Signs

1) Off-site directory signs on buildings or free-standing ladder signs that direct pedestrians to businesses down side streets and/or alleys are permitted with the permission of the building/site owner. Initial directory or ladder signs shall be approved by the Design Review Committee via a sign program; thereafter directory signs that are consistent with the sign program may be added upon the approval of the Town Planner.

2) Directory and ladder sign panels shall not exceed 4 feet by 8 inches.

3) Directory signs shall not count against the signage allotment for building or site signs.

4) Signs shall be professionally designed and constructed.

e) Sidewalk Café Signage

1) A sidewalk cafe may have signage on a cafe umbrella(s) in addition to the main occupancy frontage signs. Signage shall be limited to the name of the cafe business. The maximum letter height is 6 inches and the business logo shall not exceed 1 square foot in area.

2) The total signage on an umbrella shall not exceed 10% of the area of the umbrella.

3) Generic advertising, such as a product name is not allowed.

4) Sidewalk Café signs must be approved by the Design Review Committee.

2887. Temporary Signs.

a) Grand Opening Banner

1) Banners advertising a new business opening are permitted for a maximum of 30 days.

2) The banner shall include a date visibly noted on the sign and be removed within 30 days of the posted date.

3) No other types of banners or flags are permitted.

4) "A" Frame signs may be permitted on a limited temporary basis for special events upon approval of the Design Review Committee. Placement of the "A" frame sign shall be solely on the applicant's property.

b) Construction Signs:

1. One temporary sign, advertising the various construction trades participating in the project is allowed.

2. Sign shall not exceed 50 square feet in sign area or 6 feet in height.

3. The sign shall not extend beyond the subject property nor interfere

with any traffic safety visibility area of the parcel.

4. The sign may remain on the property until occupancy, unless an extension has been granted by the Inspector of Buildings.

c) Real Estate Signs

1) No more than one real estate sign per property shall be permitted, however it may remain until the entire project or tenant space is leased or sold.

2) Maximum sign area per sign is 9 square feet, and shall be located flat against the building wall or within a window, and shall not project above the eave line.

3) Vacant lots may mount the sign on a free-standing monument, located outside of any sight visibility area; no portion of the sign may extend across the property line.

2888. Signs Not Permitted

a) Rooftop signs, cabinet signs, including neon or digital/LED, banners (except for grand opening and civic event signs), balloons, flashing signs, billboards, plastic flags, whiteboards, chalkboards and blackboards, wired framed yard signs (except for temporary political or construction signs).

b) Any exterior sign advertising or publicizing an activity, service or product not conducted on the premises upon which the sign is maintained, except for public events and as otherwise allowed by the guidelines.

c) Internally illuminated signs of any kind or style.

d) Single pole centered signs, aka “lollipop” signs. (See idea galley in Appendix 1)

2889. Exemptions

The following signs shall be exempt from the requirements of the DTD sign regulations:

a) Flags or emblems of government, political, civic, philanthropic, educational or religious organizations, displayed on private property, as long as such flag or emblem does not exceed 15 square feet;

b) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazard, parking, swimming, dumping, etc.;

c) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation; provided, the content and size of the sign do not exceed the requirements of such law, order, rule or regulation;

d) Small signs, not exceeding five square feet in area, displayed on private

property identifying entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and the like;

e) Holiday decorations, clearly incidental and customary and commonly associated with any national, local or religious holiday; provided such signs shall be displayed for a period of not more than 45 consecutive days nor more than 60 days in any one year.

f) Special Community/Civic Event Signage is subject to the review by the DRC.

2890. Appeal

Any person aggrieved b y the decision of the Design Review Committee may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Design Review Committee.

SECTION III GENERAL REGULATIONS

3100. LOWLAND REGULATIONS

3110. Floodplain Overlay District Provisions. Floodplain Zones includes all Special Flood Hazard Areas within the Town of Bourne designated as Zone A, AE, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Bourne are panel numbers 25001C0294J, 25001C0312J, 25001C0313J, 25001C0314J, 25001C0316J, 25001C0317J, 25001C0318J, 25001C0319J, 25001C0482J, 25001C0484J, 25001C0491J, 25001C0492J, 25001C0501J, 25001C0502J, 25001C0503J, 25001C0504J, 25001C0506J, 25001C0507J, 25001C0508J, 25001C0511J, 25001C0512J, 25001C0513J, 25001C0514J, and 25001C0516J, dated July 16, 2014.

The exact boundaries of the Floodplain Overlay District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and the Engineering Department.

a) All development in the Floodplain Overlay District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);

2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

4) Coastal Wetlands Restriction DEP (currently 310 CMR 12:00;

5) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

b) Substantial Damage and Substantial Improvements are subject to cumulative costs. All permits for the same structure within a two-year period are considered a single improvement and/or repair. This period runs two (2) years prior to the issuance of any permit under consideration.

c) The following shall be prohibited in the Floodplain Overlay District: mobile homes, campers, mobile home parks, and campgrounds. In 'VE' Zones, the following are also prohibited: any man made alteration of sand dunes, which would increase

potential flood damage.

d) Where these Floodplain Overlay District Provisions impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

3111. Base Flood Elevation and Floodway Data.

a) Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designation, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b) Base Flood Elevation Data. Base Flood elevation data is required for Subdivisions proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones

3112. Notification of Watercourse Alteration. In a riverine situation the Planning Board shall notify the Conservation Agent who shall in turn notify the following of any alteration or relocation of a watercourse.

a) Adjacent Communities

b) NFIP State Coordinator
Massachusetts Department of Conservation Services
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

c) NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

3120. Cranberry Bogs.

a) No cranberry bog shall be created, and no land shall be separated from premises containing an active cranberry bog, in such manner as to leave less than 100 feet of separation between the bank of the bog and the property line, as proposed.

b) In any development under Section 4600 Open Space Community, no dwelling shall be separated by less than 200 feet from any active cranberry bog bank, and the plan design shall minimize the number of dwelling units located within 300 feet of the bog bank.

3200. SIGN REGULATIONS

3210. General Sign Regulations.

a) No sign shall be erected and no existing sign shall be enlarged, reworded, redesigned, or altered in any way unless it conforms with the provisions of this Bylaw. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as to the date of destruction shall not be repaired, rebuilt, restored, or altered unless in conformity with this Bylaw.

b) No sign permit is required for the following signs, which must nevertheless comply with this Bylaw:

1) Signs of not more than 12 square feet in area, to be removed within 30 days of erection;

2) Unlighted on-premise signs guiding and directing traffic and parking, if not exceeding one square foot in area;

3) Signs bearing only property numbers, post office box numbers, names of occupants of premises or activities thereon, if not exceeding two square feet in area;

4) One temporary unlighted sign not over six square feet in area pertaining to the sale, rental or lease of the premises.

No sign other than the above shall be erected, enlarged, or structurally altered without a sign permit issued by the Inspector of Buildings, which shall only be issued for signs in conformance with this Bylaw. Permit applications shall be accompanied by two prints of scale drawings of the sign, supporting structure, and location. A copy of any sign Special Permit issued by the Board of Appeals shall also accompany the application. Every sign for which a permit has been issued shall be plainly marked with the name of the person, firm or corporation owning, erecting, maintaining or operating such sign, and the date of permit issuance.

c) All signs shall be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings and in accordance with the State Building Code.

d) Except for directional signs in accordance with Section 3250, no billboard or other sign shall be erected or maintained unless its subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services, or activities on those premises. When a sign no longer complies with this paragraph because of a change in the use or structural condition of the premises, the owner shall, upon written notice of the Inspector of Buildings, bring the sign into compliance or remove it. If within 30 days the order is not complied with, the Inspector of Buildings shall remove the sign at the expense of the owner.

e) No signs shall be placed within a public way or on public property except with a permit from the Board of Selectmen, which shall not be granted in violation of Section 3.1.5 or 3.1.6 of the Town Bylaws. Signs placed on shade trees are subject to approval by the Tree Warden (Sec. 9, Ch.37, G.L.).

f) Signs, any part of which moves or flashes, or signs of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign, are prohibited.

g) No sign shall project from a building or over any pedestrian or vehicular way more than 24 inches, nor over any public right-of-way or other public property.

h) No part of any attached sign shall extend above the highest point on the wall or roof of the building to which it is attached. No free-standing sign shall exceed fifteen feet in height unless authorized to do so on special permit by the Board of Appeals, which shall grant approval only upon determining the following:

1) the increase in height is necessitated by unusual site circumstances; and

2) the resulting sign will not intrude into any scenic views; and

3) the design and illumination avoid creation of hazardous distraction for motorists; and

4) the proposed sign height is precedented by the height of signs on nearby properties or by the height of building on the same premises; and

5) compensatory scenic enhancements are to be made, such as landscaping beyond that otherwise required.

In no event shall a free-standing sign exceed 35 feet in height.

3220. Residence or Government Districts. In Residence or Government Districts, the following signs are permitted:

a) One sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no sign shall exceed two square feet in area.

b) One sign not over nine square feet in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory use.

c) One temporary unlighted sign not over six square feet in area pertaining to the sale, rental or lease of the premises.

d) Unlighted directional signs not exceeding one square foot each in area pertaining to permitted buildings and uses of premises other than dwellings and their accessory uses.

e) Signs totaling not more than 50% of the area allowed in a Business District, for an Open Space Community with extensive resort development under Section 4642b.

3230. Scenic Development Districts. In Scenic Development Districts, regulations for Residence Districts shall apply, except that for uses allowed on Special Permit under Section 2232 signs up to 50% of the area allowed in Business Districts shall be allowed.

3240. Allowed Signs. In Business Districts, only the following signs are allowed in addition to

those allowed under Section 3210:

a) Signs attached to a building, provided that there are not more than two such signs per separate enterprise, and that they aggregate not more than the following percentages of the area of the wall or the horizontally projected area of the roof (length times eave-to-ridge height) to which they are attached:

Village Business V-B District:	5%
Other Business Districts:	15%

b) One free-standing sign with total area of not more than 16 square feet if in the V-B district or 80 square feet if in any other Business district. For premises having frontage on more than one street, a second free-standing sign may be allowed, with the allowed area divided between the signs.

c) The total area of all signs on the premises, both attached to a building and free-standing, shall total not more than 40 square feet if in the V-B district or two square feet per foot of frontage on the street to which they are oriented if in any other Business district.

3250. Off-Premise Directional Sign. An off-premise direction sign 6 feet by 6 inches or 6 feet by 1 foot designating the route to an establishment and containing no advertising matter are allowed only on a ladder sign erected and maintained by the Town of Bourne.

3300. PARKING REQUIREMENTS

3310. Number of spaces. Adequate parking must be provided to service all increases in parking demand created by new construction, whether through structures or additions to old ones, or through change of use creating higher parking demand. The number of parking spaces must be as required in Section 3320, unless in performing site plan review the Planning Board or, in acting on a Special Permit the Special Permit Granting Authority, determines that a lesser provision would be adequate for all parking needs because of such special circumstances as shared parking for uses having peak parking demands at different times, unusual age or other characteristics of site users, company-sponsored car-pooling, or other trip conserving measures. The number of spaces required by either the Regulations of the Massachusetts Architectural Board at 521 CMR 23 or those of Town Bylaw 3.1.34 are included within the totals as required by Section 3310.

Required parking spaces must be on the same lot as the use they serve, with the following exceptions:

a) Spaces on a separate lot in the same ownership may be credited if not further than 350 feet from the building entrance of the activity they serve, and are not separated from it by a street having right-of-way width of 60 feet or more, and

b) For premises located in the B-1 or V-B Districts, up to eight public on-street or off-street parking spaces may, if approved for that use on special permit by the Planning Board, be credited towards meeting these requirements for any lot, on condition that:

1) such spaces are within 350 feet of the building entrance via sidewalk, and are not reserved for alternative use, and

2) the applicant assures pedestrian access to those spaces and his premises by funding or carrying out construction of sidewalks the full length of the frontage of his premises, or by making needed improvements to existing sidewalks, as required by the Board, and

3) the Board determines that the resulting parking will be adequate and safe.

3320. Table of Requirements.

Dwellings, Guest Houses	2 parking spaces per dwelling unit
Congregate Dwelling	1 space per bedroom
Hotel, Motel, Lodging House	1 space per guest unit
Office, Stores	1 space per 180 sq. ft. leasable floor area, but not fewer than 3 spaces per separate enterprise.
Restaurant or other food service	One space per four seats at tables plus one space per two seats at counters plus one space for each ten square feet of waiting area likely to be used by patrons while waiting to be seated or served (to be designated on plan submittals) plus one space per two peak shift employees, plus an additional 5 spaces shall be required for take out. Calculations shall include both interior and outdoor seating and waiting.
Place of Assembly	One space per three persons occupancy as allowed under the *Massachusetts State Building Code*.
Bowling Alley	4 spaces per lane
Other Commercial Recreation	1 space per 2 persons participant capacity, plus 1 space per 3 persons spectator capacity
Nursing Home, Hospital	1 space per 4 beds
Industrial, Wholesale, or Warehouse	1 space per 1 1/4 employees per shift, but not less than 1 space per 1,000 square feet of storage area plus 1 space per 500 square feet of production area plus 1 space per 180 square feet of office area.
Other Uses	individually determined by the Inspector of Buildings, except that determination will be by the Planning Board in cases

referred to that Board by the Inspector of Buildings for site plan review.

3330. Surfacing.

3331. Required parking, loading, and waste receptacle areas and their access drives shall be paved with bituminous concrete unless serving a one- or two-family dwelling or an individual mobile home or campground rental plot, or unless they are authorized to be paved with an alternative surface on Special Permit acted on by the Planning Board. Such authorization may be granted by the Planning Board upon its determination that drainage, erosion, siltation, dust, and appearance will be satisfactorily controlled.

3332. Where an alternative to bituminous concrete is authorized on Special Permit, the following shall be complied with.

a) Access drives shall be paved with bituminous concrete or other pavement authorized by the Planning Board for at least 15 feet inside of the street or property line unless the street itself is not paved.

b) Grading and materials selection shall assure that surface materials will not be carried into the street, and that drainage is positively provided for.

c) If there are six or more parking spaces there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.

3340. Egress Standards.

3341. **High-intensity uses.** Except in the V-B district, any driveway likely to carry more than 200 trips per average business day (based upon the most recent edition of the Institute of Transportation Engineers Trip Generation Manual) must comply with the following unless granted a special permit under Section 3344 for an alternative configuration.

	On Arterial Street* (except in B-1 District)	Other Locations
Driveway or intersection sight distance:	400'	225'
Driveway centerline separation from other driveways serving 100+ trips:	275'	125'
Maximum driveway width unless greater width is justified by engineered design:	24'	20'
Minimum curb radius:	50'	30'
Left turn onto 3+ lane road must be physically precluded:	YES	NO
Acceleration/deceleration lanes required on State numbered highways:	YES	NO

* See Definition

3342. **Shared Driveways.** A shared driveway shall not be considered to provide adequate access for parking if it is the sole means of access for parking on more than two lots, unless granted a special permit under Section 3344 authorizing service to a larger number of lots from a shared driveway.

3343. **Interim Egress Control.** Until June 1, 2020, or, if earlier, until opening of a limited-access highway connecting the Mid-Cape Highway (Route 6) with MacArthur Boulevard (Route 28) or Route 25, all development in the Traffic Management District shall be subject to the following.

a) Access separation. No new street, driveway, or other means of vehicular access to an arterial street shall be created unless it is separated from all other means of vehicular access on the same side of the street by at least 1,000 feet, measured centerline to centerline along the edge of the street right-of-way, unless granted a special permit under Section 3344 authorizing less separation. However, each lot or set of contiguous lots held in ownership separate from that of all abutting land as of the date of adoption of this provision shall be allowed a single access to an abutting arterial street, provided that the access shall be located so as to minimize movement conflicts with all other accesses to the same road.

b) Land division and sale. No land in the Traffic Management District shall hereafter be divided into separate lots or ownerships unless each resulting building lot will be entitled to vehicular access under these provisions, through one or more of the following:

- having location and configuration making it feasible to meet the requirements of Section 3343(a), or

- having an alternative means of access, such as an authorized shared driveway (see Section 3342), or

- having frontage on a non-arterial street, or

- having been granted a special permit under the provisions of Section 3344.

c) Other requirements. The standards of the table in Section 3341 (except for the required driveway centerline separation) must be met by all uses, regardless of trip generation level.

3344. **Special Permits.** The Special Permit Granting Authority (SPGA) for special permits authorized in Sections 3341, 3342, and 3343 shall be the Planning Board, except that where a Special Permit is also required by Section 2200 Use Regulations, the SPGA authorized by that Section shall also be the SPGA under this Section. Special permits under Section 3340 shall be granted only if the SPGA finds the following:

a) an alternative configuration is proposed which, because of peculiarities of the site and without necessity of public expenditure for traffic engineering improvements:

- will provide a level of egress safety equivalent to that typically anticipated through development on sites within the Traffic Management District in full compliance with these provisions, or

- will provide egress safety superior to that which could be achieved through compliance with the above requirements, or

- reflects the minimum departure from the requirements of this Section necessary to avoid loss of all reasonable economic use of the parcel in question, and

b) the alternative proposed does not circumvent the intent of the subdivision control law.

3350. Backing. Parking areas with six or more parking spaces shall be so designed and located that their use does not require backing onto a public way.

3360. Off-street Queues. Automatic car washes shall provide space for not less than 15 cars per washing lane to queue off-street. Other drive-in facilities which from time to time have queues of vehicles waiting admission shall have comparably sufficient on-site space for such queues without requiring cars to stand on any public way or across any public sidewalk.

3370. Loading facilities. Adequate off-street loading facilities and space must be provided to service all needs created through new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no vehicle need regularly back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so, and so that use of parking spaces is not impaired.

3380. Unregistered Vehicles. No person shall permit more than one unregistered motor vehicle trailer or major parts thereof, except for farm vehicles, to remain ungaraged on any lot owned, occupied or controlled by him at any time unless under a Class 1, Class 2, Class 3, or a Department of Public Utility Towing Permit license for sale of motor vehicles. In no event shall an unregistered inoperative vehicle be stored in a front yard.

3390. STORAGE TRAILERS & STORAGE CONTAINERS

Storage trailers and storage containers are permitted in residential districts or residentially used properties located in a commercial district only if they comply with the following restrictions, requirements and limitations.

Storage Trailer Storage Container definition: a container, including what is sometimes referred to as storage "pod" or "portable on demand units"; any box van that has been disconnected from a chassis; and similar intermodal type shipping/cargo containers, that are (a) designed and commonly used for storing, shipping or transporting products and materials, and (b) are typically transported by a separate motorized vehicle or upon a trailer.

3391. Short-Term Loading and Unloading.

a) Up to three (3) trailers or containers may be placed on a property to be loaded or unloaded at the same time.
b) The trailers or containers shall not be on the property for a period of more than seventy-two (72) hours.
c) The trailers or containers shall be sited on a hard surface and meet all other requirements for placement of containers.
d) The use of trailers or containers for loading and unloading shall not be counted towards the 60-day limitation set below.

3392. Short-term Storage.

a) Before placement of storage trailers or storage containers a building permit must be obtained from the Inspector of Buildings.
b) Only one (1) one storage trailer or storage container may be located on a property at any given time.
c) No storage trailer or storage container shall be located on a property for a period of more than sixty (60) consecutive days. No property shall be permitted to have a storage trailer or storage container more than two (2) 60-day periods in any 12-month period.
d) The storage trailer or storage container shall be located in a legal parking space on the property.
e) No storage trailer or storage container shall be located within fifteen (15) feet of the edge of pavement or back of curb of any street.
f) No storage trailer or storage container shall be used in conjunction with or associated with a home occupation.(See §4110)
g) No hazardous materials shall be stored in a storage trailer or storage container placed on the property.

3393. Construction Projects. Storage trailers and storage containers are permitted in conjunction with construction projects subject to the following restrictions, requirements and limitations.

a) The use of storage trailers and storage containers is limited to the storage of tools or building supplies needed for a construction project or personal property of the owner or tenant of the building on the property that is being built on or remodeled.

b) All storage trailers and storage containers shall be located on the property where the work is being performed.

c) In non-residential zoning districts, storage trailers and storage containers used in conjunction with construction projects must be located on the property in such a manner so as to not occupy:

i. open space:

ii. easements:

iii. stormwater detention facilities:

iv. perimeter landscaping areas

v. required parking

d) No storage trailer or storage container may be stacked one on top of another storage trailer or storage container or on top of any building.

e) All storage trailers or storage containers shall be removed from the property within fourteen (14) days of completing the construction project; removal time may be extended at the discretion of the Inspector of Buildings.

f) No hazardous materials shall be stored in the storage trailer or storage container placed on the property.

3394. Nonconforming Storage Trailers and Storage Containers.

Storage trailers and storage containers that are not lawfully conforming at the time of the adoption of this bylaw must come into compliance or be removed by April 17, 2012.

3400. ENVIRONMENTAL CONTROLS

No activity shall be permitted in any district unless it is demonstrated that the following will be met:

3410. Interferences. Except for warning devices, temporary construction or maintenance work, parades, recreational activities, or other extraordinary circumstances, no noise, sound from public address or other amplification systems, vibration, odor, or flashing shall be perceptible without instruments more than 400 feet beyond the boundary of the lot if originating in the B-3 District; more than 200 feet beyond the boundary of the lot if originating in a V-B, B-1, B-2, or B-4 District, or more than 100 feet beyond the boundary of the lot if originating in a Residence, Scenic Development District or Government District. Such interferences originating within Business Districts shall not be perceptible more than 100 feet within a Residence or Scenic Development District.

3420. Wastes. Trash and other waste shall be effectively confined to the premises and stored out of sight of any public way, or disposed of. All dumpsters shall be adequately screened by fence or thickly planted shrubs and not located in any required front yard and at least 30' from the public way. The height of the fence or shrubs shall be at least the height of the dumpster.

3430. Air Quality. All mandatory regulations of the Southeastern Massachusetts Air Pollution Control District shall be complied with.

3440. Electronics. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

3450. Lighting. All permanently installed outdoor lighting fixtures, whether ground, pole, or wall-mounted, shall be subject to the following, except that lighting for signs is subject only to Section 3200.

3451. Fixtures. Lighting fixture types are defined as follows:

Type 1. No light cutoff.
Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.
Type 3. Luminaire shielded such that total cutoff is at less than 90 degrees from vertical, and no light sources is in direct view from five of more feet above the ground at any point off the premises.

3452. Height/overspill limitations. The following limitations on luminaire height and illumination overspill shall be observed by all uses, unless in performing Site Plan Review the Planning Board determines that it is inherently infeasible for that use (e.g. public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill onto residential premises.

HEIGHT/OVERSPILL LIMITATIONS

	DISTRICT	
	R-40, R-80	Other
Maximum luminaire mounting height (feet)		
Fixture Type 1	10	20
Fixture Type 2	15	25
Fixture Type 3	20	30
Maximum off-site overspill (foot-candles)		
Fixture Type 1	0.2	0.2
Fixture Type 2	0.3	0.5
Fixture Type 3	0.5	1.0

3453. Other Requirements.

a) No flickering or flashing lights shall be permitted, except for decorative lighting between November 1 and January 31 and for warning devices.

b) Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent both direct visual contact and flashing reflected from the sky.

c) All parking areas and pedestrian facilities serving non-residential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn that those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal foot candles, and an illumination ratio (brightest/darkest) of not more than 4:1. However, in performing Site Plan Review under Section 1230 the Planning Board may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is

not necessary or appropriate for the protection of the public safety.

3454. Lighting Plan. An exterior lighting plan is required for applications requiring site plan review under Section 1230, to include the following, plus any additional information required by the Board if needed to determine compliance with these provisions.

a) Locations, supports, mounting heights, and orientation of all luminaires.

b) For all luminaires, descriptions and diagrams of physical configuration and photometric data, such as those available from manufacturers, indicating fixtures, lamps, reflectors and filters and showing the angle of light cut-off and light distribution patterns.

3460. WIND ENERGY CONVERSION SYSTEMS (WECS).

3461. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source, benefiting both the economy and the environment, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.

3462. Applicability. Any application to erect a wind energy conversion system shall comply with section 3460, with the following exemptions:

A. WECS having manufacturer's rated capacity of not more than 300 watts, or

B. Building-mounted WECS having overall height not more than eight feet (8') above the roof's highest point.

3463. Definitions.

A. Wind Energy Conversion Systems (WECS)
All equipment, machinery and structures utilized in the connection with the conversion of wind to other forms of energy.

B. Commercial Wind Energy System (CWES)
A WECS consisting of one or more wind turbines with a rated capacity greater than 10kW.

C. Residential Wind Energy System (RWES)
A WECS consisting of a single wind turbine, with a rated capacity of not more than 10kW, intended as an accessory use.

D. Neighborhood Wind Energy System (NWES)
A Class I, II, or III net metering wind turbine located in a residential district serving multiple residential customers served by a single utility and as further defined by the Massachusetts Department of Public Utilities (DPU).

E. Wind Turbine: A single device that coverts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.

F. Fall and Ice Shed Zone

The area that lies within a circle around each NWES and CWES tower, the radius of which is arrived at by application of the following formula: ["hub height + rotor diameter x 1.5"]. All NWES and CWES shall maintain the required Fall and Ice Shed Zone ("Safety Zone") from any occupied structure (residentail and non-residential), public or private road or regularly used public area. Such Safety Zone shall be entirely on the applicant's development site or under applicant's control. However, the preceding notwithstanding, the Safety Zone shall in no event be less than that specified by the supplier and/or manufacturer of the WECS in its standard safety specifications in effect at the time of project permitting.

G. Critical Infrastructure

Facilities and infrastructure listed within the Town of Bourne's Pre-Disaster Hazard Mitigation Plan.

3464. Special Permit Granting Authority: The Planning Board shall be the Special Permit Granting Authority for all WECS application. No Special Permit shall be granted unless the Planning Board finds that the proposed WECS is in harmony with the purpose and intent of this Bylaw and will not be detrimental or injurious to the neighborhood in which it is to be constructed, or to the public, taking into consideration among other things the height of the WECS in relation to the anticipated amount of electrical energy generation, the location of the WECS in relation to topography, the natural environment, dwellings, historical and scenic features, and safety, and that all requirements, standards and conditions for the granting of the Special Permit have been satisfied. Furthermore, no Special Permit shall be granted unless the Planning Board determines that the proposal will not have an undue adverse impact on historic resources, scenic views, natural resources and/or residential property values.

3465. Development Requirements.

A. Required of all WECS

1. Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

2. Applicants shall provide a complete description of the proposed WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.

3. **Height Calculation.** Overall height of the WECS shall be measured from the land in its natural state at the base of the tower prior to grading or filling to the highest point reached at any time by any part of the wind turbine. For WECS attached to a building, height is to be measured as specified in footnote "n" to the Section 2500 Intensity of Use Schedule, and the provisions of that footnote must be complied with.

4. **Flight Path Height Restriction.** No WECS located in the flight path as shown on a map entitled "USCG Air Station Cape Cod Emergency Visual Routes in Inclement Weather" Bourne, Massachusetts, dated January 26, 2007 shall be erected or altered to a height, which would exceed one hundred (100) feet. WECS erected between 60 to 100 feet within the USCG flight path shall include a fixed warning light.

5. Monopole towers are the preferred type of support.

6. **Setbacks. (except for acoustic setback covered under "Noise"..**

   a) NWES and CWES shall observe a setback distance from all property lines equal to the Safety Zone.

   b) No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.

7. **Wetlands.** No part of a WECS shall be located within the jurisdiction of the Bourne Conservation Commission unless issued an Order of Conditions.

8. **Noise.**

   8.1 All WECS shall observe a minimum acoustical setback from any adjacent residentially used or zoned parcel a distance of at least ten(10) times rotor diameter, measured from the closest part of the WECS tower to the closest property line of all residentially used or zoned parcels.

   8.2 The WECS and associated equipment shall conform to the following minimum sound level limitations:

   a) No WECS shall produce a dB(A) sound pressure level that is 6 dB or more above the lowest predevelopment L90 dB(A) level (statistical noise level exceeded 90 percent of the time) measured over a sufficient time duration to represent the quietest part of the daytime or nighttime for which operation is scheduled to occur (See ANSI S12.18).

   b) No WECS shall produce, during the hours of 7:00pm and 7:00 am, a broadband sound pressure level that exceeds 35 dB(A), attributed to the WECF itself.

   c) No WECS shall produce lower frequency sound pressures, attributed to the WECS itself, that exceed 50 dB(C), or lower frequency sound pressures that are shown to contain a separation of 10dB or greater when measurements in dB(A) are subtracted from measurements in dB(C).

   d) No WECS shall produce amplitude modulated noise, measurable in overall A-weighted sound pressure level, which is shown to contain peak to trough separations of 4dB or greater.

e) No WECS shall produce a Pure Tone condition, as that term is defined in Massachusetts 310 CMR 7.10, as measured in octave bands or by equivalent measurements in 1/3rd octave or narrow band.

8.3 All above measurements shall be attended and shall be taken on any adjacent residentially used property, or on adjacent land zoned to permit residential use. Compliance at the closest property line is required.

8.4 Measuring for background (ambient) sound levels shall:

A). Be attended measurements; B). Exclude periods of insect or other seasonal noise, or otherwise adjust collected data so that impacts from the same are removed; C). Exclude periods or moments of observed heightened sound levels not considered typical ambient noises (i.e. passing airplane or train); and D). Be avoided or suspended in (or adjusted to eliminate) periods of poor weather conditions and/or periods of significant wind speeds.

8.5 With post-construction testing or monitoring, aerodynamic amplitude modulated noise ("AAM") shall be examined with the sound level meter ("SLM") set for fast response, with a sampling rate of at least one measurement per 1/8th second. AAM noise shall be recorded in overall A-weighted sound pressure level and 1/3 octave band center frequencies for the predominate frequencies of interest. Audio recordings shall be made periodically during testing to provide audible indication of the nature or cause of the sounds being measured.

8.6 Post-construction lower frequency sound analysis shall be recorded in dB(A), dB(C), and 1/3 octave band for the predominate frequencies of interest.

8.7 Post-construction infrasonic sound pressures shall be measured using the best technologies available at the time of such testing and may include un-weighted measurements, and measurements in dB(G), dB(L) and/or dB(Z).

8.8 Pre-permitting acoustical projections and modeling shall be done under the supervision of the special permit granting authority ("SPGA"). Post-construction acoustical monitoring and testing shall be performed under the supervision of the Zoning Enforcement Officer or his designee, hereinafter the "Enforcing Person", who may order mitigation measures including operational controls of any WECS if needed to insure ongoing compliance with this by-law.

8.9 As to both pre-permitting, and post-construction testing and monitoring when ordered by the Enforcing Person, WECS developers and owners must hire, at it or their sole cost and expense, a qualified acoustical engineer to undertake a study or studies, or to undertake short or long term monitoring (as appropriate for the condition under study), to quantify sound pressures likely to emanate from or emanating from the applicable WECS and to submit one or several written report(s) of such study, which shall be public information.

8.10 With both pre-permitting and post-construction acoustical testing, the WECS developer or owner must pay into a special municipal account sufficient funds to cover reasonable peer review done by a qualified acoustical engineer hired by the SPGA or Enforcing Person as applicable. Any such funds shall be administered in accordance with M.G.L. c. 44 § 53.

8.11 A qualified acoustical engineer (for pre-permitting or post construction testing) shall be either a degreed engineer practicing acoustical engineering and working for a firm that is a member of the National Council of Acoustical Consultants (NCAC) or a member of the Institute of Noise Control Engineering (INCE). All persons conducting sound pressure measurements to assess compliance or likely compliance with this by-law shall be trained in the current techniques and principles of sound measurement equipment and instrumentation, and shall take such measurements under the supervision of the qualified acoustical engineer described above.

8.12 All sound pressure level measurements will employ appropriate equipment that is properly calibrated to industry standards. The precise location(s) of the measurement site(s), as well as dates, times, frequency, and duration of the measurements or measurement periods shall be as determined by the SPGA or Enforcing Person. All testing or monitoring results, reports, studies and conclusions shall be made a permanent part of the public record. Those records shall include all raw data collected in formats that facilitate peer and public review of the data and the study or studies. To facilitate such peer and public review, wherever possible, such raw data shall be submitted in digital form as well as hard copy. Wherever possible, all such collected data shall become internet/web-accessible to the public with uploads either continuously during testing or periodically as soon as practical.

8.13 The acoustical set back prescribed above is a minimum standard. The SPGA may deny an application for a special permit even where such minimum standard is met, if it finds, based on the pre-permitting acoustical studies required by this by-law, that a greater distance is required to insure compliance with the noise limitations prescribed above.

8.14 Because RWES are considerably smaller than NWES and CWES, the SPGA may determine that no pre-construction noise modeling or testing is required.

8.15 Upon written notification of a complaint of excessive noise, the Enforcing Person or his designee, shall record the filing of such complaint. The Enforcing Person shall promptly investigate. If noise levels are determined to be excessive, the Enforcing Person shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence, as described herein.

8.16 If the noise levels are found to have exceeded the above allowable limits the Enforcing Person shall notify in writing the owner of the property to correct the violation. If the noise violation is not remedied within 30 days the WECS shall remain inactive until the noise violation is remedied, which may include relocation or removal.

8.17 If determined that allowable limits have not been exceeded, notice in writing shall be provided to the person who has filed such complaint and the owner of the property stating that no further action is required. Any person aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Enforcing Person.

9. **Shadowing/Flicker.** The WECS shall be sited in a manner that does not result in shadowing or flicker impacts above 5 hours per year to a residence. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

10. **Prevention of Access**. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access.

11. **Visual Impact.** The applicant shall employ all reasonable means, including restraint in tree removal, landscaping, and alternative locations to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain non-reflective muted colors.

12. No WECS shall exhibit any form of decoration or graphics unless given express approval by the Planning Board, and then shall be limited to the name of occupant of the premises or manufacturer located on the nacelle of the wind turbine.

13. **Electromagnetic interference**. No WECS installation shall cause electromagnetic interference. If interference is established the Inspector of Buildings shall notify the owner of the property in writing to correct the violation. If the interference is not remedied within 30 days the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

14. **Lighting**. If lighting is proposed (other than required FAA lights) the applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and for twenty-five (25) feet beyond the property lines. The plan shall also indicate the locations and types of luminaries proposed.

15. **Vegetation**. Existing vegetation must be shown including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The Planning Board shall also consider the height of vegetation at maturity.

16. **Compliance with FAA Regulations and MMR Flight Paths.** WECS must comply with applicable FAA regulations and MMR flight paths as shown on the map referred to in Section 3465(4).

17. **Avian impact avoidance.** Applicants for a special permit for a CWES shall submit to the Planning Board documentation that the siting, equipment selection, facility design, and operation management will effectively minimize avian impacts, evidenced by an avian impact assessment conducted by a qualified third party, assessing the potential impact of the proposed WECS upon bird and bat species. The avian study shall at a minimum report on a literature survey for threatened and endangered species, and any information on critical flyways. The applicant must identify any plans for post-construction monitoring or studies. The analysis shall also include an explanation of potential impacts and propose a mitigation plan, if necessary.

B. Residential Wind Energy Systems (RWES).

1. Shall consist of a single wind turbine per lot, with a rated capacity less than 10 kW.

2. The overall height shall be determined by special permit. Overall height must be consistent meeting the setback requirements of Section 3465 A.6 and, if more restrictive, shall not exceed seventy-five (75) feet in overall height unless as part of the special permit process the applicant demonstrates that additional height is functionally essential and that the additional height does not does not substantially increase any adverse impacts.

C. Neighborhood Wind Energy System (NWES)

1. Shall consist of a single Class I, II, or III net metering wind turbine as defined by the Massachusetts Department of Public Utilities, with a rated output greater than 10kW, located in a residential district.

2. Shall be owned by or serve the energy needs of multiple residential customers, served by a single utility in a single neighborhood.

3. Shall be subject to the requirements of the CWES specified in Section 3465 D.

D. Commercial Wind Energy Systems (CWES).

1. A Wind Turbine with a rated capacity of more than 10 kW

2. May include multiple wind turbines, however, in no event, shall the number of wind turbines exceed one (1) per two (2) acres,

3. Land area may be comprised of several contiguous parcels single or multiple ownership.

4. A wind turbine erected on a lot with another principle use requires a lot area twice the minimum lot area as stated in Section 2500.

5. Height shall be determined by special permit. The Planning Board shall make findings that the height proposed reflects industry standards for a similarly-sited facility, and is the minimum necessary for adequate operation of the CWES.

6. Projects including land in multiple ownerships shall include each owner of the land as a party to the application and, upon plan approval, subject to its provisions.

7. Telecommunications. CWES may include telecommunication antennas provided they comply with Section 2500 of this bylaw. The telecommunications carrier shall be named as the co-applicant. Co-applications are encouraged.

3466. Procedural Requirements:

A. Special permit submittals

1. **Site Plan.** A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this section may be waived if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.

2. **Inspection**. Provisions for inspection and maintenance must be made and identified in the submittals.

B. Building permit submittals

1. **Wind Turbine structure drawings.** Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a licensed professional engineer shall also be submitted. (Manufacturer specifications may be suitable at the discretion of the Inspector of Building)

2. **Electrical drawings.** Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

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

4. **Insurance.** The applicant shall be required to show evidence of liability insurance in an amount and for duration sufficient to cover loss or damage to persons and structures occasioned by the failure or performance of the facility.

C. **Abandonment** A WECS shall be considered to be abandoned if it is not operated for a period of two years or if it is designated a safety hazard by the Inspector of Buildings. Once a WECS is designated as abandoned, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:

1. Removal of WECS, any equipment shelters, and security barriers from the subject property.

2. Removal of foundation, unless in the opinion of the Inspector of Buildings the foundation will pose no hazard.

3. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

4. Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.

D. **Modifications.** All modifications to a WECS made after issuance of the Special Permit shall require approval by the Planning Board.

E. **Professional Fees.** The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be the expense of the applicant.

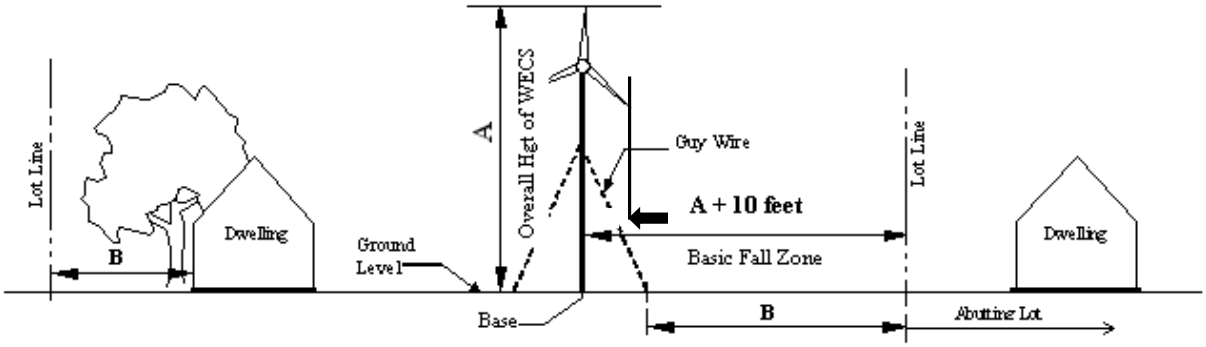
3467. Security.

A. **Requirement.** In conjunction with the above special permit approval process the Planning Board may require the posting of a bond or other security to assure satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.

B. **Exception.** The Board need not require security where there is full assurance of compliance with the above special permit

C. **Amount**. The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

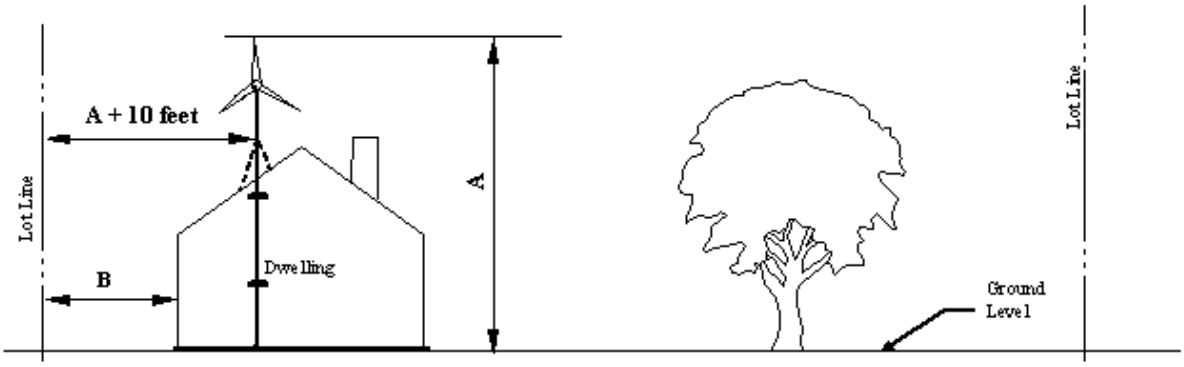
Figure A, B & D



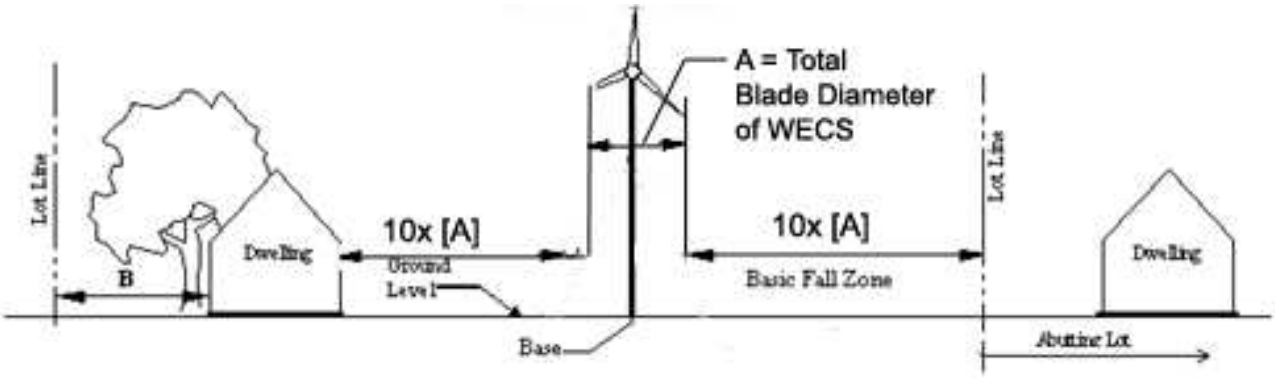
A = Overall height of WECS
B = Standard structure setback

Free standing WECS
(Figure A)

10Kw and smaller



Building Mounted WECS
(Figure B)



A = Total blade diameter of WECS
B = Standard structure setback

Free standing WECS
(Figure D)
10Kw and larger

3470. SOLAR PHOTOVOLTAIC SYSTEM (SPS) Ground Mounted

3471. Purpose. The purpose of this section is to promote the goals of the Local Comprehensive Plan and the Commonwealth of Massachusetts Green Communities Act, by providing expedited project plan review and design standards for large-scale, ground-mounted solar photovoltaic systems.

The provisions set forth in this section provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale ground-mounted solar systems that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations.

3472. Applicability. This section applies to large-scale (250 kW or larger), ground-mounted solar photovoltaic systems. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

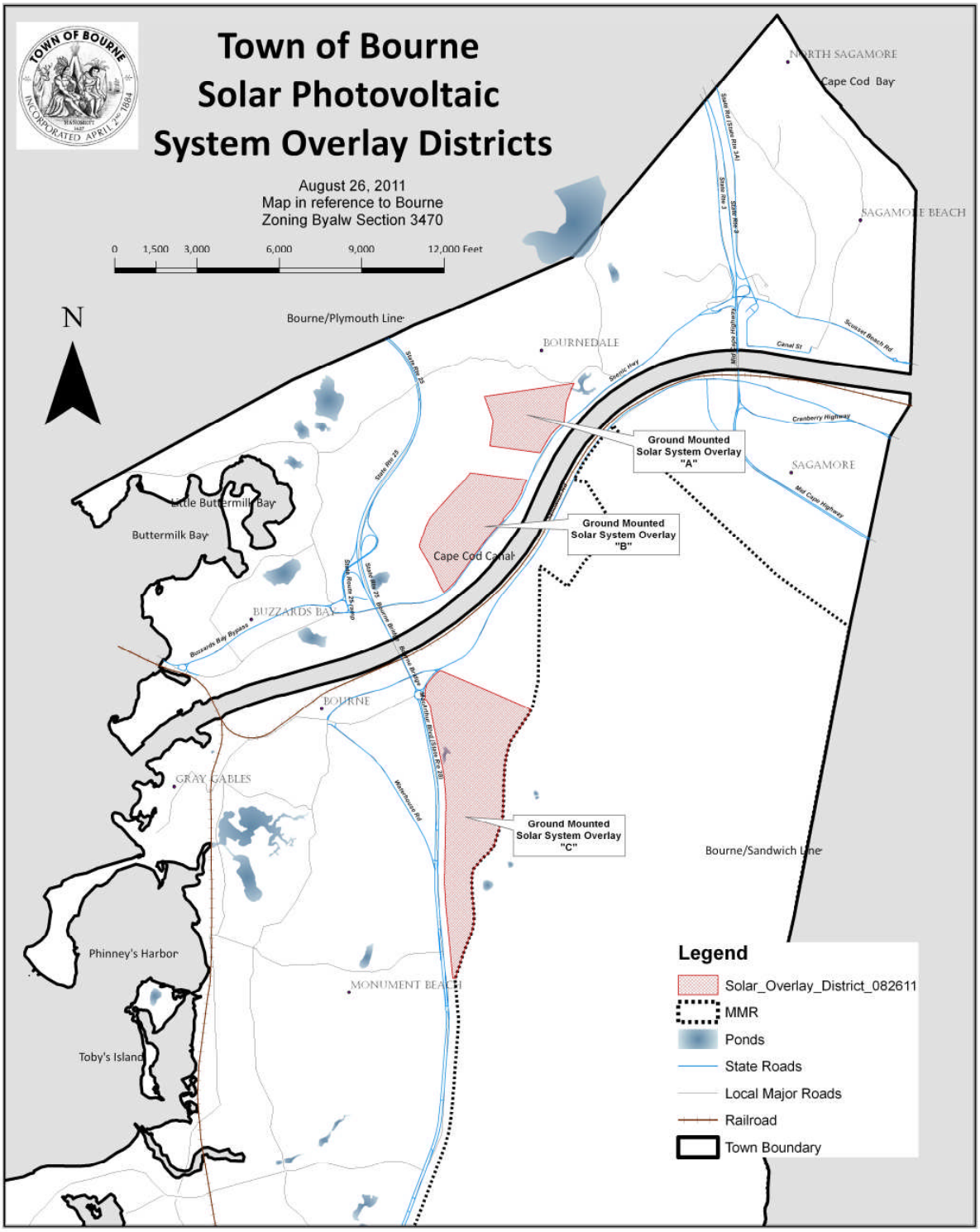
3473. District Established. A Solar Photovoltaic Overlay District (SPOD) is hereby established, and shall be considered as superimposed over any other districts established by this section, and as shown on the map entitled "Solar Photovoltaic System Overlay Districts" dated August 26, 2011, included herein.

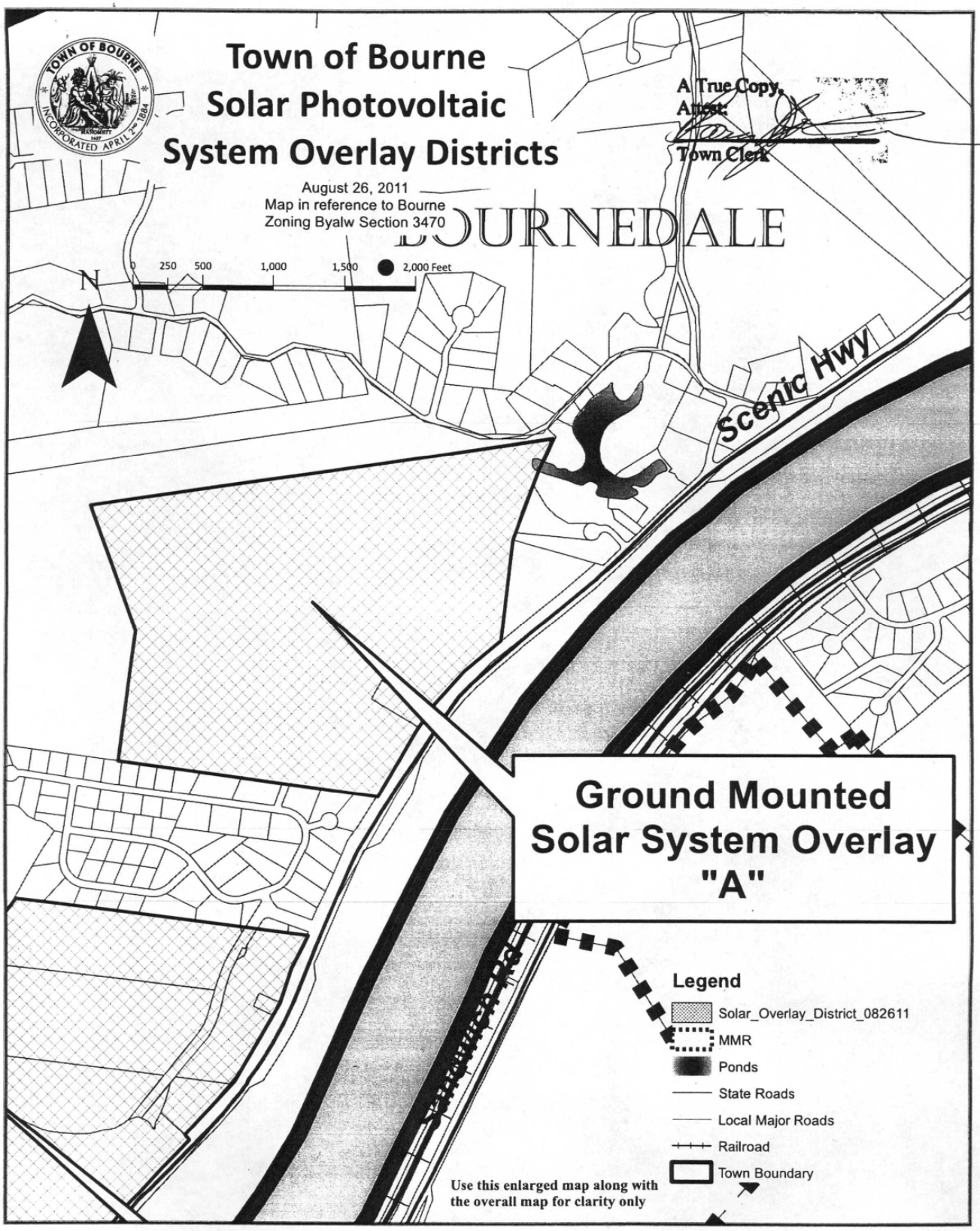
3474. Definitions. These definitions shall apply to Section 3470 exclusively:

a) **Solar Photovoltaic System (SPS)**
A large-scale solar photovoltaic system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at least 250 kW direct current (DC).

b) **Off-Grid System**
A solar photovoltaic system where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

c) **Rated Nameplate Capacity**
The maximum rated output of electric power production of the photovoltaic system in direct current (DC).


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 1,500 3,000 6,000 9,000 12,000 Feet
N
Bourne/Plymouth Line
NORTH SAGAMORE
Cape Cod Bay
SAGAMORE BEACH
BOURNEDALE
Canal St
Sunset Beach Rd
Cranberry Highway
Mid Cape Highway
SAGAMORE
Ground Mounted
Solar System Overlay
"A"
Ground Mounted
Solar System Overlay
"B"
Ground Mounted
Solar System Overlay
"C"
Little Buttermilk Bay
Buttermilk Bay
Cape Cod Canal
BUZZARDS BAY
Buzzards Bay Bypass
BOURNE
GRAY GABLES
Bourne/Sandwich Line
Phinney's Harbor
MONUMENT BEACH
Toby's Island
Legend
Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
A True Copy,
Attest:
Town Clerk
BOURNEDALE
0 250 500 1,000 1,500 2,000 Feet
N
Scenic Hwy
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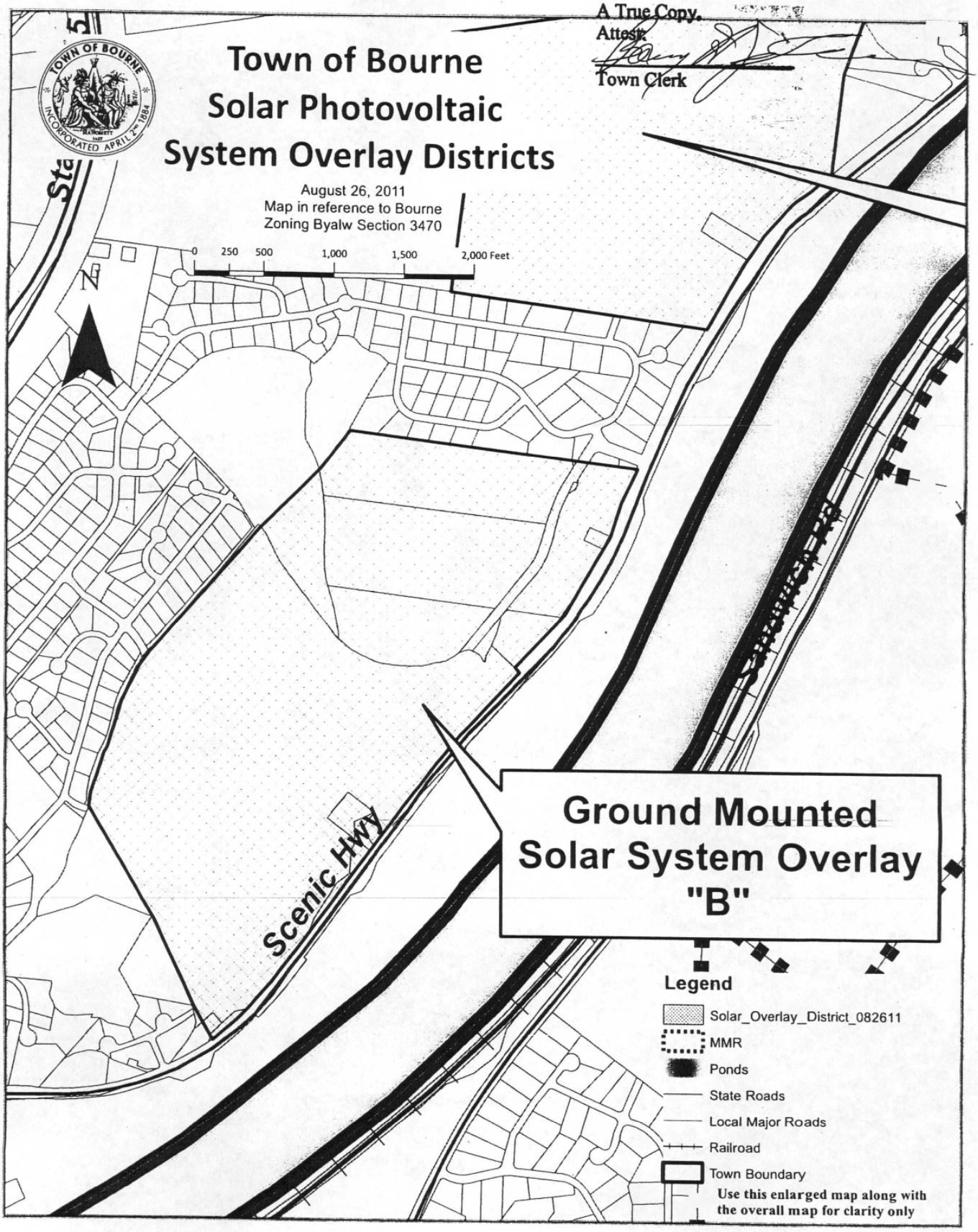
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with
the overall map for clarity only


A True Copy.
Attest:
Town Clerk
Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 250 500 1,000 1,500 2,000 Feet
Scenic HWY
Ground Mounted
Solar System Overlay
"B"
Legend
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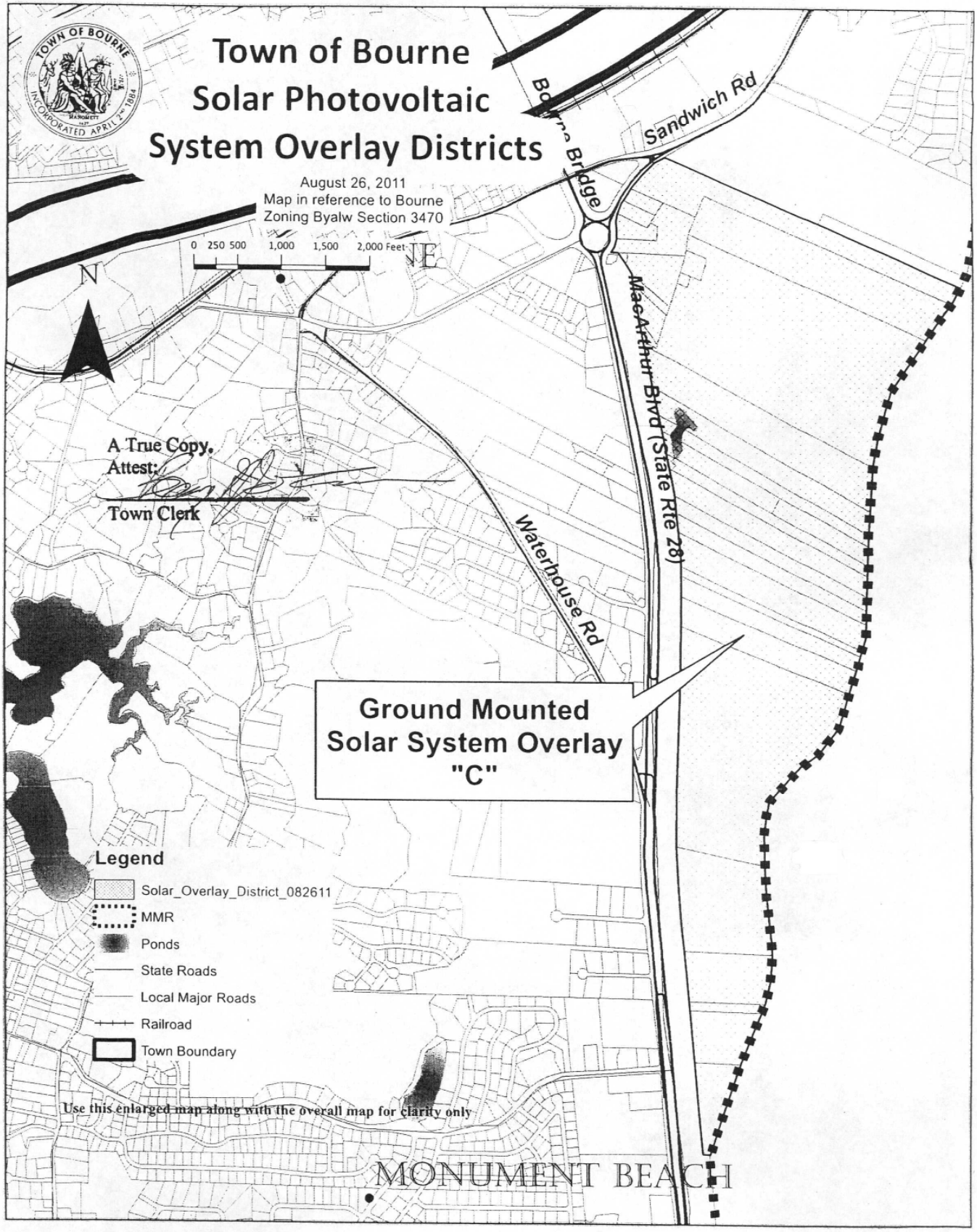
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with
the overall map for clarity only


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 250 500 1,000 1,500 2,000 Feet
N
Sandwich Rd
Bridge
MacArthur Blvd (State Rte 28)
Waterhouse Rd
A True Copy,
Attest:
Town Clerk
Ground Mounted
Solar System Overlay
"C"
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Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with the overall map for clarity only
MONUMENT BEACH

3475. Application and Review.

(1) Before being approved or disapproved by the Inspector of Buildings, the SPS of 250kW or larger of rated nameplate capacity shall undergo Site Plan Review (SPR) by the Planning Board.

(2) Required Submittals. The project proponent shall provide the following:

A. A site plan prepared by a registered professional engineer licensed to practice in Massachusetts; in addition the site plan shall include the following:

1) Property lines and physical features, including roads, for the project site;

2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

3) Drawings of the SPS signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

4) One- or three-line electrical diagram detailing the solar photovoltaic system, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

5) Documentation of the major system components to be used, including the photovoltaic (PV) panels, mounting system, and inverter;

6) Name, address, and contact information for proposed system installer;

7) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

8) The name, contact information and signature of any agents representing the project proponent; and

B. Documentation of control of the project site (see § 3476 below);

C. An operation and maintenance plan (also §3477 below);

D. Zoning district designation for the parcel(s) of land comprising the project site;

E. Description of financial surety that satisfies §3484 (3) below.

3476. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic system.

3477. Operation and Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic system, which shall include specific measures for maintaining safe access to the installation, a stormwater management plan, and general procedures for and frequency of operational maintenance of the installation.

3478. Utility Notification. No large-scale ground-mounted solar photovoltaic system shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement..

3479. Dimensional Requirements. SPS are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), however a fifty (50) foot setback is required when adjacent to conservation lands or residentially zoned or used lands.

3480. Design Standards.

a) **Lighting.** Lighting shall be consistent with Section 3450. Lighting of other parts of the system, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

b) **Signage.** Signs on SPS are restricted as provided in Section 3200 for the underlying district. A sign shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. SPS shall not be used for displaying any advertising.

c) **Accessory Structures.** All structures accessory to SPS shall be subject to regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts, all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping.

3481. Utility Connections. All utility connections from the SPS shall be placed underground. In performing site plan review, the Planning Board may waive this requirement, taking in consideration of the soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3482. Safety and Environmental Standards.

a) **Emergency services.** The owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the SPS shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

b) **Land clearing, soil erosion and habitat impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the SPS or otherwise prescribed by applicable laws, regulations, and bylaws.

3483. Monitoring and Maintenance.

a) **Conditions.** The owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained at the level approved during site plan review. The owner or operator shall be responsible for the cost of maintaining the SPS.

b) **Modifications.** All material modifications made after site plan review approval or the issuance of the required building permit shall require an amended site plan review approval.

3484. Abandonment or decommissioning.

1) Removal requirements. Any SPS which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Inspector of Buildings by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

a) Physical removal of all components of the SPS, including but not limited to structures, equipment, security barriers and transmission lines from the site.

b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

c) Stabilization or revegetation of the site as necessary to minimize erosion. The Inspector of Buildings may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPS shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the SPS fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

3) **Financial Surety.** A form of surety shall be provided, either through escrow account, bond or otherwise, to cover the cost of removal and disposal in the event the Town must remove the SPS and remediate the landscape, in an amount and in a form acceptable to the Town Counsel but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations.

3500. LANDSCAPING AND SCREENING

3510. Parking Lot and Buffer Plantings. The following shall be observed in all districts.

3511. Applicability. Street, sideline, parking area, and district boundary plantings shall be provided as specified below when any new building, addition, or change of use requires a parking increase of six or more spaces. In performing Site Plan Review, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

3512. Plants.

(i) Type of materials. Required plants shall include both trees and shrubs, and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 3" caliper, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24" in height at the time of building occupancy, reach an ultimate height of at least 36", and be of a species common in the area.

(ii) Number of plants. The minimum number of trees in the planting areas equals planting area length (in feet) divided by 30, and the number of shrubs equals planting area length (in feet) divided by three. Plants preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area.

3513. Planting Areas.

(i) Street planting area. Street planting is required for premises abutting any arterial street, except within the V-B or B-1 districts, which are exempted from this requirement. The required number of plantings shall be located within 15 feet of the street property line along the entire street frontage except at drives.

(ii) Sideline planting area. Sideline planting is required for premises abutting any arterial street. The required number of plantings shall be provided within five feet of the side lot line between the front lot line and the building setback (as actually proposed, not as minimally required) except at openings for shared access with adjacent premises.

(iii) District boundary planting area. District Boundary planting is required on any premises along the full length of any boundary abutting or extending into a Residential District and being developed for a use not allowed in that Residential District, unless in performing Site Plan Review the Planning Board determines that abutting property is unbuildable or visually separated by topographic features. The required number of plantings shall be located within ten feet of the boundary.

(iv) Parking area plantings. Parking lots containing 30 or more spaces must be provided with plantings as follows. A minimum of 2% of the interior area of the lot shall be unpaved planting area. A minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

3514. **Existing Vegetation.** Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of 6" or greater caliper, dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade change more than one foot unless dictated by plant health, access safety, or identification of the premises.

3515. **Exceptions.** Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

3516. **Maintenance.** All plant materials required by this bylaw shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season.

3520. **Erosion Control.** All slopes exceeding 15% resulting from site grading shall either be covered with loam to a depth of 4" and planted with vegetative cover sufficient to prevent erosion, or be retained by a wall constructed of masonry, reinforced concrete or creosote-treated pile or timber.

3530. **Screening.** Exposed storage areas, machinery, garbage “dumpsters,” service areas, the storage of vehicles including boats, recreational vehicles, trucks, utility trailers, utility buildings or structures, contractor’s yards, open storage and loading or service yards shall be screened from view of abutting properties by a wall, stockade fence, or densely planted trees, or be equivalently obscured by natural vegetation, and shall not be located within any required front yard.

3540. Parking and Loading Area Setbacks. The required distance between off-street parking and loading areas and any street line shall be 5% of lot depth from that street, but no such requirement shall be greater than 50 feet nor less than 15 feet. The required distance between off-street parking and any property line shall be five (5) feet wherever sideline planting areas are required under Section 3513 (iii), or three (3) feet elsewhere. Off-street parking servicing non-residential uses located in non-residential districts shall not be allowed within 30 feet of a Residential District. In the B-4 district, see also Section 2500, footnote "i".

3550. Corner Visibility. At corners no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 1/2 and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining points on said street lines 20 feet back from their point of intersection.

3560. High Fences or Walls. Sight-obstructing fences or walls exceeding six feet in height must observe yard requirements for a building.

3570. Natural Cover Removal. A Special Permit from the Planning Board is required for exposing more than 10,000 square feet of bare earth through either removal or filling on any parcel or contiguous parcels in the same ownership, (or if in different ownership, is part of a common proposed site development scheme) unless in conjunction with agricultural activity, landscaping incidental to a dwelling existing on the premises, or in conjunction with a currently valid building permit or Special Permit for earth removal under the Zoning Bylaw, or within streets which are either public or designated on an approved subdivision plan. A Special Permit under this Section shall be granted only subject to the following:

a) **Submissions.** Information shall be submitted showing existing and proposed topography and vegetation (or other cover surface, if any) and outlining methods of preventing erosion, silting or other instability during and after land or vegetation alteration.

b) **Criteria.** Adequate measures are to be provided to prevent erosion, silting or other instability both during and after land or vegetation alteration. The Planning Board may require the applicant to submit a report from the Soil Conservation Service or soil loss calculations prepared by a soils scientist or engineer in cases where doubt as to adequacy of proposed measures exists.

3580. Security.

a) **Requirement.** In conjunction with either the above special permit approval process or with Site Plan Review under Section 1230, the Planning Board shall require the posting of a bond or other security to secure faithful and satisfactory performance of proposed erosion control measures, in such sum and in accordance with such conditions as the Board may determine necessary, consistent with guidelines to be adopted by the Planning Board for the administration of this provision.

b) **Exception.** The Board need not require security where there is full assurance of compliance with erosion control requirements without it, taking into consideration the size of the area disturbed, materials retained on the site, slope and topography of the land, the nature of vegetation being disturbed and being retained, and the time period during which earth will be exposed.

c) **Amount.** The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

SECTION IV SPECIAL REGULATIONS

4100. ACCESSORY USES

4110. Home Occupations. Home occupations are permitted within a dwelling (but not its accessory buildings) if no more than 30% of the gross floor area of the residence is used for the occupation, not more than one person not a member of the household is employed on the premises in the occupation, there is no exterior display or visible storage or other variation from the residential character of the premises, traffic generated does not exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided for off-street, other than within a required front yard.

4120. Accessory Dwelling. A special permit authorizing one accessory dwelling may be granted only if consistent with the following.

4121. Development Requirements.

a) In conformance with Section 2450.

b) The Board of Health must have documented to the Board of Appeals that sewage disposal will be satisfactorily provided for, including provision for an appropriate reserve area on the site.

c) Parking as required at Section 3320 shall be provided either in a garage or on paved surfaces not located within any required yard.

4122. Occupancy Requirements

a) Either the principal or the accessory unit must be owner-occupied, except for temporary absences.

b) An accessory unit authorized under these provisions shall not be used for summer rental, boarding and lodging, or other commercial use.

4123. Procedural Requirements

a) To approve a special permit for an Accessory Dwelling, the Board of Appeals must make a determination that all of the above requirements have been met, and also that the particular circumstances of the case make such use appropriate, including consideration of whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood, whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped, or providing housing at unusually low cost, and whether site and building design will effectively avoid any departure from the character of the neighborhood

b) A Certificate of Occupancy for an Accessory Dwelling shall be issued for a period no greater than three years. Continued occupancy beyond that shall require a new Certificate of Occupancy, to be granted only upon documentation to the Inspector of Buildings that the relationships satisfying Section 4122 or on which the decision under paragraph a) was based are still in existence.

c) Upon termination of occupancy satisfying Section 4122, or a condition of the special permit, separate occupancy of the accessory dwelling shall not be reestablished unless a new special permit is granted, on grounds that either the requirements of Section 4122 and the original special permit will again be satisfied, or that special circumstances of the structure or its occupants would make single-family occupancy a hardship, and that the granting of such Special Permit would not be detrimental to the neighborhood.

d) A Certificate of Compliance with the above paragraph must be provided by the owner to the Inspector of Buildings upon transfer of any beneficial interest in the property, and recorded at the Registry of Deeds.

4200. SPECIAL RESIDENTIAL USES

4210. Mobile Homes. Mobile homes may be occupied only in a campground, or mobile home park. Campers may be occupied only within a licensed campground.

4220. Campers and Trailers. A camper, utility trailer, boat trailer, or house trailer (but not a mobile home) may be stored in a garage, or to the rear of the residence of its owner, in each case observing yard requirements except when loading.

4230. Mobile Home Parks. Mobile home parks shall conform to the following minimum requirements:

a) Lot area minimum of 30 acres, but not less than 20,000 square feet per mobile home.

b) Each mobile home plot shall have an area of not less than 4,000 square feet.

c) Mobile homes shall not be closer to each other or other structures than 10 feet end to end, or 24 feet laterally.

d) Each plot shall be serviced with water and sanitary drainage suitable for permanent connection.

e) No mobile home shall be placed within 200 feet of a street line, or 60 feet of any other lot line.

f) Minimum lease shall be for not less than one month.

All mobile homes placed in a mobile home park shall meet requirements of Article II of the Sanitary Code of the Commonwealth of Massachusetts.

A condition for approval of a special exception to permit mobile home parks shall be that the park be developed and operated in accordance with a plan which has been reviewed by the Planning Board, designating plots, vehicular access, auto parking facilities, and water and sewage systems.

4240. Campgrounds. Campgrounds shall conform to the following minimum requirements:

a) Lot area (see definitions) minimum of 20 acres, but not less than 7,500 square feet per campsite.

b) Each rental plot shall have an area of not less than 2,500 square feet and a width of not less than 40 feet in its smallest dimension.

c) If each plot is not serviced with water and sanitary drainage, common sanitary facilities shall be provided.

d) No unit for overnight occupancy shall be placed within 100 feet of a street line, or 60 feet of any other lot line.

e) No unit shall be occupied for more than six months in any 12-month period.

A condition for approval of a special exception to permit campgrounds shall be that the campground be developed and operated in accordance with a plan which has been reviewed by the Planning Board, designating plots, vehicular access, auto parking facilities, and water and sewer systems.

4250. Village Mixed Use Developments. Mixed use involving both residential and non-residential principal uses on the same lot may be authorized on special permit by the Planning Board in the B-1, B-2, B-4 and VB districts subject to these provisions. Such mix shall include non-residential uses and may include single, two-family, or multi-family dwellings as a co-occupant of a building together with one or more non-residential uses. The purpose of authorizing such mixed use is to broaden the diversity of housing provisions within the Town, to contribute to housing affordability, and to add residential activity to village centers. Special permits for mixed use shall be granted upon determination by the Planning Board that the proposal serves those purposes, is of net benefit to the neighborhood and the Town in relation to the considerations of Section 1330, and is in compliance with the following:

a) Dwellings may be permitted under these provisions only on premises where the majority of the first floor area of all buildings on the lot combined will be occupied by one or more non-residential uses.

b) Dwellings shall only be permitted upon the certification of the Board of Health or the Sewer Inspector that the sewerage system is adequate to service the proposed non-residential use and the proposed number of residential units. In addition, each building must be served by access, drainage, and utilities determined by the Planning Board to be functionally equivalent to those required for separate lots.

c) Requirements of Section 2400 Dimensional Regulations and 2500 Intensity of Use Schedule shall apply to dwellings authorized under this subsection, except that the extra lot area requirements otherwise required for two or more principal buildings by Section 2440 shall not apply and the protection against change in dimensional requirements provided by Section 2450 for single - and two-family dwellings shall be extended to apply to buildings containing multi-family dwellings.

d) Area requirements must meet the minimum lot area requirements for a commercial use as shown on Section 2500.

Because residential and commercial uses have peak parking demands at different times, the authorization in Section 3310 for the Planning Board to reduce required parking can normally be expected to result in no more than one additional parking space per dwelling unit in addition to those required for the non-residential uses on the premises.

4260. NONCONFORMING AFFORDABLE LOTS.

4261. Purpose. The purpose of this bylaw is to increase the supply of housing that is available and permanently affordable to low or moderate income households by allowing affordable dwelling units to be built on non-complying lots, provided the lots meet the criteria listed herein.

It is intended that the affordable housing units created under this bylaw qualify as low or moderate income units for purposes of M.G.L. ch. 40B sec. 20-23 and shall be in compliance with 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards promulgated thereunder by the Department of Housing and Community Development (DHCD) for inclusion in the DHCD ch. 40B Subsidized Housing Inventory as Local Action Units.

4262. Applicability. This bylaw applies to lots of record as of January 1, 2010 which do not meet the zoning requirements for a buildable lot. Any increase in tax assessment for an applicable lot will occur upon issuance of the special permit for the affordable single-family dwelling on that applicable lot.

4263. Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section.

a) The SPGA shall only allow the construction of one (1) single family dwelling per lot. The dwelling must be restricted as an affordable homeownership or affordable rental dwelling unit in perpetuity or the maximum time period allowed by law.

b) The SPGA, at the request of the applicant may allow the existing dwelling on the adjacent lot to be restricted as the affordable unit. However before the occupancy permit of the new unit is issued the existing dwelling must be restricted in accordance with M.G.L. ch. 40B sec. 20-23 and 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards promulgated thereunder by the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Ch 40B Subsidized Housing Inventory as Local Action Units.

c) The Special Permit Granting Authority may impose conditions and restrictions on the special permit, including, but not limited to,

i. Restricting the total number of bedrooms or occupants in the dwelling,

ii. Requiring that a Regulatory Agreement and/or Deed Rider, in an acceptable form, be executed and recorded at the Barnstable Registry of Deeds by the applicant,

iii. Such other restrictions or limitations as are considered necessary or appropriate to carry out the intent and purposes of the bylaw.

4264. Use regulations. The following criteria must be met for a parcel to be eligible for the nonconforming affordable lot exemption:

a) Must be located within a residential zoning district;

b) Must contain at least 10,000 square feet;

c) Must contain at least 90% upland as defined by this bylaw;

d) Must satisfy applicable Board of Health regulations;

e) Must satisfy applicable Town of Bourne Conservation Commission Wetlands Protection Regulations;

f) Must have a minimum of eighty (80) feet of frontage on a way, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide the needs of vehicular traffic.

g) The new structure shall conform to applicable setbacks.

h) The new structure must conform to the gross floor area limitations of Section 2456.

i) No lot shall be built upon if it was purposely created as an unbuildable lot as part of a subdivision open space or park, or by any other condition or agreement with the Town;

j) No part of any access driveway shall be within twenty (20) feet of a principle structure on an adjoining lot, and;

k) No part of any affordable structure shall be placed within 80’ of an existing principle structure for those lots where the affordable lot is located behind an existing lot.

l) Shall not be located within a Zone II Water Recharge Area.

m) Shall not be located within a Special Flood Hazard Area.

n) When creating the new affordable parcel, the remaining parcel must also meet the minimum requirements listed above.

o) A Lot granted a special permit for the purposes of a nonconforming affordable lot shall not be afforded the privilege of section 4100 –accessory dwelling.

The above criterion shall not be waived.

4265. Plan Processing.

1. Board of Health Review. The Board of Health shall report to the Planning Board in writing its approval or disapproval of the site plan. If the Board of Health disapproves said plan, it shall make specific findings as to why the lot shown cannot be used for a building site without injury to the public health. Approval of the plan by the Planning Board shall then only be given on condition that the lot shall not be built upon without prior consent of the Board of Health.

2. Review by Other Town Agencies. The Planning Board shall distribute copies of the Plan to the Conservation Commission and the Bourne Housing Partnership for comments.

4266. Affordability. No Building Permit or Certificate to Occupy shall be issued by the Inspector of Buildings until the developer has demonstrated that all of the applicable requirements of Section 4264 have been met.

4267. Rate of Development. The Inspector of Buildings shall issue no more than one (1) building permit per applicant per calendar year for a nonconforming residential lot. In addition no more than two (2) building permits per calendar year shall be issued for a village; as designated by the precinct map.

4268. Definitions. *(For the purposes of this section of the bylaw only)*

Applicant - Individuals, corporations, partnerships, trusts and any other legal entity or form of doing business in which the applicant of record holds a legal or beneficial interest of ownership of greater than one (1) percent.

Calendar Year - The period beginning January 1 and ending December 31.

Village – Designated by the official precinct as shown in the Town Clerks office.

Building Permit - refers to a affordable non conforming lot

Non-complying Lot - a lot for single family use which as of January 1. 2010 was held in common ownership with any adjoining land and was merged for tax purposes, and has not been combined by deed.

4269. Issuance of Building Permits

a) Applications for building permits shall be dated and time-stamped upon receipt by the Inspector of Buildings. Building permits shall be issued on a first-come basis.

a) No Applicant shall receive more than one (1) Building Permit in any given calendar year.

b) It is the express intention of this provision that no Applicant shall employ any scheme or devise in order to obtain more building permits than said Applicant is lawfully entitled to under the terms of this Bylaw.

4300. BOURNEDALE OVERLAY DISTRICT

4310. Applicability. The Bournedale Overlay District shall be considered to be super-imposed over any other districts established in this Bylaw. Land in the Bournedale Overlay District shall be subject to the following requirements, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

4320. Use Regulations. The following use regulation departures from the provisions of underlying districts shall apply in the Bournedale Overlay District:

4321. Major Residential Development. Shall be allowed only if authorized on special permit under the provisions of Section 2700.

4322. Technology Campus. Use shall be allowed in the R-80 district if authorized on special permit under the provisions of Section 2700.

4323. Professional Office. Use shall not be allowed within the Scenic Development District.

4330. Dimensional Regulations. The following departures from the dimensional regulations of underlying districts shall apply in the Bournedale Overlay District:

4331. Setbacks. The following setbacks to any building or parking facility for five or more vehicles shall be maintained. However, if meeting such setbacks leaves otherwise developable property without economically beneficial use, the Planning Board may grant a special permit authorizing a departure despite non-compliance provided that the relief granted is the minimum necessary to allow economic use.

a) 200 feet from natural wetlands, water bodies, public water supply wellheads, or vernal pools, and 50 feet each side of ascertainable wildlife migration corridors, in each case as documented in inventory materials approved or amended and approved by vote of the Conservation Commission following a public hearing held thereon, and filed with the Town Clerk prior to the special permit application date.

b) 100 feet from historic structures, archeological sites, or Indian burial grounds and 50 feet each side of corridors of ascertainable Indian trails, in each case where those locations are documented in inventory materials approved or amended and approved by vote of the Bourne Historical Commission following a public hearing held thereon, and filed with the Town Clerk prior to the special permit application date; or 100 feet from arterial streets, as defined in this Bylaw.

4332. Frontage. Lot frontage on arterial streets not subject to the limitations of Section 3343 Interim Egress Control shall equal not less than 200% of that otherwise required.

4333. Lot Area. In the Scenic Development District the lot area per hotel or motel guest unit may be as low as 10,000 square feet provided that the applicant documents to the satisfaction of the special permit granting authority that peak hour auto trip generation from the site will be no more than four times that which would be expected for single-family development of the same site.

4334. Parking Location. In the Bournedale Overlay District, all accessory parking serving other than one or two family homes shall be screened from the street through location no nearer the street than the building or activity being served, and if necessary to obscure visibility, plantings shall be provided in addition to those otherwise required at Section 3500, Landscaping and Screening.

4335. Building Height. In a Technology Campus the Planning Board may grant a special permit authorizing an increase to the allowable building height provided that the increase meets the Purpose and intent of Section 2720.

4400. EARTH REMOVAL

The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil or similar materials within any 12 month period shall be allowed only on Special Permit in accordance with Section 2200, unless such removal is incidental to construction on the premises under a current building permit, or for operation of a cranberry bog. A Special Permit for removal shall be granted only subject to the following:

4410. Plan. The application shall be accompanied by a plan indicating existing topography base grades below which no excavation will take place, and existing and proposed cover vegetation.

4420. Screening. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet the requirements of Section 3400.

4430. Restoration. Following removal, all excavated areas shall be restored by grading to provide drainage and for slopes not to exceed one foot horizontal to two feet vertical, and by covering with four inches of topsoil, and by planting with cover vegetation, which shall have been established prior to release of the bond.

4440. Bond. A performance bond shall be posted in an amount sufficient to assure satisfactory fulfillment of the above.

4500. MOTOR VEHICLE SERVICES

Motor vehicle service stations shall be granted a Special Permit only in conformity with the following:

4510. Egress. No location shall be approved if a vehicular entrance or exit will be so located as to create unusual hazard. Egressing vehicles shall have at least 400 feet visibility in each travel direction, and no vehicular entrance or exit shall be located within ten feet of a side lot line or within 50 feet of the midpoint of the arc connecting sidelines of intersecting streets. Entrances and exits shall occupy not more than 40% of lot frontage, and shall be clearly channeled through use of curbed areas or similar devices.

4520. Pedestrian Relationship. No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas, or compact retail districts.

4530. Queues. There shall be adequate space off-street for not fewer than two cars to await service per filling position, and no service building shall be located within 40 feet of a street line.

4600. OPEN SPACE COMMUNITY

4610. Applicability. The Planning Board may grant a Special Permit except with respect to Residence District R-80: for exceptions to Section 2200 Use Regulations and to Section 2500 Intensity of Use Schedule, to allow the construction and occupancy of a subdivision designed as an Open Space Community, consistent with the following regulations and conditions.

4620. Objectives. The intent of an Open Space Community is to allow relatively intensive use of land, while at the same time maintaining existing character; to preserve open space for conservation and recreation; to introduce variety and choice into residential development; to meet housing needs; and to facilitate economical and efficient provision of public services and to encourage development of well designed resorts with accessory recreation facilities.

4630. Procedures.

4631. Pre-application Review. To promote better communication and avoid misunderstanding, applicants are encouraged to submit preliminary materials to the Planning Board for informal review prior to formal application.

4632. Applicants for a Special Permit for an Open Space Community shall submit to the Planning Board eight (8) copies of an application and an Overall Development Plan. Such plan shall encompass at least ten acres of land, which is contiguous, though not necessarily in one ownership. If the plan involves more than one ownership, each owner of land included in the plan shall be a party to the application and, upon plan approval, subject to its provisions.

4633. Overall Development Plan. The Overall Development Plan shall include the following (at uniform scale if shown on separate sheets):

a) Existing Site Conditions: location and boundaries of the site, water bodies and streams, distinction between upland and wetland, topography, including identification of land having slopes in excess of 25%, and existing ways.

b) Proposals: proposed lot lines, streets and ways, water system, drainage system, common open space, and other land for non-residential use.

c) If the community includes multifamily structures or 50 or more lots or an extensive resort development, the Overall Development Plan shall also include identification of general cover type (wooded, cropland, etc.), location of major tree groupings, and other outstanding trees or other botanical features, indication of vegetation removal and retention, and proposed vegetation; and shall also show any additional information listed under Section 4.2 of the Regulations of Massachusetts D.E.Q.E. adopted under Section 40, Ch.131, G.L., unless certain items are waived by the Planning Board, as not being germane or feasible. Floor plans and elevations at 1/16" equals 1'0" or larger scale shall be submitted for all proposed buildings other than detached one or two-family dwellings.

4634. Other Materials. The application materials shall indicate each landowner's interest in the land to be developed, the form of organization proposed to own and maintain the common open space, the substance of covenants and grants of easements to be imposed upon the use of land and structures, and a development schedule, indicating cumulative maximum number of dwelling units and hotel and motel guest units proposed to be completed by the end of each year in the schedule and the latest date of completion for any proposed community facilities, which schedule as approved or amended and approved shall be made part of the Special Permit.

4635. Review and Decision. Forthwith upon their receipt of the application and required plans, the Planning Board shall transmit one copy each to the Board of Health and Conservation Commission. The Board of Health and Conservation Commission shall submit reports to the Planning Board within 35 days of referral, and the Planning Board shall make no decision upon the application until receipt of all such reports or until 35 days have elapsed since date of referral without such reports.

4636. Criteria. Approval of an Open Space Community shall be granted only upon Planning Board determination that the plan complies with Section 4640, and that the plan is superior to a conventional one in preserving open space for conservation or recreation; in utilizing natural features of the land; in allowing more efficient provision of streets, utilities and other public services; and at least equal to a conventional plan in other respects.

4637. Relationship to Subdivision Plan. Planning Board approval of a Special Permit for an exception to Section 2200 Use Regulations and Section 2500 Intensity of Use Schedule to allow an Open Space Community shall neither oblige the Planning Board to approve any related Definitive Plans nor substitute for such approval. Normally, the Overall Development Plan and Special Permit application shall be prepared and submitted to the Planning Board concurrent with a Preliminary Plan for subdivision of land. The applicant may submit a combined plan and application which conforms to all requirements of Section 4600 and all Preliminary Plan requirements of the Subdivision Regulations of the Bourne Planning Board. Following approval of a Special Permit and a Preliminary Plan, a Definitive Plan prepared by a Registered Land Surveyor and a Registered Civil Engineer shall be submitted to the Planning Board consistent with the Subdivision Regulations of the Bourne Planning Board.

4640. Requirements. An Open Space Community must conform to the following:

4641. Number of Dwelling Units. The basic maximum number of dwelling units allowed shall equal the "Applicable Land Area" divided by the lot area requirements for a single-family dwelling in that district, as shown at Section 2500, then rounded to the nearest whole number. "Applicable Land Area" equals the total area encompassed by the Overall Development Plan, minus:

a) Coastal or freshwater wetlands, as defined in Section 40, Ch.131, G.L.;

b) Land having slopes in excess of 25%;

c) Land designated on the plan for uses, other than open space, not primarily servicing residents or overnight guests of the development.

d) Land otherwise prohibited from development by local or state law, regulation, or statute or by a prior conservation restriction recorded in the Registry of Deeds.

Where the Community includes more than one ownership, and/or lies in more than one district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable total, which may be located on the plan without respect to allowable subtotals by district or ownership areas.

The Planning Board may approve an Open Space Community containing more than the basic maximum number of dwelling units, upon the Board's determination that the proposed Community, through the quality of its site selection, programming, and design, displays exceptional sensitivity to the objectives of this Bylaw. The increase over the basic maximum number of dwelling units allowed shall normally be equal to:

a) the number of units (up to 25% of the total in the Open Space Community) which the Bourne Housing Partnership certifies will meet the definition of a Bourne Affordable Housing Unit (see Section V).

b) a percentage increase over the basic maximum number of dwelling units allowed under the first paragraph of 4641, equal to one-half the number of bonus points earned under a) through j) below.

In no event, however, shall the Planning Board allow an increase to the extent that the applicable land area per dwelling unit in the entire development is reduced below 30,000 sq. ft. per dwelling unit.

a) Objective :	**Encourage residential choice.**
Bonus points:	0.25 x percentage of all dwelling units equipped for and legally reserved for the elderly.
b) Objective:	**Avoid excessive school impact.**
Bonus points:	5 x Number of proposed dwelling units Number of proposed bedrooms in excess of one per unit.
c) Objective:	**Protect existing natural areas.**
Bonus points:	0.2 x acres of wooded area on which the majority of trees of 4" plus caliper are retained.
d) Objective:	**Protect existing natural areas, prevent groundwater and surface water pollution.**
Bonus points:	0.2 x acres of wetland (as defined in C.131, Section 40, MA. G.L.) retained in a natural state.
e) Objective:	**Protect existing natural areas, prevent erosion.**
Bonus points:	0.4 x acres with average slope greater than 15% which are retained in their natural state.
f) Objective:	**Protect existing natural areas; prevent water pollution.**
Bonus points:	0.4 x acres of land within 200 horizontal feet of a river, pond, stream, canal, or ocean, retained in a natural state.
g) Objective:	**Minimize incongruity with surrounding area.**
Bonus points:	0.1 x percentage of plan boundary abutted by 200 ft. or more buffer strip retained in a natural state.
h) Objective:	**Minimize visual disruption.**
Bonus points:	0.1 x percentage of dwelling units with highest, habitable floor at a level below the highest ground elevation within 500 ft.
i) Objective:	**Encourage active and passive recreation.**
Bonus points:	0.5 x acres of Common Open Space which is accessible to the general public or developed for active recreation or in excess of the minimum area requirements of Section 4645 Open Space.

j) Objective: **Avoid excessive traffic increases, promote traffic safety.**

Bonus points: 10 points if all of the following are met:

(1) no more than 10% increase in average daily traffic, at the place of greatest increase;

(2) for all egresses, at least 400 feet visibility in each travel direction;

(3) no street egress serving 20 or more dwelling units within 150 feet of an intersecting street, or within 150 feet of egress from a parking area for 30 or more vehicles.

Applicants seeking any of the above bonuses shall submit calculations and any other documentation necessary to demonstrate qualification for the bonus.

At least 25% of all affordable units shall be built in each of the first four years of development scheduling. Each such affordable unit shall be approximately equal in floor space and quality of construction to all other units.

ILLUSTRATIVE SUPPLEMENT

Bonus Summary	**Maximum Bonus Points**	
Criterion	**Number**	**How Earned**
a. Units for elderly	10	40% of d.u.'s reserved for elderly
b. Units with 1 bedroom or less	10	Half or more 1 bedroom and studios
c. Undisturbed woodland	10	50 acres
d. Undisturbed wetland	10	50 acres
e. Undisturbed slope	10	25 acres
f. Undisturbed waterfront	10	25 acres
g. Buffer strip	10	Full buffer
h. Relative building height	10	All buildings on lowland
i. Developed, public, or additional open space	10	20 acres
j. Traffic increase and safety	10	No increase more than 10% and for all exits, good visibility and adequate distances to other streets and major driveways
	100 Points	

4642. Allowable Uses. Uses allowed at any location shall be only those allowed in the district in which the location lies, except as provided below.

a) Multifamily dwellings shall be allowed in compliance with the following:

(1) Multifamily dwellings shall be allowed only in communities containing 25 or more acres.

(2) There shall be not more than 20 dwelling units in a single structure.

(3) Structures shall provide a separation of no less than their building height from any other structure on the same lot and from any lot line. Structures shall provide a separation of no less than twice their building height from the boundary of the Overall Development Plan.

(4) Parking areas shall not be located within any required yard, and shall be screened from public ways by building location, grading, fencing, or plantings. Parking areas shall not be located within 75 feet of the boundary of the Overall Development Plan. Such parking area shall contain no more than 36 spaces, and be separated from all other parking areas by at least 20 feet.

(5) No buildings shall be floodlit. Drives and parking areas shall be illuminated by shielded lights not higher than 15 feet.

b) Extensive resort development may be allowed in compliance with the following:

(1) Extensive resort development shall be allowed only in communities containing 50 or more acres.

(2) (Deleted).

(3) Two guest units may be built instead of each dwelling unit allowed under Section 4641.

(4) (Deleted).

(5) The Open Space Community shall not increase peak season average daily traffic by more than 25% above current levels on any street within 1/2 mile of any egress. The applicant shall submit calculations and any other documentation necessary to demonstrate compliance with this requirement.

(6) Access via minor streets servicing single-family homes shall be avoided.

(7) Maximum building height shall be 20 feet above the highest natural grade within 200 feet of the structure, or 35 feet, whichever is the lesser.

(8) Extensive resort development shall be separated from the Overall Development Plan boundary by a buffer strip, which shall be 150 feet wide where the boundary is a public way and 100 feet elsewhere. The buffer strip shall be maintained with vegetative or other natural cover and shall not contain any structures, parking areas, or paving except for driveways.

(9) Structures shall provide a separation of no less than their building

height from any other structure on the same lot and from any lot line.

(10) Parking areas shall not be located within any required yard, and shall be screened from public ways and any proposed residential uses in the community by building location, grading, fencing, or plantings. Each parking area shall contain no more than 36 spaces, and shall be separated from all other parking areas by at least 20 feet.

(11) No building shall be floodlit. Drives and parking areas shall be illuminated by shielded lights not higher than 15 feet.

4643. Dimensional Regulations. Dwellings shall be on designated lots, whether or not the lots are or can be owned separately or independently of adjoining lots. More than one multifamily dwelling may be erected on a lot. Dimensional regulations for individual lots (but not for determining the allowable number of dwelling units) shall be as follows, rather than as provided at Section 2500.

	DISTRICT R-40, SD, B-4
Minimum lot size (s.f.)	15,000
Minimum lot frontage (ft.)	100
Minimum front yard (ft.)[a]	30
Minimum side and rear yards (ft.)[a]	15
Maximum lot coverage (%)	20
Maximum building height (ft.)	35

[a] Increase to 50 feet where abutting the boundary of the Overall Development Plan.

4644. Improvements. Access, drainage, utilities, and grading shall meet functional standards equivalent to those established in the Planning Board's adopted Subdivision Regulations. Prior to issuance of building permits within an Open Space Community, the Planning Board shall certify to the Inspector of Buildings that a detailed site plan has been submitted to them and meets those standards, and before occupancy permits for any structure are issued, the Planning Board shall certify to the Inspector of Buildings that improvements to meet such standards have either been completed to serve such structure, or security for their completion has been received.

4645. Common Open Space. All land not designated for roads, lots for dwellings, or other development within the Community shall be held for common open space. Common open space shall be preserved for recreation or conservation, and shall comprise not less than 30% of the land within the Development Plan. Such open land shall either be conveyed to the Town and accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plan. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. Where land is proposed for golf course or similar extensive recreational use, a deed restriction, enforceable by owners of the lots or residential units, shall be recorded in the Registry of Deeds, restricting use to that shown on the Development Plan. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadway. Building coverage shall not exceed 5% in such conservation or recreation areas.

4646. Long-term Compliance. Subsequent to approval of such Community, no land therein shall be sold and no lot line or structure altered from that shown on the Overall Development Plan so as to increase the extent of nonconformity with the standard dimensional regulations of this Bylaw (see Section 2500). Prior to sale of any lot within a community, or issuance of a building permit for construction therein, such lots shall be shown on a plan recorded in the Registry of Deeds or registered with the Land Court, which plan shall make reference to the recorded land agreements referred to in Section 4645. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the Community.

4650. Housing to Meet Community Needs. Any development eligible for submittal for a Comprehensive Permit under the provisions of Chapter 40B may, in lieu of proceeding under Chapter 40B provisions, seek a special permit for Open Space Development subject to regulations which differ from the above as follows.

4651. The units must be determined to be "consistent with local needs", as that term is defined in Section 20, Chapter 40B, M.G.L.

4652. The number of dwelling units may be as much as twice that allowed under current provisions at Section 4641 (except for units having sewage disposal with a Water Resource District), provided that the Planning Board determines that the number allowed is necessary for project feasibility, does not result in overburdening of streets or utilities serving the development, and is not more damaging environmentally than an equivalent number of housing units developed at the otherwise allowable density. The dwelling units may be in single family, two family or multifamily structures.

4653. Multifamily dwellings may be allowed on a parcel as small as 10 acres, rather than the 25 acres stipulated at item 4642 a) 1).

4654. All other requirements of Section 4600 must be complied with.

4700. WATER RESOURCE DISTRICT

4710. Purpose. The purpose of the Water Resource District is to protect, preserve and maintain the existing and potential ground and surface water resources of the Town of Bourne.

4720. Use Regulations. The Water Resource District shall be considered to be superimposed over any other district established in the Bylaw. Land in the Water Resource District may be used for any use otherwise permitted in the underlying district, subject to the following limitations. However, these limitations shall not be construed to authorize regulation exceeding the limitations on zoning authority over agricultural and other uses as contained in Section 3 of Chapter 40A, G.L.

4721. Prohibitions. The following are prohibited on any lot or portion of a lot within a Water Resource District.

a) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)a. Generally, those are the following (see 310 CMR 22.21 (2)a, on file with the Inspector of Buildings, for exact provisions):

(1) Landfills, open dumps, and sludge or septage landfills;

(2) Auto graveyards or junkyards;

(3) Stockpiling and disposal of snow from outside of the District, if containing ice control chemicals;

(4) Individual sewage disposal systems designed to receive more than 110 gpd per 1/4 acre or 440 gpd on any one acre;

(5) Sewage Treatment Facilities subject to 314 CMR 5.00, until such time as that Regulation may be amended to specifically allow private sewage treatment facilities;

(6) Facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00, except:

[i] Very Small Quantity Generators as defined under 310 CMR 30.390;

[ii] household hazardous waste centers and events under 310 CMR 30.00;

[iii] waste oil retention facilities required by MGL C 21, § 52A;

[iv] remediation treatment works approved under 314 CMR 5.00.

b) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21(2)b, unless designed in accordance with specified performance standards. Generally, those are the following (see the 310 CMR 22.21 (2)b, on file with the Inspector of Buildings, for exact provisions):

1) Storage of sludge and septage unless in accordance with 310 CMR 32.30 and 310 CMR 32.31;

2) Storage of commercial fertilizers and soil conditioners unless within a structure designed to prevent generation and escape of contaminated runoff or leachate;

3) Storage of animal manure unless covered or contained;

4) Storage of liquid hazardous materials as defined in MGL C. 21E unless in a free standing container within a building or above ground with adequate secondary containment.

5) Earth removal to within 4 feet of historical high groundwater unless regraded to a higher level within 45 days, except for excavations for building foundations or utility works;

6) Storage of liquid petroleum products, except:

   [i] normal household use, outdoor maintenance, and heating of a structure;

   [ii] waste oil retention facilities required by MGL C. 21, § 52A;

   [iii] emergency generators required by statute, rule, or regulation;

   [iv] treatment works approved under 314 CMR 5.00 for treatment of contaminated ground or surface waters;

   provided that such storage is in a free standing container within a building or above ground with adequate secondary containment;

7) Development resulting in impervious surface of more than 15% or 2,500 square feet on any lot, unless a system for artificial recharge of precipitation is provided that will not result in degradation of groundwater quality (see also Sections 4722(a) and 4734).

c) As a principal use, manufacturing, processing, mixing, storage, transport, or disposal of hazardous materials in excess of quantities which, as wastes, are allowed small quantity generators as defined in DEP Regulations 310 CMR 30[1].

d) Motor vehicle service, washing, or repair.

e) Storage of more than 100 tons of coal.

f) Dry cleaners, laundromat.

g) Storage of ice removal chemicals.

[1] Section 310 CMR 30.351 is the exact reference as of 12.13.89.

4722. Uses Requiring Special Permits. Within the Water Resource District, the following shall be allowed only if granted a Special Permit from the Special Permit Granting Authority (See Section 4740) and if the use is not otherwise prohibited.

a) Covering with impervious surface more than 40% of the portion of lot area within the Water Resource District.

b) Removal of existing groundcover vegetation from more than 70% of lot area.

c) Discharge to surface water requiring a permit under 314 CMR 3.00 ('NPDES' permit).

d) Stable, barn, or similar confinement for four or more horses, cows, goats, and/or sheep, or more than fifty poultry, or a number of other animals equivalent to the above in waste production.

e) Contractor's yard.

4723. Change of Use. Change in activity resulting in exceeding any limitations established in a special permit, or crossing the thresholds of paragraphs 4721 or 4722, shall constitute change of use and is allowed but only on approval of a special permit, regardless of whether classified under 4721 or 4722.

4730. Design and Operation Guidelines. Within the Water Resource District, the following design and operations guidelines shall be observed in all new construction except for single-family dwellings.

4731. Safeguards. Provisions shall be made to protect against hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for hazardous materials, and indoor storage provisions for corrodible or dissolvable materials.

4732. Location. Where the premises are partially outside of the Water Resource District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

4733. Disposal. Provisions shall be made to assure that any waste disposed on the site shall contain no hazardous materials, or shall be disposed in strict accordance with 310 CMR 30, Hazardous Waste Regulations.

4734. Drainage. Provision shall be made for on-site recharge of all stormwater runoff from impervious surfaces unless, in cases where such surfaces are no more than 15% of lot area or 2,500 square feet, whichever is larger, the Planning Board in conducting Site Plan Review and following consultation with the Conservation Commission, determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge following consultation with the Conservation Commission.

Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board following consultation with the Conservation Commission. Dry wells shall be used only where other methods are infeasible and shall employ oil, grease, and sediment traps. Drainage from transfer areas for hazardous materials shall be separately collected for safe disposal.

4735. Sewerage. Sanitary sewers within the Water Resource District shall be designed and constructed in a manner such that groundwater levels, flows, and/or recharge will not be significantly lowered, diverted, or otherwise altered by such construction, and that risk of leakage is minimized.

4740. Special Permits.

4741. Authority and Procedure. The Special Permit Granting Authority (SPGA) shall be the Planning Board, except that where a Special Permit is required by Section 2200 Use Regulations, the SPGA authorized by that Section shall also be the SPGA for Water Resource Protection. Upon receipt of the Special Permit application, the SPGA shall transmit one copy each to the Planning Board (if not the SPGA), Conservation Commission, Board of Health, and the Inspector of Buildings for their written recommendations. Failure to respond within 35 days of transmittal shall indicate approval by said agencies.

4742. Submittals. In applying for a Special Permit under this Section, the information listed below shall be submitted, unless the SPGA, prior to formal application, determines that certain of these items are not germane:

a) A complete list of all hazardous materials to be used or stored on the premises, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion, and leakage, and to provide for control of spills.

b) A description of potentially hazardous wastes to be generated, including storage and disposal methods.

c) Evidence of qualified professional supervision of design and installation of any proposed storage facilities or containers for hazardous materials or waste.

d) For disposal on-site of domestic wastewater with an estimated sewage flow greater than 15,000 gpd per Title V, evidence of qualified professional supervision of design and installation, including an assessment of nitrate or coliform bacteria impact on groundwater quality.

4743. Special Permit Criteria. Special Permits under Section 4740 shall be granted only if the SPGA makes the following determinations:

a) if on-site disposal is the reason a special permit is required (4722 items b, c, and d), that for the portion of the site within the Water Resource District, nitrate loading would not exceed 10 parts per million based upon the following estimates, or other figures approved for the specific project:

- Sewage volume based on realistic estimate (not simply design volume as required under Title V).
- Rainfall = 42".
- Fertilizer adds 0.6 pounds of nitrates per 1000 square feet of lawn or garden.
- Nitrate concentrations:
  - Leachate effluent = 40 ppm.
  - Pavement runoff = 3.0 ppm.
  - Roof runoff = 0.75 ppm.
  - Natural area recharge = 0.05 ppm.
- Recharge percentages:
  - Leachate effluent = 95%.
  - Pavement and roof = 95%.
  - Natural and fertilized areas = 45%.

and also that for other contaminants, similar analysis would indicate groundwater meeting all standards for drinking water (310 CMR 22.00).

The area north of Route 6 and the Route 6 Bypass and west of Route 25, as shown on the map titled "Buttermilk Bay Overlay District", dated March 2, 1991, is hereby established as the Buttermilk Bay Overlay District. Within that district all otherwise applicable requirements of the Bylaw continue to apply, except that nitrate loading as calculated above shall not exceed 15.5 pounds per acre per year.

b) that no public or private well located off-site will be degraded below State drinking water standards as a result of development on this site, for which determination the delineation of water table contours and future contaminant plumes may be required;

c) that proposed control and response measures adequately and reliably mitigate risk to groundwater quality resulting from accident or system failure.

In its written decision the SPGA shall explain any departures from the recommendations of other Town agencies.

The Special Permit Granting Authority may retain qualified experts at the reasonable expense of the applicant if necessary in order to evaluate the application.

4744. Conditions. Special permits shall be granted only subject to such conditions as necessary to assure adequate safeguarding of water quality, which may include the following, among others:

a) Monitoring wells to be located downgradient of potential pollution sources, with periodic sampling to be provided to the Board of Health at the owner's expense.

b) Pollutant source reduction, including limitations on use of parking area de-icing materials and periodic cleaning or renovation of pollution control devices, such as catchbasin sumps.

4750. Violations. Written notice of any violation shall be provided to the owner of the premises, specifying the nature of the violation and specifying a time for compliance including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance.

4800. OTHER SPECIAL DISTRICTS

4810. SENSITIVE USE DISTRICT

4811. General. Within Sensitive Use Districts uses shall be allowed as provided in Section 2200 for the underlying district, with the following additional requirements.

4812. Adult Uses.

a) Adult uses may not be located within 500 feet of any R-40 or R-80 District, or within 500 feet of any church, school, park, play field, or other location where large numbers of minors regularly congregate.

b) Appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically 'adult') use in Bourne, not employing unusual color or building design which would attract attention to the premises.

4813. Signs. Signs are restricted as provided in Section 3200 for the underlying district. Sign content shall identify the name of the establishment but shall contain no advertisement in addition to that.

4814. Special Permits. Special Permits shall be granted for adult uses only upon determination by the Special Permit Granting Authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

4820. MARINE CENTER OVERLAY DISTRICT (MCOD)

4821. Purpose. Due to the distinct features of land use, maritime history, natural and cultural resources located on and abutting the Kingman Yacht Center, located along Shore Road, the Town of Bourne finds it beneficial to enact the Marine Center Overlay District (MCOD) for the following purposes.

a) To protect the heritage of the Town through preservation and adaptive reuse of the water dependent properties and abutting, commonly-owned, undeveloped properties which constitutes or reflects distinctive features of the environmental, cultural and economic history of the Town;

b) To encourage the goals, policies and recommendations of the Local Comprehensive Plan;

c) To encourage attractive and viable use of existing water-related and water-dependent uses along the waterfront;

d) To foster appropriate use, scale, setbacks, height, design and density of these properties that are historically consistent with and complimentary to the overall neighborhood character;

e) To preserve and encourage the permanent conservation of sensitive environmental resources such as coastal bank areas, existing vegetative buffers and undisturbed riverfront areas;

f) To link existing public recreation and conservation areas to the active waterfront areas with public access trails, harborwalks and greenways;

g) To provide for expanded on-site parking and improved pedestrian and vehicular traffic circulation within existing marine facilities;

h) To improve coastal water quality through implementation of innovative and enhanced stormwater and wastewater treatment systems; and,

i) To encourage mixed-use developments that provide new economic development for the Town.

4822. Permitted Uses.

a) Without need for the approval of any other special permit granting authority, all residential uses permitted in the underlying zoning district(s) are also permitted throughout the overlay district upon the issuance of a MCOD Special Permit with Site Plan Review issued by the Planning Board (hereinafter "Board"). Commercial or mixed-use residential/commercial developments are permitted only in the B-2 portion of the overlay district.

b) Single use residential dwellings are permitted in the R-40 portion of the MCOD provided the majority of the aggregate first floor area of all buildings within the full and complete mixed-use project will be occupied by one or more non-residential uses.

c) Development within the MCOD shall include non-residential and residential uses, including but not limited to single, two-family, or multi-family dwellings, as a co-occupant of a building, lot, or elsewhere within the project;

d) All multi-unit residential development approved under the MCOD shall be permitted only if it is to be serviced by a public or private wastewater treatment system that is capable of meeting the 10mg/1 total nitrogen standard and be approved by the Board of Health and/or the Massachusetts Department of Environmental Protection;

e) The Board may permit multiple principal structures on a single lot within the MCOD. The MCOD may contain more than one (1) lot.

4823. Dimensional Requirements. The Requirements of Section 2400 Dimensional Regulations and 2500 Intensity of Use Schedule shall not apply to dwellings authorized under this subsection. The project shall meet the following dimensional requirements.

Applicable to all locations within the MCOD:

Minimum Front yard:	Twenty-five (25) feet.
Minimum Side Yard:	Five (5) feet with a waiver to zero (0) feet for attached or accessory structures.
Minimum Rear Yard:	Twenty (20) feet with a waiver to five (5) feet for accessory structures.
Minimum Tract Area:	Fourteen (14) acres including all lots within project
Maximum Height:	Thirty-five (35) feet for new buildings.

Applicable within the Residential district portion of the MCOD:

Lot Frontage:	At least two hundred and fifty (250) feet, and must provide a reasonable means of ingress and egress for residences and emergency vehicles.
Lot Coverage:	Not more than 15%.
Usable open space:	Not less than 40%.
Residential use:	Up to twelve (12) multifamily dwelling units, with no more than four (4) units per structure.

Applicable within the B-2 district portion of the MCOD:

Residential use:	No more than six (6) units, all to be within mixed-use buildings.

4824. Access. To assure that development will respect the special circumstances of access to the site by trailer-borne water craft and sight distances often limited by the geometry of access streets, all projects shall provide a detailed traffic impact study, including mitigation strategies, of all proposed driveway intersections along any arterial street and of the routes from the site to state-numbered highways, as specified by the Planning Board as necessary to reflect those considerations.

4825. Parking. All uses shall meet the parking requirements listed in Section 3300, as further articulated below.

a) For Marina and related uses, 0.6 parking spaces shall be provided per slip and 0.5 parking spaces per rack storage space.

b) Tandem parking is permitted for each individual residential dwelling unit.

c) Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands as noted above that occur at different times of day is strongly encouraged.

d) Any development authorized pursuant to MCOD provisions must be served by access which meets the egress standards of Section 3340, whether that access is pre-existing or not, if that access is determined by the Planning Board to be likely to carry more than 200 trips per average summer business day, based on consideration of the ITE *Trip generation Manual* (latest edition), trip reductions attributable to the parking serving multiple uses, and other use and site-specific considerations.

4826. Design Guidelines. The following design guidelines shall be used as general guidance by the Board in its review and approval of all projects authorized pursuant to the MCOD. Strict compliance with these guidelines is not required as a condition of approval unless so noted as "shall" below or within the conditions of the special permit.

a) *Pattern of Development:* Within the MCOD, the development plan should be consistent with the preservation of water-related and water-dependent uses and encourage variable building sizes, mixed-uses, mixed-income housing and landscaped parking area with interconnected and walkable pedestrian walkways.

b) *Landmarks:* Public signage and other monuments, including but not limited to gazebos, overlooks, seating areas or waypoints should be integrated as important landmarks, termination points and serve as major points of orientation.

c) *Driveway and Pedestrian Walkway Patterns:* New driveways and pedestrian walkways should be interconnected in clear patterns while accommodating traffic safety impacts such as sightlines, vehicle turning movements and the circulation of emergency vehicles. Deeded Conservation Restrictions under MGL c. 184 shall be provided for any public access easements.

d) *Building Arrangement:* Variations in building footprint, height, scale and massing are encouraged to enhance the walkability and the spatial character or pedestrian scale of the proposed waterfront mixed-use village area.

e) *Topography:* Within the R-40 portion of the MCOD, all proposed structures should be stepped into the natural topography of the property.

f) *Pedestrian Access:* Walkways are required for access to active public waterfront areas, rear parking lots and garages behind buildings to allow more street-side parking and eliminating driveway curb-cuts in front of the buildings. In compliance with 521 CMR, all applicable accessibility

requirements shall be included within all commercial or mixed-use redevelopment areas.

g) *Sidewalks:* Sidewalks should be at least five (5) feet in width, with crushed stone/shell, when connecting water-dependent areas such as boat storage, repairs, docks and piers. Elsewhere within the waterfront mixed-use village area, all sidewalks and pedestrian plazas should be brick with granite edging unless abutting a landscape strip.

h) *Fences, Walls, Trees and Landscape Screens:* Fences, walls and landscape screens define walkways, give pedestrian scale to street and maintain historic character. Native landscaping material is required.

i) *Parking Lots:* Where possible, parking areas should be located in the rear or side of buildings, should be linked by walkways, and should have landscaped edging for screening, buffering and low impact stormwater management.
Except for expansion of existing paved parking area, surfaces such as crushed stone, gravel or shells are required for all new driveways or parking areas.

j) *Buildings:* Within the waterfront mixed-use village area, the basic design elements of the building design should encourage a sympathetic design of traditional architectural variety and enhance the overall cohesive village character as reflected in the existing retail structures and other water-dependent maritime buildings. Basic design elements shall include the roof shape, building scale, massing, rhythm of openings, sense of entry, placement, exterior siding, detailing and articulation.

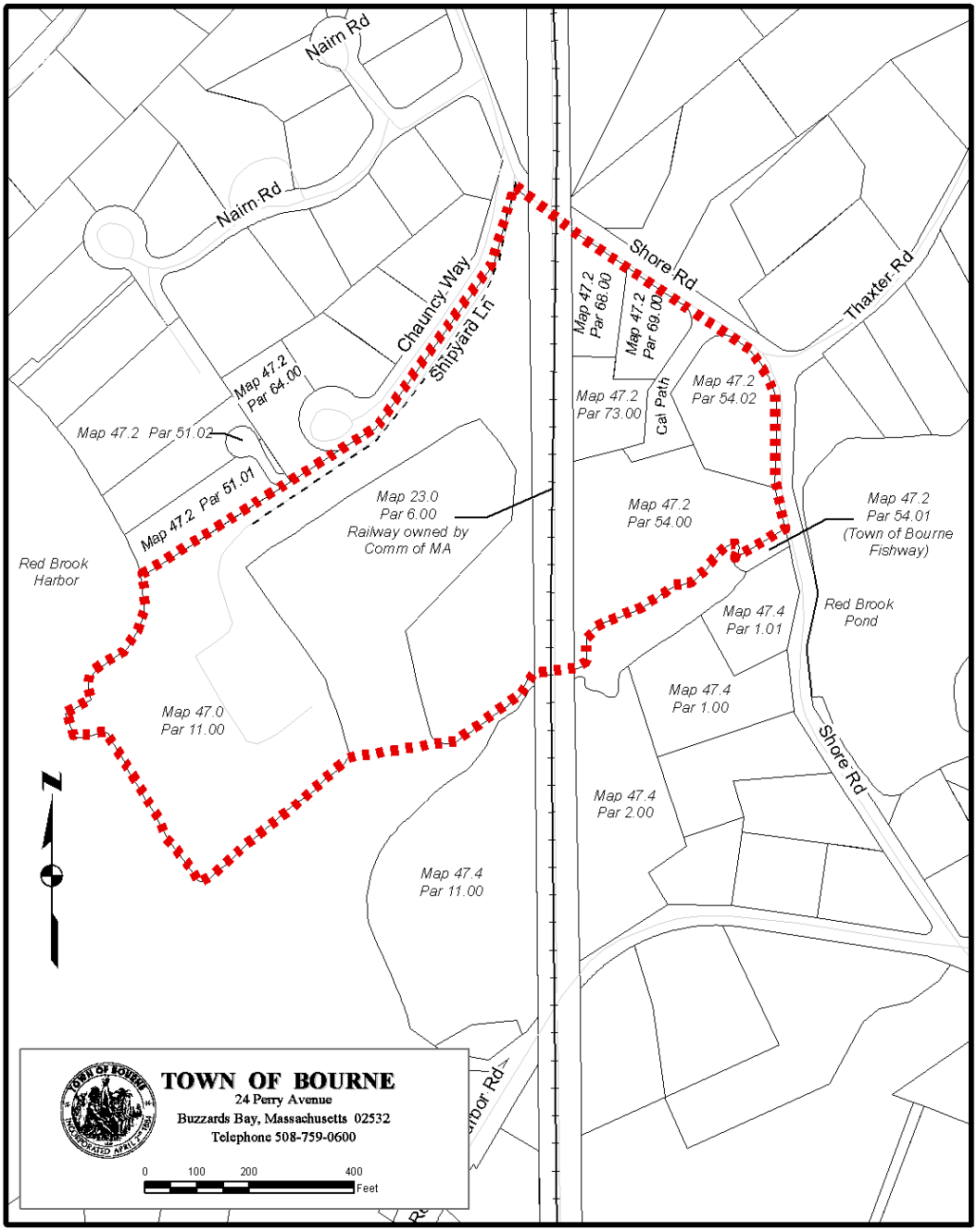
k) *Low Impact Development:* In the design of stormwater drainage systems, low impact stormwater management techniques such as, but not limited to, bio-retention systems, rain gardens and vegetated swales shall be used where feasible.

4827. Special Permit Procedure & Criteria: The Planning Board shall act upon special permit applications pursuant to the MCOD provisions in accordance with the procedures and decision criteria of Section 1330. The Board may retain qualified experts at the reasonable expense of the applicant if necessary in order to evaluate the application.

4828. Pre-Existing, Nonconforming Uses, Dimensions and Densities. All pre-existing, nonconforming uses, dimensions, densities and parking facilities that exist on the MCOD property as of the effective date of the Section shall be permitted as a matter of right for so long as such uses, dimensions and densities remain in existence.

Marine Center Overlay District

March 22, 2007



4900. SEASONAL CONVERSION

4910. **Applicability.** Any structural alteration of a seasonally occupied dwelling or guest unit designed or intended to extend the length of the occupancy of the dwelling shall be deemed a change of use. The Inspector of Buildings shall not issue a building or occupancy permit without prior granting of a Special Permit by the Board of Appeals.

For purposes of this Section, the term "structural" shall be defined to include, but not be limited to, winterization and installation of basements: or heating systems.

4920. **Requirements.** Special permits for such conversion from seasonal to year-round use shall be granted only if:

4921. After considering recommendations of the Board of Health, provisions for on-site sewage disposal are deemed to be adequate.

4922. All applicable requirements of the Zoning Bylaw will be met.

4923. The Board of Appeals determines that the proposed alteration does not substantially alter the historic visual character of the neighborhood by excessive height, mass, or design.

4930. A proposal failing to meet these requirements shall be deemed more detrimental to the neighborhood than the existing use, therefore not eligible for an extension of use under Section 2320 or Section 2340. In making its determination the Board of Appeals may place restrictions on use of the altered facilities.

SECTION V D E F I N I T I O N S

In this Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings.

Accessory Building
A building devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.

Accessory Dwelling
A subsidiary dwelling unit created within or as an extension to an existing single-family dwelling.

Accessory Use
A use customarily incidental to, and on the same lot as, a principal use and occupying less than 30% of the habitable floor area on the premises and less than 50% of the lot area.

Adult Use
An adult bookstore, adult motion picture theater, adult cabaret, massage parlor, or similar establishment or portion of an establishment customarily not open to the public generally but only to one or more classes of the public excluding any minor by reason of age as a prevailing practice.

Adult Bookstore
An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272, G.L.

Adult Cabaret
A bar, restaurant, or other establishment licensed under Section 12 of C. 138, G.L., which regularly features exotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult Motion Picture Theater
An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272, G.L.

Animal Kennel or Hospital
Harboring and/or care of more than three dogs, three months old or over, irrespective of the purpose for which they are maintained.

Art Gallery *(applies only to the Downtown Bylaw-section 2800)*
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.

Arterial Street

Any state-numbered highway, any other street with right-of-way width of 60 feet or more, and the following named streets:

Barlow's Landing Road (east of Shore road)
Bournedale Road
Clay Pond Road
County Road
Head of the Bay Road
Herring Pond Road
Old Plymouth Road
Sandwich Road
Scusset Beach Road
Shore Road

Artist's Loft *(applies only to the Downtown Bylaw-section 2800)*

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) *(applies only to the Downtown Bylaw-section 2800)*

An automated device, which is operated by the customer that performs banking or financial transactions.

Basement

That portion of a building which is partly below and partly above grade, and having at least 1/2 its height above grade.

Bedroom

Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds 60 sq.ft. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

Bourne Affordable Housing Unit

A dwelling unit for which the Bourne Housing Partnership certifies the following, based upon procedural regulations for implementation of this provision, such regulations to be adopted and from time to time amended following public hearings by that Partnership.

a) There is assurance through shared equity, repurchase agreement, or other means enforceable by the Town that the unit will be limited as permanently as legally permissible to sale, resale, or rental to households having income at or below 80% of the Barnstable County median household income, with adjustments for household size, as reported by the U.S. Department of Housing and Urban Development.

b) There is assurance that the annual cost of the unit to tenants or purchasers will be no more than 30% of their gross household income.

c) There is assurance that a good faith effort will be made to give occupancy preference to persons resident in the Town year-round or employed by the Town.

Building Footprint

The area within the perimeter of a building measured at the foundation. The term building footprint shall not include open uncovered patios, decks, unroofed structures and unroofed stoops or stairs or roof projections. It shall include all porches, roofed areas and any cantilevered portions of the building."

Building Height

The vertical distance between the highest point of the building or other structure and the average of the elevation of the land that adjoins the building or other structure on all sides, 12' from the building, with that elevation to be based upon the land in its natural state prior to construction, grading or filling, not finished grade. Height limitations shall not apply to chimneys, spires, cupolas, wind energy conversion systems and TV antennas, except as specified in footnote 'n' to Section 2500 Intensity of Use Schedule. Building height shall be determined separately for separate portions of buildings where that separation is articulated by related breaks of three feet or more in both roof and wall planes.

Business Offices *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Camper

A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational, and vacation purposes, but not for permanent residence. Includes equipment commonly called 5th wheels, independent travel trailer, dependent travel trailer, tent trailers, pickup campers, motor homes, converted buses and other equipment, trailered boats, but not mobile homes.

Campgrounds

Premises used for campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

Cellar

That portion of a building which is partly or completely below grade and having at least 1/2 its height below grade.

Chief Zoning Enforcement Officer

Also known as the Inspector of Buildings, charged with the authority to enforce the Town of Bourne Zoning Bylaws.

Clinic, Dental or Medical *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Contractor's Yard

Premises used by a contractor or subcontractor for exterior storage of equipment and supplies, fabrication of sub-assemblies, or parking of wheeled/tracked equipment.

Convenience Store Gas Station *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Cranberry Bog, Active

Prepared land, bounded by the bog bank, on which cultivated cranberry vines are grown, if harvested within the past two years, or if assessed under Chapter 61A, G.L., or if proposed for creation, through filing of a notice of intent with the Conservation Commission.

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.

Dwelling

A building or part of a building used exclusively as the living quarters for one or more families.

Dwellings, Attached Single-Family

Dwellings arranged, each on a separate lot, with one or more party or common walls.

Dwelling, Multifamily

Three or more dwelling units on a single lot, irrespective of structure type, ownership or tenure.

Dwelling Unit

A building or portion of a building suitable for living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both a refrigerator and kitchen sink) not shared with any other unit; or quarters for up to six persons in a lodging house, dormitory, congregate housing, or similar group dwelling.

Enforcement Officer(s)

Appointed annually by the Town Administrator, to serve under the authority and supervision of the Inspector of Buildings/Chief Zoning Enforcement Officer. Duties under this bylaw shall include taking actions on violations and any other lawful actions necessary or appropriate to ensue compliance with this Bylaw.

Extensive Resort Development

Premises within an Open Space Community containing a hotel, motel, or inn and any of the following ancillary facilities:

a) if operated accessory to a hotel, motel, or inn:
   - convention facilities;
   - restaurants with no service in cars and only incidental take-out service;
   - retail sales or service establishment principally serving overnight guests;

b) standard and par-3 golf courses;

c) indoor and outdoor recreational facilities for the exclusive use of overnight guests and/or residents of the Open Space Community.

Family

One or more persons, including domestic employees, occupying a dwelling unit and living as a single housekeeping unit; provided that a group of six or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

Fishing-Related Activities

Activities in support of shell and lobster fishing, including shelling, cleaning, and sales (but not cooking or on-premises consumption), and storage and maintenance of equipment, where done as an accessory use and for profit.

Flea Market

The sale of new or used goods to members of the public in an area other than a 'structure' as defined in this Bylaw. Goods sold at a 'flea market' include, but are not limited to, household items, antiques, rare items, decorations, used books and magazines, housewares, new and used clothing, furniture, and collector's items. Yard sales and garage sales on residential premises regulated by the Town of Bourne By-Laws, and occasional sales by non profit organizations obtaining a license from the Board of Selectmen, shall not be a 'flea market' under this definition.

Flexible Resource Development

A form of development authorized under Section 2700 in which allowable density is essentially the same as can be achieved under conventional development, but in which flexibility is allowed in sizing individual lots to facilitate fitting development to characteristics of the site and to protect natural and cultural resources.

Floor Area, Gross

The sum of the horizontal areas of the several floors of all buildings on the same lot, or where apt, the sum of such areas in a specified use. Gross floor area is measured from the exterior face of exterior walls (or from the centerline of a wall separating two buildings or portions of buildings), including elevator shafts and stairwells at each floor and interior balconies and mezzanines, but not including cellars/basement with walls more than 50% below grade, and areas having less than six foot six inch floor to ceiling height.

Floor Area, Leasable

The sum of the area on the several floors of a building which is or could be leased, including leasable basements.

Food Service

The preparation and sale of food and drink in individual portions ready for consumption without further processing, whether or not for consumption on the premises.

Fraternal or Social Organization Lodge *(applies only to the Downtown Bylaw-section 2800)*

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.

Golf Courses, Standard or Par Three

Course, including customary accessory buildings, where tee to hole distance averages not less than 80 yards.

Guest House

An accessory residential structure for occasional occupancy by non-paying guests, having not less than 400 sq. ft. gross floor area.

Guest Unit

A room or suite of rooms suitable for separate rental or occupancy in a hotel, motel, or similar establishment. Any room or suite of rooms containing a stove plus either or both a refrigerator and a kitchen sink shall be considered a dwelling unit.

Hazardous Material

Any material, waste, product, or substance, or combination thereof, which poses a present or potential threat to human health or safety or to the environment because of its quantity, concentration, or characteristics, either separately or in combination. A material is deemed hazardous if so deemed under Massachusetts Hazardous Waste Management Act, MGL c. 21C, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, MGL c. 21E, the Resource Conservation and Recovery Act (RCRA), 42 USC 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601 et seq., as these may be amended. Hazardous materials shall also include waste oils, crude or fuel oils, lube oil or sludge.

Home Occupation

A business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.

Hotel or Motel

A building or group of buildings containing more than three guest units providing transient sleeping accommodations to the general public for compensation, plus not more than a single accessory dwelling unit.

Impervious Surface

Any materials on or above the surface of the ground that do not allow the natural percolation of precipitation or moisture into the underlying soils, including but not limited to cement, concrete, macadam, pavement, and buildings.

Inspector of Buildings

Also the Chief Zoning Enforcement Officer charged with the authority to enforce the Town of Bourne Zoning Bylaws, the Commonwealth of Massachusetts State Building Code and the Massachusetts General Laws.

Junk Yard

Premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, packed, bought or sold, except where such activities are carried on entirely within an enclosed building or within an open area of less than 200 sq. ft.

Lot

A continuous parcel of land in single ownership, with legally definable boundaries.

Lot Area

The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least 90% of the area required to meet minimum lot area requirements must be upland as defined in this Bylaw.

Lot Coverage

Percentage of total lot area covered by structures or roofed.

Lot Frontage

That portion of a lot fronting upon and having access to a street. Measured continuously along one street line between side lot lines, or in the case of corner lots, between one side lot line and the mid-point of the corner radius. However, for lots on the outer side of a curved street, lot frontage may at the owner's option be measured as the straight-line distance between points on the side lot lines at the required front yard set back distance provided that 60% of the frontage requirement is met at the street line.

Marsh

Any essentially flat, frequently wet and occasionally flooded area adjoining open water along the shores of a pond, or the banks of a stream and lying between such open water and the adjacent natural or artificial upland.

Major Residential Development

The creation of five or more lots, excluding any restricted from residential use, by subdivision or otherwise within a five-year period on land in common ownership as of the effective date of this provision, unless the land committed to lots and open space meeting specifications of Section 2751 totals at least 50 percent more than that required in Section 2500 Intensity of Use Schedule for the number of dwelling units or lots proposed.

Massage Parlor

Premises principally used for the practice of massage by persons licensed by the Board of Health under Section 51 of Chapter 140, G.L.

Maximum Floor Area

The sum of all gross floor areas for all residential structures located on the same lot.

Maximum Gross Floor Area

The sum of all horizontal floor areas for all residential structures located on the same lot, including garages, (except one-story garages with a maximum of 480 square feet), barns, sheds, covered porches greater than 200 square feet, but not including decks, cellars/basements with walls more than 50% below grade, and attics having less than 6’-6” floor to ceiling, providing no roof penetrations (i.e. dormers, skylights) and not accessed by fixed stairs.

Maximum Lot Coverage

The sum of all horizontal areas of all structures whether roofed or not, including decks and swimming pools that have a capacity of 4000 gallons or more in volume.

Mobile Home

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

Mobile Home Park

Premises which have been planned and improved for the placement of mobile homes for non-transient use.

Motel

See "Hotel or Motel".

Motor Vehicle Service Station

Premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

Museums *(applies only to the Downtown Bylaw-section 2800)*

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.

Non-Conforming Lot

A parcel of land which does not conform to the presently applicable lot frontage and/or lot area requirements of the Zoning Bylaw.

Non-Conforming Use

A building, structure or use of land which does not conform to the presently applicable regulations of the Zoning Bylaw for the use district in which the building, structure, or land is located.

Open Space, Usable

Lot area not covered by any structure other than a swimming pool or deck not more than 30" above grade, not used for drives, parking or storage and if not part of a structure or paved, kept stabilized with vegetative cover, pine needles, bark or other organic materials.

Packaging and Delivery Services *(applies only to the Downtown Bylaw-section 2800)*

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 Area or Parking Lot

Two or more parking spaces together with internal islands, dividers, walks, and landscaping, plus vehicular drives which abut those elements, but not including other portions of entrance or exit drives.

Parking Facility *(applies only to the Downtown Bylaw-section 2800)*

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.

Parking Space

An area intended for parking of one automobile, van, or similar vehicle, provided that the area's dimensions and access meet standards adopted and from time to time amended by the Bourne Planning Board. Does not include spaces for storage or display of vehicles intended for sale, but where so provided in the Planning Board standards, may include spaces requiring attendant assistance for auto access.

Paving

As used throughout this Bylaw, shall be construed to mean bituminous concrete paving Type I1, Massachusetts Specifications for Highways, Bridges and Waterways, and per Subdivision Regulations of the Bourne Planning Board.

Performing Arts Facility *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Pond

Any body of open water, other than stream, a bay, or the ocean.

Principal Building or Use

A building or use not "accessory" as herein defined.

Professional Offices *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

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.

Rain Garden *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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

Repair Services *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Residential Social Service Facility

A dwelling where care and supervision which is licensed, contracted for, or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. Includes half-way houses but not nursing homes or foster homes.

Restaurant

A facility whose principal use is food service (see definition). Examples of 'restaurants' include taverns and bars, ice cream or other refreshment stands, and donut shops, but not employee cafeterias or food courts within shopping malls.

Restaurant, Drive-through *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Sign

Any device designed to inform or attract the attention of persons not on the premises on which the device is located, including any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights. The following, however, shall not be considered signs within the context of this Bylaw:

a) flags and insignia of any government except when displayed in connection with commercial promotion;

b) legal notices, or informational signs erected or required by government bodies;

c) temporary signs erected for a charitable or religious cause;

d) temporary signs inside display windows, covering not more than 30% of window area, illuminated by building illumination only;

e) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;

f) integral decorative or architectural features of building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.

Sign Area

The surface area within a single continuous perimeter enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted.

Stream

Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp, or similar body of water to another, to another stream, or to the ocean.

Street

A way providing access to the premises in question if adequate access is provided and only if complying with the standards established in this definition. Ways providing access to the streets within a subdivision or providing access to lots said not to be within a subdivision shall normally be considered adequate only if there is assurance that prior to construction on any lots, access will be in compliance with the following:

	Development potentially served		
	10 or fewer dwelling units	11-49 dwelling units	More units or business
Min. right-of-way width	40 feet	50 feet	50 feet
Surface type	3" Bit Conc	3" Bit Conc	3" Bit Conc
Surface width	20 feet	24 feet	30 feet
Sight distance minimum	125 feet	225 feet	400 feet
Maximum grade	12%	10%	6%

Structure

Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including all buildings, mobile homes, billboards, towers, swimming pools or tanks that have a capacity of 4,000 gallons or more, or the like, or part thereof; but not including paving, usual lawn accessories, fences or retaining walls six (6) feet in height or less.

Swamp

Any depressed area of poor drainage, subject to flooding by fresh water in which the water table is generally at or above the ground level, not caused or affected by salt water or action of the oceanic tide.

Technology Campus

Premises comprising not less than 50 contiguous acres committed to such uses as medical, biomedical, electronic, environmental and marine technology development and other compatible uses; educational institutions and associated support services and open space, allowable on special permit under Section 4300.

Tidal Marsh

Any marsh area in which action of the oceanic tide causes the surface to be flooded regularly by the spring tides in the course of the annual tidal cycle, but exclusive of storm tides, hurricane tides or tidal waves, and any marsh area developed and maintained by incursion of the oceanic salt water or by action of the oceanic tide, as indicated by the presence of the salt marsh grasses, Spartina alterniflora, Spartina patens, or Disticlis spicata, commonly known respectively as thatch or saltwater cord grass, salt meadow or high water cordgrass, or spike grass. Such area shall include all of the original contiguous area of tidal marsh from which salt water is excluded at present by artificial dikes, causeways or the like.

Tidal River

Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of storm tides, hurricane tides or tidal waves, irrespective of any actual incursion or admixing of oceanic salt water.

Tidewater Area

Any area flooded regularly by tidal action, inclusive of spring tides, but exclusive of storm tides, hurricane tides, or tidal waves.

Title V

Title V of the State Environmental Code, 310 CMR 15.00, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

Townhouse or Rowhouse *(applies only to the Downtown Bylaw-section 2800)*

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.

Transient Dwelling

Premises containing two or more dwelling units regularly made available for occupancy for terms shorter than four months, in any one calendar year, regardless of form of tenure.

Upland

Any land area which is not a wetland, as defined in this Bylaw.

Wetland

Any area defined as a wetland under MGL Chapter 131, Section 40 plus any land designated as being reserved for drainage on a land division plan or site plan submitted to the Town.

Workforce Housing *(applies only to the Downtown Bylaw-section 2800)*

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.

Yard

An open space, unoccupied and unobstructed by any structure or portion of a structure exceeding 75 sq. ft. floor area, except the following:

a) fences, walls, poles, posts, and other customary accessories, ornaments, and furniture.

b) in front yards only, eaves, steps, and non-covered porches.

Yard, Front

A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard, Side or Rear

A yard other than a front yard.

Zoning Bylaw Update
June 2013

TOWN OF BOURNE
Bourne Town Hall
24 Perry Avenue
Buzzards Bay, MA 02532

TOWN OF BOURNE

ZONING BYLAW

As most recently amended at the Special Town Meeting
February 2016

SECTION I ADMINISTRATION AND PROCEDURE 1

1100. PURPOSE..... 1

1200. ADMINISTRATION..... 1
1210. Inspector of Buildings, Zoning Enforcement. 1
1220. Certification..... 1
1230. Site Plan - Special Permit Approval..... 1
(1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244)
1250. Professional Inspection..... 9
(1251, 1252)
1260. Enforcement. 9
(1262)
1270. Penalties. 10
1280. Non-Criminal Violation Procedures. 10
(1281, 1282, 1283)

1300. BOARD OF APPEALS 10
1310. Establishment. 10
1320. Powers. 11
1330. Special Permits. 11
(1331, 1332, 1333)
1340. Lapse of Variance 12

1400. PLANNING BOARD AND BOARD OF SELECTMEN..... 12
1410. Planning Board Associate Members 12
1420. Considerations..... 12

1500. APPLICABILITY..... 12

1600. DEVELOPMNET AGREEMENT..... 12
1610. Purposes and Intent..... 12
(1611, 1612)
1620. Authority. 12
1630. Parties to Development Agreements. 14
(1631)
1640. Negotiation and Execution of Development Agreements……. 14
(1641, 1642, 1643, 1644, 1645)
1650. Elements of Development Agreements..... 14
(1651, 1652)
1660. Procedural Requirements for Inclusion or Exclusion of the Cape Cod Commission as a Party to the Agreement..... 15
(1661, 1662)
1670. Limitations on Development Agreements..... 17
(1671, 1672, 1673)
1680. Amendments and Rescission..... 18
1690. Enforcement and Severability. 18
(1691, 1692)

1700. VALIDITY 18

SECTION II USE AND INTENSITY REGULATIONS 19

2100. ESTABLISHMENT OF DISTRICTS 19
2110. Types of Districts 19
2120. District Boundaries 20
2130. Divided Lot 20
2140. District Purposes 20

2200. USE REGULATIONS 22
2210. Application. 22
2220. Use Regulation Schedule 23
2230. Scenic Development District 26
(2231, 2232, 2233)
2240. Accessory Scientific Uses. 27

2300. NON-CONFORMING USES 27
2310. Abandonment. 27
2320. Extension or Alteration. 27
2330. Previously Issued Permits. 27
2340. Use Change. 27
2350. Mobile Home. 27

2400. DIMENSIONAL REGULATIONS 28
2410. Applicability. 28
2420. Contiguous Lots. 28
2440. Two or More Principal Buildings. 28
2450. Nonconforming Lots. 28
(2451, 2452, 2453, 2454, 2455, 2456, 2457)
2460. Lot Bounds. 29
2470. Water Resource District. 29
2480. Lot Shape. 29
2490. Back Lot Division. 30
(2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498)

2500. INTENSITY OF USE SCHEDULE 31

2600. DEVELOPMENT SCHEDULING 32
2610. Purpose and Intent 32
2620. Definitions 32
2640. Rate of Residential Development 33
2650. Exemptions 33
2660. Issuance of Building Permits 34
2670. Appeals 34
2680. Effective Date 34
2690. Annual Report 34

2700. FLEXIBLE RESOURCE DEVELOPMENT 35
2710. Applicability 35
(2711, 2712)
2720. Purpose and Intent 35
2730. Procedural Requirements 35
(2731, 2732, 2733, 2734, 2735)
2740. Standards and Dimensional Requirements 37
(2741, 2742, 2743, 2744)
2750. Other Requirements 38
(2751, 2752)
2760. Permitted Uses 39
(2761, 2762)

2800. DOWNTOWN DISTRICT (DTD) 39
2810. General Provisions and Description 39
(2811, 2812, 2813, 2814, 2815)
2820. Allowable Uses 44
(2821, 2822, 2823, 2824, 2825, 2826, 2827)
2830. Dimensional Standards 57
(2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838)
2840. Performance and Functional Standards 65
(2841, 2842, 2843, 2844, 2845)
2850. Off-Street Parking and Loading Standards 67
(2851, 2852, 2853, 2854, 2855, 2856, 2857)
2860. Streetscape Design and Pedestrian Amenities 74
(2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869)
2870. Landscaping 76
(2871, 2872, 2873, 2874)
2880. Downtown (DTD) Sign Regulations 77
(2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890)

SECTION III GENERAL REGULATIONS..... 85

3100. LOWLAND REGULATIONS..... 85
3110. Floodplain Overlay District Provisions. 85
(3111, 3112)
3120. Cranberry Bogs..... 86

3200. SIGN REGULATIONS 87
3210. General Sign Regulations..... 87
3220. Residence or Government Districts..... 88
3230. Scenic Development Districts..... 88
3240. Allowed Signs. 88
3250. Off-Premise Directional Sign. 89

3300. PARKING REQUIREMENTS..... 89
3310. Number of spaces..... 89
3320. Table of Requirements 90
3330. Surfacing..... 91
(3331, 3332)
3340. Egress Standards 91
(3341, 3342, 3343, 3344)
3350. Backing 93
3360. Off-street Queues 93
3370. Loading Facilities..... 93
3380. Unregistered Vehicles..... 93
3390. Storage Trailers & Storage Containers 94
(3391, 3392, 3393, 3394)

3400. ENVIRONMENTAL CONTROLS 95
3410. Interferences..... 95
3420. Wastes 95
3430. Air Quality..... 95
3440. Electronics 95
3450. Lighting..... 96
(3451, 3452, 3453, 3454)
3460. Wind Energy Conversion Systems (WECS)..... 97
(3461, 3462, 3463, 3464, 3465, 3466, 3467)
3470. Solar Photovoltaic System (SPS) Ground Mounted..... . 108
(3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3483, 3484)

3500. LANDSCAPING AND SCREENING..... 116
3510. Parking Lot and Buffer Plantings. 116
(3511, 3512, 3513, 3514, 3515, 3516)
3520. Erosion Control..... 117
3530. Screening. 117
3540. Parking and Loading Area Setbacks..... 118
3550. Corner Visibility. 118
3560. High Fences or Walls..... 118
3570. Natural Cover Removal..... 118
3580. Security 118

SECTION IV SPECIAL REGULATIONS 120

4100. ACCESSORY USES 120
4110. Home Occupations. 120
4120. Accessory Dwelling. 120
(4121, 4122, 4123)

4200. SPECIAL RESIDENTIAL USES 121
4210. Mobile Homes. 121
4220. Campers and Trailers. 121
4230. Mobile Home Parks. 121
4240. Campgrounds. 122
4250. Village Mixed Use Developments 122
4260. Nonconforming Affordable Lots 123
(4261, 4262, 4263, 4264, 4265, 4266, 4267, 4268, 4269)

4300. BOURNEDALE OVERLAY DISTRICT 126
4310. Applicability 126
4320. Use Regulations 126
(4321, 4322, 4323)
4330. Dimensional Regulations 126
(4331, 4332, 4333, 4334, 4335)

4400. EARTH REMOVAL 127
4410. Plan 127
4420. Screening. 127
4430. Restoration 127
4440. Bond 127

4500. MOTOR VEHICLE SERVICES 128
4510. Egress 128
4520. Pedestrian Relationship 128
4530. Queues. 128

4600. OPEN SPACE COMMUNITY 128
4610. Applicability. 128
4620. Objectives. 128
4630. Procedures 128
(4631, 4632, 4633, 4634, 4635, 4636, 4637)
4640. Requirements 130
(4641, 4642, 4643, 4644, 4645, 4646)
4650. Housing to Meet Community Needs 135
(4651, 4652, 4653, 4654)

4700. WATER RESOURCE DISTRICT..... 136
4710. Purpose. 136
4720. Use Regulations. 136
(4721, 4722, 4723)
4730. Design and Operation Guidelines. 138
(4731, 4732, 4733, 4734, 4735)
4740. Special Permits. 139
(4741, 4742, 4743, 4744)
4750. Violations. 141

4800. OTHER SPECIAL DISTRICTS 141
4810. Sensitive Use District 141
(4811, 4812, 4813, 4814)
4820. Marine Center Overlay District 142
(4821, 4822, 4823, 4824, 4825, 4826, 4827, 4828)

4900. SEASONAL CONVERSION..... 147
4910. Applicability. 147
4920. Requirements. 147
(4921, 4922, 4923)
4930. 147

SECTION V DEFINITIONS 148

APPENDIX I ARCHITECTURAL DESIGN STANDARDS AND GUIDELINES

SECTION I ADMINISTRATION AND PROCEDURE

1100. PURPOSE

This Zoning Bylaw is enacted pursuant to and under the authority of Chapter 40A of the General Laws and amendments thereto. Its purpose is to guide the sound development of the Town of Bourne, including the provision of housing for residents of all income levels, as well as the other purposes identified in Section 2A of Chapter 808 of the Acts of 1975.

1200. ADMINISTRATION

1210. Inspector of Buildings. No building shall be erected, externally altered, or moved without a building permit and no such permit as required by the Commonwealth of Massachusetts State Building Code shall be issued unless the Inspector of Buildings has indicated in writing his determination that the requirements of the Zoning Bylaw have been met by the proposal.

Zoning Enforcement. The Inspector of Buildings shall serve as the Chief Zoning Enforcement Officer for the enforcement of the Bylaw. The Town Administrator may appoint in addition to the Chief Zoning Enforcement an Enforcement Officer(s), to serve under the authority and supervision of the Chief Zoning Enforcement Officer, for the purpose of taking actions on violations and any other lawful actions necessary or appropriate to ensue compliance with this Bylaw.

Applications for building permits shall be accompanied by three prints of a plan of the lot, drawn to scale, showing the actual boundaries and dimensions of the lot, showing the exact location, use, and size of any existing or proposed structures, and showing any existing and proposed streets and ways within or adjacent to the lot.

1220. Certification. Land may not be substantially altered or changed in use without certification by the Inspector of Buildings that such action is in compliance with then applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law. Responsibility for obtaining permits and certification shall be that of the owner of the premises.

1230. SITE PLAN - SPECIAL PERMIT APPROVAL

Site Plan – Special Permit approval is required for any addition, expansion or construction of any commercial, industrial, retail and/or mixed-use structure or development, except as may be more specifically provided elsewhere in the Zoning Bylaw.

1231. Purpose Of Site Plan - Special Permit Approval

The purpose of Site Plan - Special Permit Approval is to further the intent of the Zoning By-Law of the Town of Bourne by reviewing proposed uses and structures to ensure that new development or redevelopment which may have significant impacts upon abutting land, the neighborhood, or the Town, are designed in a manner which complies with the Zoning By-Law and addresses other community needs such as the protection of abutting landowners from unnecessary noise, glare or other inconvenience and provides for adequate parking and traffic management, waste disposal, drainage and other environmental protection.

1232. Authority

The Planning Board shall be the Special Permit Granting Authority for Site Plan-Special Permit Approval in accordance with the Use Regulation Schedule as set forth in Section 2220 and as described in Section 1233 herein.

1233. Projects Requiring Site Plan - Special Permit Approval

Before being approved or disapproved by the Inspector of Building, applications for building permits for the following must be accompanied by a site plan - special permit endorsed with the approval of the Planning Board.

A. Mobile home parks and campgrounds
B. Uses permitted under Section 2232 for Scenic Development Districts
C. All other applications for new development with a gross floor area greater than 1600 square feet or redevelopment resulting in a gross floor area of 1600 square feet and any development or redevelopment resulting in the construction or exterior alteration of any commercial, industrial, retail and/or mixed use structure; also any applications including:
    1. Any change in the number of parking spaces
    2. Alteration of egress, utilities, drainage, or lighting
    3. The change, alteration or expansion of use of any commercial, industrial, retail and/or mixed use structure;
    4. The change, in whole or in part, of any residential use to a non-residential use,
    5. Change of an existing use or structure, which constitutes a more intensive use of land, which includes any use which changes any pattern of pedestrian or vehicular movement within the site or in relation to adjacent properties or streets including access by emergency vehicles, or creates more pedestrian or vehicular traffic than the existing use.

1234. Application

A. The petitioner shall provide nine (9) copies the application and of the site plan for Site Plan - Special Permit Approval. One (1) application and plan shall be filed with the Town Clerk, and eight (8) copies of said application and plans, including the date and time of filing certified by the Town Clerk, shall be filed with the Planning Board.

B. Each application shall be accompanied by the required fee. (The fee schedule is listed in the Planning Board Regulations.)

1235. Waivers

A. The intent of Site Plan- Special Permit approval is to ensure that any development which may have significant impacts upon the abutting land, neighborhood, or the Town is reviewed for the purpose of assuring compliance with the Zoning By-law as well as to minimize negative effects on abutters and the community at large. When, in the opinion of the Planning Board, the alteration or reconstruction of a structure does not substantially change the relationship of the structure to the site or to abutting properties and structures, the Planning Board may determine that submission of a site plan - special permit approval is not required. Upon application on a form approved by the Planning Board, such a determination may be made at a meeting of the Planning Board by an affirmative vote of a majority of the Planning Board present, and in no event less than five (5) members, and all abutters must be notified by certified mail, return receipt requested, at least seven days prior to the meeting at which such vote is to be taken. The involved structure shall be as shown on a site plan previously approved under this section or on a plan showing sufficient information as determined by the Planning Board to allow the Planning Board to make a decision. Such plan, with all proposed changes shown thereon, shall be included with the application for waiver. Notice of final action shall be sent to the applicant and to the Inspector of Buildings.

B. Denial. If determined that Site Plan - Special Permit approval is required, a new application for Site Plan – Special Permit must be filed.

C. Each application for a wavier shall be accompanied by the required fee. (The fee schedule *is listed in the Planning Board Regulations.)*

1236. Procedures

A. Initial Submittal

Eight (8) copies of the materials required for Site Plan Special Permit Review shall be submitted to the Planning Board, one (1) copy shall be transmitted to the Town Planner. Forthwith upon receipt, the Town Planner shall determine whether the submitted materials are sufficiently complete for review and properly before the Planning Board, using a checklist, and within five (5) business days of receipt of the material shall notify the applicant and the Planning Board of those findings. If in disagreement with completeness determinations by the Town Planner, an applicant may request that the Planning Board Chairman or his designee make the completeness determination or the applicant may appeal to the full Planning Board at the next scheduled hearing.

B. Distribution

Once materials are determined to be complete, submitted materials shall be made available for public inspection in the office of the Planning Board, and copies shall be distributed to all Town officials or agencies which have made a standing request for such materials or whose action on the proposal is required, with a request for their review and comment to the Planning Board by the time of the Planning Board's Public Hearing.

All recommendations to the Planning Board must be in writing. Failure of Boards to make recommendations prior to the date of the scheduled hearing shall be deemed to be acceptance of the plan.

C. Professional Review Fees

The applicant shall bear the costs of any outside planning or engineering consultants requested by the Planning Board. (See Section 1252)

1237. Public Hearing

The Planning Board shall hold a public hearing prior to a decision on the Site Plan - Special Permit application with timing and notice as required by Sections 9 and 11 of Chapter 40A.

That hearing shall not be scheduled until after the Planning Board has been notified that complete materials have been submitted, and shall be coordinated with other agencies to, if possible, have the time and place of the Planning Board's Public Hearing coincide with the initial hearing for any Town agencies requiring hearings on the proposal. Notice of the Public Hearing and the proposals to be reviewed shall be provided to all agencies to which the submittals have been submitted, and also to abutters or others in cases where the Board determines that potential issues in the review merit that level of notice.

1238. Decision Criteria

The Planning Board shall base its decision on the Site Plan – Special Permit as set forth in criteria stated herein and as called for in Section 1331, except as may be more specifically provided elsewhere in the Zoning Bylaw.

The Planning Board shall file its decision in accordance with timing and notice as required MGL Chapter 40A Sections 9 and 11.

A. Criteria

1. General

a) Compliance with all requirements of the Zoning By-Laws of the Town of Bourne

b) Integration into the existing terrain and surrounding landscape, and protection of abutting properties and community amenities.

c) Preservation of unique or significant and historical features;

2. Environmental

a) Protection of unique or significant environmental or scenic features.

b) Ensure the ability of existing and proposed septic and water supply systems to serve the proposed use of the site.

c) All drainage shall be recharged on site based on a calculated 25-year storm and designed so that run-off shall not be increased, groundwater recharge is maximized, pollution impacts are minimized and neighboring properties will not be adversely affected. Stormwater design shall incorporate Best Management Practices as prescribed in the Massachusetts Stormwater Handbook or Bourne Subdivision Regulations or other standards, which may be adopted by the Planning Board or Town of Bourne.

d) Adequate measures are provided to prevent erosion, silting, or other instability both during and after construction. The Planning Board may require that the applicant submit either a report from the Soil Conservation Service or soil loss calculations prepared by a soils scientist or engineer in cases where doubt as to adequacy of proposed measures exists.

e) Avoid outdoor lighting glare on adjoining properties.

3. Design

a) Effective use shall be made of topography, landscaping, and building placement to maintain, to the degree feasible, the character of the neighborhood.

b) Development shall avoid, to the extent feasible, major topographic changes, removal of existing trees, impact on steep slopes, flood plains, scenic views and wetlands.

c) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other design techniques. Variation in detail, form and siting shall be utilized to provide visual interest and to avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation and separation between buildings.

d) Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other relatively unsightly uses shall be screened to protect neighbors from objectionable features.

e) Electric power, telephone, cable TV and other such utilities shall be installed underground unless specifically waived.

4. Traffic and Internal Circulation

a) The site plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjacent ways. Curb cuts are to be at an absolute minimum and joint access driveways between adjoining properties shall be encouraged.

b) Visibility of parking areas from public ways shall be minimized. Adequate access to each structure for fire and service equipment is provided as determined by the Planning Board. Where access is anticipated for fire vehicles or other large trucks or service vehicles access drive width shall be not less than 16 feet, and the driveway geometry at intersections or comparable turning points shall at minimum provide 14 feet vertical clearance and shall meet the AASHTO requirements for a standard WB-40 semi-trailer, or meet the following, unless the Planning Board, after consultation with the Fire Department, determines that alternative standards are made appropriate by peculiarities of the site design or anticipated use. Where access by fire vehicles or other large trucks is not anticipated, access adequacy shall reflect consistency with the performance intent of the geometric standards of

Subdivision Regulations of the Bourne Planning Board and the fire equipment access requirements of 527 CMR 25.

CROSS-DRIVE WIDTH (feet)

	Inner radius of driveway				
Angle	**15’**	**20’**	**25’**	**30’**	**40’**
30°	16’	16’	16’	16’	16’
60°	19’	19’	19’	18”	16’
90°	22’	21’	21’	18’	16’
120°	23’	22’	22’	18’	16’
150°	24’	22’	22’	18’	16’

c) If a traffic study is required by the Planning Board, the study shall describe estimated average daily and peak hour vehicle trips to be generated by the site. The study shall describe traffic flow patterns for both vehicles and pedestrians, and provide for adequate access to and from the site and adequate circulation within the site. In describing the number of vehicle trips, the plan may use the following documentation but the Planning Board will place heavy emphasis on the impact of seasonal traffic situations as related to the Town of Bourne in considering this requirement:

- Institute of Traffic Engineers (ITE) - Trip Generation Report (latest edition) with estimates for seasonal increases.

- Actual traffic surveys at similar complexes in a similar seasonal area.

The Planning Board shall withhold approval of any site plan- special permit application which it determines is in violation of the Zoning Bylaw, but the Board's site plan approval shall not be construed as approval regarding aspects of the application, such as environmental controls, not described in the information submittals.

B. Required Submittals

1. A Registered Professional Land Surveyor and Registered Professional Civil Engineer shall prepare all site plans. (Unless granted a wavier by the Planning Board)

2. Site plans shall be submitted as follows:

a) Five (5) copies reduced on standard 11” x 17” sheets, three (3) copies, full scale, on standard 24" x 36" sheets, each sheet shall be prepared at a defined scale suitable for the content of the topic covered on the sheet and shall include the following:

b) The location and boundaries of the lot, adjacent street/ways and a list showing names and addresses of direct abutters and abutters to the abutters within 300 feet,

c) Existing and proposed topography showing 2 foot contours showing benchmark used, significant land features, natural and man made, including, but not limited to, the location of wetlands, streams, bodies of water, drainage swales and areas subject to flooding,

d) Existing and proposed vegetation,

e) Existing and proposed structures, including use, dimensions and all elevations,

f) The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location, number and size of parking spaces.

g) The location and description of all proposed on site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems,

h) The location, size (length & width) and description of signs, proposed and existing,

i) The location and description of existing and proposed open space or recreation areas, if any,

j) A plan for the control of erosion before and after construction,

k) A traffic study if required by the Planning Board.

3. Landscape Plan (consistent with Section 3500 Landscaping and Screening)

4. Lighting Plan (consistent with Section 3400 Environmental Controls)

5. Architectural Plans, including floor plans, and elevations. Buildings greater than 35,000 cubic feet require plans prepared by a registered architect or engineer (P.E., Civil). Floor plans shall show the existing and proposed uses.

6. Such additional materials as may reasonably be required by the Planning Board in order to make the determinations required for a Site Plan Review - Special Permit.

7. Revisions must be submitted to the Planning Board seventy-two (72) hours before a scheduled hearing.

8. An asbuilt site plan must be submitted depicting final locations of all structures and site related appurtenances before an occupancy permit is issued.

1239. Security

The Planning Board in conjunction with the Site Plan –Special Permit approval process or in the rectification of a violation, may require the posting of a bond or other security to secure faithful and satisfactory performance, in such sum and in accordance with such conditions as the Board may determine necessary, consistent with guidelines to be adopted by the Planning Board for the administration of this provision.

a) Exception - The Board need not require security where there is full assurance of compliance with the site plan – special permit approval.

b) Amount – The security shall be approved as form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer; and shall be in an amount determined by the Planning Board sufficient for restoration of affected lands and property. Security shall be deposited with the Town Treasurer.

1240. Violations

Violations of the approved site plan – special permit approval shall be subject to:

Notification. Upon notification of a violation of a site plan – special permit approval the Planning Board shall confer with the Inspector of Buildings as to the extent of the infraction. If determined that the site is in violation of the Zoning Bylaw or conditions of approval the Planning Board may upon its own motion or on the recommendation of the Inspector of Buildings or a petition of any interested person notify the grantee by certified mail, return receipt requested, at least seven days prior to the meeting to appear before the Board to rectify the violation. In event the violation cannot be rectified then the Planning Board may rescind approval. (See section 1241 Rescission)

1241. Rescission.

The Planning Board, on its own motion or on the petition of any person interested, shall have the authority to rescind the approval of a Site Plan –Special Permit if, after notice to the grantee and a hearing held thereon, it determines that one or more of the conditions stated for its approval has not been satisfied or complied with by said grantee.

1242. Enforcement

1. Any Site Plan - Special Permit approval issued under this section shall lapse within two years if a substantial completion of the requirements of the Site Plan has not taken place. Such permit may be extended for reasonable cause.

2. The Applicant must file the approved Site Plan Special Permit with the Registry of Deeds and furnish Book & Page Number to the Inspector of Buildings prior to receiving a building permit.

1243. Final Action

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

1. A written denial of the application stating the reasons for such denial; or

2. The issuance of a Site Plan - Special Permit approval, subject to any conditions, modifications, and restrictions that the Planning Board may deem necessary.

1244. Amendments

The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

1250. Professional Inspection.

1251. Developer's Responsibility. Construction on projects under a single building permit involving either one or more structures (other than one- and two-family dwellings) each containing 35,000 cubic feet of volume or more, or involving 50 or more dwelling units, irrespective of type, shall be done with the inspection of a registered professional engineer or architect, retained by the developer. Such engineer or architect shall periodically, as requested by the Inspector of Buildings, attest that all work being done under his supervision is being done in accordance with the plans as approved for a building permit, in accordance with any Board of Appeals stipulations, and in accordance with all applicable Town and state codes and regulations. Discrepancies from the above noted by such engineer or architect shall be reported forthwith to the Inspector of Buildings.

1252. Professional Review Fees.

a) Special Permit Granting Authorities may require that applicants deposit reasonable fees in a Review Escrow Account for the employment of outside consultants as required for review of application materials, special studies and inspection of work being done.

b) The Special Permit Granting Authority shall have authority to expend funds from the Review Escrow Account, upon request of the Planning Board, for services of professional consultants for efforts which are not to be performed by Town employees. The applicant may appeal the selection of the consultant, as provided at Section 53G of Chapter 44 G.L.

c) The account shall be restored by the developer to its original level upon written notice by the Special Permit Granting Authority that expenditures from it have decreased it to less than one-third (1/3) its original amount. The account shall be closed and remaining uncommitted funds returned to the developer upon issuance of a certificate of occupancy, final release of any security, or permit disapproval.

d) Similarly, the Planning Board may require that applicants deposit reasonable fees for the employment of outside consultants as required for review of application materials, special studies, and inspection of work being done in conjunction with proposals subject to Site Plan Review.

1260. Enforcement. The Inspector of Buildings/Chief Zoning Enforcement Officer, the Enforcement Officer(s) and any Assistant Inspector of Buildings shall take such action as may be necessary to enforce full compliance with the provisions of the Zoning Bylaw and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Town Administrator to the Town Counsel.

1262. Requests for Enforcement. Whenever a violation of this bylaw occurs or is alleged to have occurred, any person may file a signed written Request for Enforcement with the Inspector of Buildings /Chief Zoning Enforcement Officer who shall record the filing of such request. The Chief Zoning Officer or the Enforcement Officer(s) shall promptly investigate, and take appropriate action thereon. If determined that no enforcement action is required, notice in writing shall be provided to the person who has filed such request of the determination not to take any action, and shall state the reasons therefore, all within fourteen (14) days of the receipt of such request. Any person aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within thirty (30) days after the receipt of the decision of the Chief Zoning Enforcement Officer or Enforcement Officer(s).

1270. Penalties. Any person violating any of the provisions of this Bylaw shall be fined $50 for each offense. Each day that such violation continues shall constitute a separate offense.

1280. Non-Criminal Violation Procedures. The Inspector of Buildings/Chief Zoning Enforcement Officer and/or Enforcement Officer, hereinafter referred to as the enforcing person(s), shall, upon taking cognizance of a violation of this Zoning Bylaw, or of a specific rule or regulation or permit condition which he or she is empowered to enforce, shall proceed as follows as an alternative to initiating criminal proceedings or civil action.

1281. Warning. To provide opportunity for voluntary compliance, the enforcing person shall first give written warning that unless the violation is abated within twenty days thereafter, a notice for Court appearance will be given, as provided at Section 1282. However, the enforcing person may give notice for Court appearance without such warning in the cases of violations creating immediate threats to health or safety, repeated violations, or violations involving signs, structures, or uses potentially remaining in place for fewer than twenty days.

1282. Notice to Appear. Following the twenty days (or immediately, as provided at 1281 above), the enforcing person shall give to the offender a written notice to appear before the Clerk Magistrate of the Barnstable First District Court at any time during regular Court hours, not later than twenty-one (21) days after the date of such notice.

1283. Notice Procedures. The notice shall specify the fine for the offense(s). Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place of the offender's appearance before the Court. Such notice shall be signed by the enforcing person, and shall also be signed by the offender whenever practicable in acknowledgement that such notice has been received. Any notice and enforcement of any violation shall be in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 21D, as from time to time amended.

1300. BOARD OF APPEALS

1310. Establishment. The Board of Appeals shall consist of five members and three associate members, who shall be appointed by the Selectmen and act in all under this Bylaw in the manner prescribed by Chapter 40A of the General Laws as amended.

1320. **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws, and by this Bylaw, those powers being to hear and decide applications for Special Permits upon which the Board is empowered to act under this Bylaw; to hear and decide petitions for variances, excluding variances for use; to hear and decide other appeals from any aggrieved person, officer, or board, or the Cape Cod Planning and Economic Development Commission, to issue comprehensive permits as provided by Sections 20-23, Ch.40B, G.L., and in special cases to issue withheld building permits, as provided by Section 81Y, Ch.41, G.L.

1330. **Special Permits.** Application for Special Permits shall be made to the Town Clerk, with a copy forthwith being given to the Special Permit Granting Authority (SPGA) by the applicant. A public hearing shall be held prior to decision on the application with timing and notice as required by Sections 9 and 11 of Chapter 40A.

1331. **Decision Criteria.** The following shall be the basis for decision on special permits, except as may be more specifically provided elsewhere in this Bylaw. Special permits may be granted by the SPGA after demonstration by the applicant that the proposed use will not have adverse effects which over-balance its beneficial effects for either the neighborhood or the Town, in view of the particular characteristics of the site and of the proposal in relation to that site. The determination shall indicate consideration of each of the following, among others:

a) pedestrian and vehicular flow and safety;

b) adequacy of utilities and other public services;

c) impact on natural environment;

d) impact upon nearby developed premises;

e) visual compatibility with the surroundings;

f) in Water Resource Districts, contribution to cumulative impact upon public water supplies.

g) Impact upon the Town's needs for year-round housing available for persons of all income levels.

1332. **Documentation.** At the time of application, the applicant shall submit documentation regarding each of the above considerations which are germane. The Special Permit Granting Authority may refer such documentation to the Planning Board, Conservation Commission, Engineering Department, or other authorities, as appropriate, for technical review and comment.

1333. **Lapse of Special Permit.** If the rights authorized by special permit are not exercised within two years of the date of grant of such permit, such rights shall lapse and no longer be of any further force or effect, provided however, that time spent awaiting the determination of an appeal under Section 17 of General Laws C40A shall not be counted as part of said two year period, and provided further, the Special Permit Granting Authority, if substantial use has not commenced, or if in the case of a permit for construction, if construction has not begun, may for good cause, by a majority vote, grant the holder of said special permit additional time, to time certain, to exercise the rights under said permit, provided the holder of the permit has timely requested such extension

in writing to the Special Permit Granting Authority.

1340. Lapse of Variance. In accordance with the provisions of Massachusetts General Law C40A, Section 10, Paragraph 3, if the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, such rights shall lapse and no longer be of any force or effect, provided however, that the Board of Appeals in its discretion and upon written request by the grantee of such rights, may extend the time for the exercise of such rights for a period not to exceed six months, and provided further, that the application for such extension is filed in writing with the Board of Appeals prior to the expiration of such one year period.

1400. PLANNING BOARD AND BOARD OF SELECTMEN

1410. Planning Board Associate Members. As authorized in Section 9 of Chapter 40A, there shall be two associate members of the Planning Board. Such associates shall act on special permit applications when designated to do so by the Planning Board Chairman, in cases of absence, inability to act, or conflict of interest on the part of any member of the Board, or in the event of a vacancy on the Board. The associate members shall be appointed by majority vote of the Selectmen and members of the Planning Board, in the same manner as for filling a vacancy, with initial term of one year for the first appointed and two years for the second appointed, and terms of three years thereafter.

1420. Considerations. In instances where this Bylaw provides for Special Permits to be acted upon by the Planning Board or the Board of Selectmen, those actions shall be based upon the considerations of Section 1330.

1500. APPLICABILITY

Where the application of the Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Bylaw shall control.

1600. DEVELOPMENT AGREEMENT

1610. Purpose 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)*

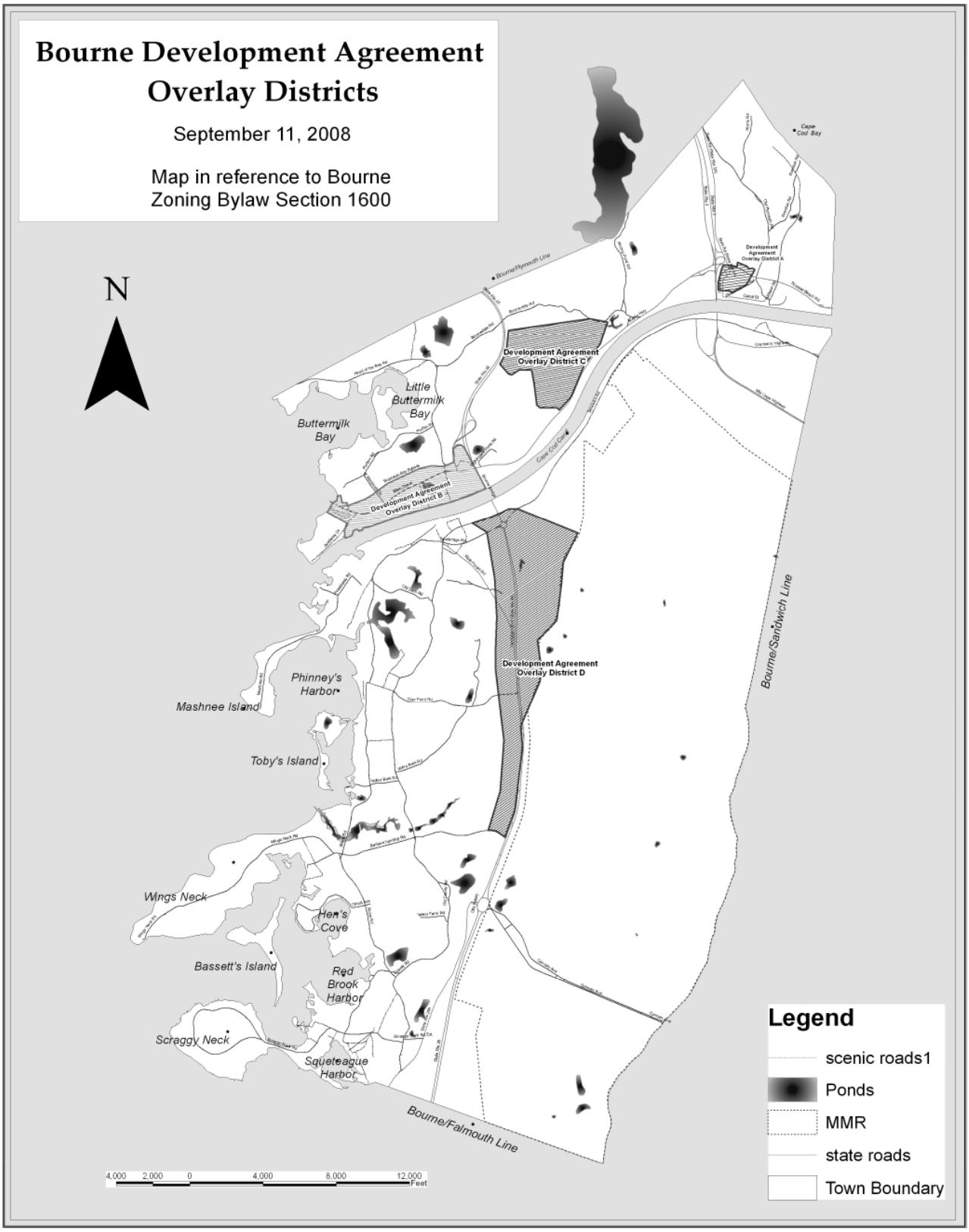
1611. The Town of Bourne adopts this section under the Home Rule Authority of Article 89 of the Amendments to the Massachusetts Constitution, and the provisions of the Cape Cod Commission Act Sections 6 and 14 of Chapter 716 of the Acts of 1989, as amended and Chapter D, Development Agreement Regulations.

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.


Bourne Development Agreement
Overlay Districts
September 11, 2008
Map in reference to Bourne
Zoning Bylaw Section 1600
N
Development Agreement
Overlay District A
Development Agreement
Overlay District B
Development Agreement
Overlay District C
Development Agreement
Overlay District D
Little
Buttermilk
Bay
Buttermilk
Bay
Phinney's
Harbor
Mashnee Island
Toby's Island
Wings Neck
Hen's
Cove
Bassett's Island
Red
Brook
Harbor
Scraggy Neck
Squeteague
Harbor
Bourne/Sandwich Line
Bourne/Falmouth Line
Legend
scenic roads1
Ponds
MMR
state roads
Town Boundary
4,000 2,000 0 4,000 8,000 12,000
Feet

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.

1700. VALIDITY

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

SECTION II USE AND INTENSITY REGULATIONS

2100. ESTABLISHMENT OF DISTRICTS

2110. Types of Districts. For purposes of this Bylaw, the Town of Bourne is hereby divided into the following types of districts:

RESIDENCE DISTRICT	R-80
RESIDENCE DISTRICT	R-40
VILLAGE BUSINESS DISTRICT	V-B
BUSINESS DISTRICT	B-1
BUSINESS DISTRICT	B-2
BUSINESS DISTRICT	B-3
BUSINESS DISTRICT	B-4
SCENIC DEVELOPMENT DISTRICT	SDD
GOVERNMENT DISTRICT	GD
WATER RESOURCE DISTRICT	WR
SENSITIVE USE DISTRICT	SUD
TRAFFIC MANAGEMENT DISTRICT	TMD
BOURNEDALE OVERLAY DISTRICT	BOD
DOWNTOWN DISTRICT	DTD
DEVELOPMENT AGREEMENT OVERLAY DISTRICT	DOD
MARINE CENTER OVERLAY DISTRICT	MCOD
SOLAR PHOTOVOLTAIC OVERLAY DISTRICT	SPOD
FLOODPLAIN OVERLAY DISTRICT	FOD

The boundaries of these districts are defined and bounded on the map entitled "Zoning Map, Bourne, Mass.", dated June, 1966, on file with the office of the Town Engineer. That map and all explanatory matter thereon is hereby made a part of this Bylaw.

Water Resource Districts are hereby created covering the area described on the map entitled Water Resource Districts, dated April 1, 1980, and revised through February 7, 1996, on file with the office of the Town Engineer and Town Clerk. That map and all explanatory matter thereon is hereby made a part of this Bylaw.

Sensitive Use and Water Resource Districts shall be considered to be superimposed over any other districts established in this Bylaw. Land in a Water Resource District shall be subject to the requirements of Section 4700 and land in a Sensitive Use District shall be subject to the requirements of Section 4800, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

Traffic Management Districts shall be considered to be superimposed over any other districts established in this Bylaw, and comprise the following areas:

- all land in the SDD Scenic Development District; and

- all land in the R-40 District bounded on the southwest by the Bourne Bridge, on the southeast by the Cape Cod Canal, on the northwest by the B-2 Business District and the SDD Scenic Development District, and on the northeast by the SDD Scenic Development District; and

- all land in the R-40 District bounded on the southwest by the Bourne Bridge, on the northwest by the Cape Cod Canal, on the southeast by Sandwich Road, and on the northeast by the extension of the northeasterly boundary of the Scenic Development District,

all as shown on the map entitled 'Traffic Management Districts', dated August 15, 1996.

The Floodplain Overlay District (FOD) is established as an overlay district. The FOD is comprised of all Special Flood Hazard Areas as designated on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) dated July 16, 2014, on file with the office of the Town Clerk and Engineering Department.

Land in the FOD shall be subject to the requirements of Section 3100, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

2120. District Boundaries. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto; when appearing to follow tidal shoreline shall coincide with the mean low water line. When not locatable in any other way, boundaries shall be determined by scale from the map.

2130. Divided Lot. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than 30 feet into the other district by Special Permit of the Planning Board.

2140. District Purposes. District purposes are as follows:

RESIDENCE R-80 and RESIDENCE R-40: To ensure continuance of a residential environment, with any development carefully related to environmental capacities and existing character.

VILLAGE BUSINESS V-B: To provide for village-oriented business compatible with small scale environs and nearby residences.

BUSINESS B-1: To provide high-intensity generally pedestrian-oriented activity concentrations at village centers.

BUSINESS B-2: To accommodate general business development in areas serviced by major traffic arteries, and where conflict with residential development will not be substantial.

BUSINESS B-3: To reserve areas for business development without single-family residential development, in areas of 10 acres or more well suited by utilities, access, topography, and surroundings for such use.

BUSINESS B-4: To provide for business development along arterial routes with careful control over environmental and traffic impacts.

SCENIC DEVELOPMENT DISTRICT SDD: To gain intensive use of land, while at the same time preserving or enhancing highway views of the canal, ocean, or bay, preserving or enhancing landscaping and tree cover, minimizing visibility of parked autos and the intrusion of commercial signs, and avoiding creation of hazards or congestion. Each Scenic Development District created on the Zoning Map shall be not smaller than 40 acres in extent, shall be accessible directly via state-owned highway, and shall be so located that ocean or canal visibility exists or can reasonably be expected to be gained.

GOVERNMENT DISTRICT GD: To provide for necessary governmental functions on publicly owned land.

WATER RESOURCE DISTRICT WR: To protect the public health by preventing contamination of the ground and surface water resources providing water supply for the Town.

SENSITIVE USE DISTRICT SUD: To provide for rarely encountered uses whose consequences for their surroundings warrant Town Meeting consideration of individual sites.

BOURNEDALE OVERLAY DISTRICT BOD: To provide for the preservation of resources that are unique to the Bournedale area and which are fundamental to the character of the areas.

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.

THE MARINE CENTER OVERLAY DISTRICT shall be considered to be superimposed over any other districts established in this Bylaw, and to apply to those areas as shown on the map entitled 'Marine Center Overlay District,' dated March 22, 2007.

SOLAR PHOTOVOLTAIC OVERLAY DISTRICT SPOD: To promote the goals of the Local Comprehensive Plan and the Commonwealth of Massachusetts Green Communities Act, by providing expedited project plan review and design standards for large-scale, ground-mounted solar photovoltaic systems.

FLOODPLAIN OVERLAY DISTRICT FOD: To enable the Town of Bourne to participate in the National Flood Insurance Program (NFIP) and ensure compliance with the NFIP regulations in all areas as defined as 100-yr floodplain on the Flood Insurance Rate Map (FIRM) provided by FEMA, and further defined by the Flood Insurance Study (FIS) and as regulated in Section 3110 of this Bylaw.

2200. USE REGULATIONS

2210. Application. Uses shall be permitted in any district only in accordance with the following table. For uses allowed on Special Permit for an exception, the Special Permit Granting Authority is indicated as follows:

"BA" - Board of Appeals

"SP*" - Board of Appeals, except Planning Board for development requiring site plan review under Section 1230…".

"S" - Board of Selectmen

"PB" - Planning Board

"SPR/SP" – Planning Board, a use authorized after review under Site Plan –Special Permit as provided in Section 1230.

"SPR" – Planning Board, a use authorized after site plan review by the Planning Board.

See Section 2230 for uses allowed in the Scenic Development District.

2220. Use Regulation Schedule

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
PRINCIPAL USES					
RESIDENTIAL USES					
Single-family dwelling	Yes	Yes	Yes	No	No
Two-family dwelling[3]	Yes[5]	Yes	Yes	No	No
Conversion of single-family into two-family without substantial alteration in exterior appearance[3]	BA	BA	BA	BA	No
Multifamily dwelling[3]	No[2]	No[2,11]	No[2,11]	No	No
Taking not more than six persons as boarders or lodgers in a dwelling by a family resident therein[3]	Yes	Yes	Yes	Yes	No
Mobile home parks, subject to Section 4200	No	No	SPR/SP	No	No
Campgrounds, subject to Section 4200	No	No	SPR/SP	No	No
Residential Social Service Facility[1,3]	BA	BA	BA	No	BA
Transient dwelling	No[2]	SP[2]	SP[2]	No	No
OPEN USES					
Farm or nursery without retailing	Yes	Yes	Yes	Yes	Yes
Farm or nursery with retailing	SPR [12]	SPR[12]	SPR[12]	SPR[12]	SPR [12]
Standard or Par-3 golf courses	SPR/SP	SPR/SP	SPR/SP	SPR/SP	No
INSTITUTIONAL USES					
Patriotic, fraternal organizations, clubs, if not conducted for profit	SPR [12]	SPR [12]	SPR [12]	SPR [12]	No
Religious purposes, non-profit educational uses; philanthropic institutions	SPR [12]	SPR [12]	SPR [12]	SPR [12]	SPR [12]
Municipal use voted at Town Meeting, or other public use not more specifically cited	SPR [12]	SPR [12]	SPR [12]	SPR [12]	SPR [12]
Hospital, nursing home	SPR/SP	SPR/SP	SPR/SP	SPR/SP	No
TRANSITIONAL USES					
Use of dwelling as temporary real estate office[4]	Yes	Yes	Yes	Yes	No
Open Space Community, subject to Section 4600	PB[5]	PB	PB	PB	No

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
COMMERCIAL USES					
Technology Campus	No[10]	No	SPR/SP	SPR/SP	No
Motor vehicle service stations, subject to Section 4500	No	SPR/SP	SPR/SP	No	No
Commercial recreation	No	SPR/SP	SPR/SP[7]	SPR/SP	No
Adult uses, subject to Section 4800	No	No	SP*[6]	No	No
Bank	No	SPR/SP	SPR/SP	SPR/SP	No
Restaurant	No	SPR/SP	SPR/SP	SPR/SP	No
Restaurant Fast Food, Takeout	No	SPR/SP	SPR/SP	SPR/SP	No
Professional or Business Office	No	SPR/SP	SPR/SP	SPR/SP	No
Retail Sales					
If having service to patrons while in motor vehicles	No	SPR/SP	SPR/SP	SPR/SP	No
If gasoline sales occur on the same premises	No	SPR/SP	SPR/SP	SPR/SP	No
Under 1,600 square feet gross floor area, and also fewer than 200 vehicle trip ends per average business day[8]	No	SPR [12]	SPR [12]	SPR [12]	No
More floor area or trip ends	No	SPR/SP[9]	SPR/SP	SPR/SP	No
Animal kennels or animal hospitals, funeral homes	BA	BA	BA	BA	No
Hotels[3], Motels[3], or similar establishments	No	SPR/SP	SPR/SP	SPR/SP	No
Flea Market	No	No	S	S	No
Manufacturing, processing, research	No	No	SPR/SP	SPR/SP	No
Contractor's Yard	No	No	SPR/SP	SPR/SP	No
Junkyards, earth removal, subject to Section 4400	No	No	SP*	SP*	No
Wholesaling, bulk storage, or other business use meeting requirements of Section 3400	No	SPR/SP	SPR/SP	SPR/SP	No
Extensive resort development, subject to Section 4600	SPR/SP[5]	SPR/SP	SPR/SP	No	No
Village Mixed Use Development, subject to Section 4250	No	PB	PB	No	No
Commercial Wind Energy System (CWES) per Section 3460	No[10]	No	SPR/SP	SPR/SP	SPR/SP
Neighborhood Wind Energy System (NWES) per Section 3460	SPR/SP	SPR/SP	SPR/SP	No	No

DISTRICT	R-40 R-80	V-B B-1	B-2 B-4	B-3	GD
OTHER PRINCIPAL USES					
Seasonal Conversion	---------- (See Section 4900) ----------				
Other use having externally observable attributes similar to one above	--------- As regulated above ---------				No
All other uses	No	No	No	No	No
Solar Photovoltaic Systems Ground-Mounted	No[13]	No	No[13]	SPR[12]	No
ACCESSORY USES					
Accessory dwelling (See Section 4120)	BA	BA	BA	No	No
Home occupation, subject to Section 4100	Yes	Yes	Yes	Yes	No
Roadside stand for sale of produce largely raised on the premises	Yes	Yes	Yes	Yes	No
Up to three guest houses[3]	Yes	Yes	Yes	Yes	No
Signs, subject to Section 3200	Yes	Yes	Yes	Yes	No
Fishing-related activities	SP*	Yes	Yes	Yes	No
Residential Wind Energy System (RWES) per Section 3460	SPR/SP	SPR/SP	SPR/SP	No	No
Other customary accessory uses	Yes	Yes	Yes	Yes	No

FOOTNOTES TO SECTION 2220 Use Regulation Schedule.

1. Provided that all Building Code, Health, and Zoning Bylaw requirements are met, and that the specific premises are not unsuitable in relation to the needs of the persons being cared for, and in consideration of avoidance of undue concentration of such facilities in any neighborhood.

2. Except PB in an Open Space Community (see Sections 4610 and 4642).

3. Special lot area rules apply: see Section 2500 and its footnotes.

4. If serving exclusively the subdivision or apartment complex in which it is located. Occupancy permits for such use shall be issued only for six-month periods, renewable only while development is being completed.

5. Except "NO" in R-80.

6. In Sensitive Use District only.

7. In so much of the B-4 district as lies between Clay Pond Road and Barlow's Landing Road no commercial recreation is allowed except for indoor exercise and health accommodations. (No coin or token operated amusement devices shall be permitted as a principal use.)

8. Trip ends (a trip beginning or ending) to be estimated based upon the most recent edition of the Institute of Transportation Engineers Trip Generation Manual.

9. Except "Yes" in B-1.

10. Except "PB" in the Bournedale Overlay District, to be permitted only under provisions of Section 2700 Flexible Resource Development.

11. Development subject to Section 4250 - Village Mixed Use developments

12. Site Plan Review (SPR) shall adhere to the same requirements of Section 1230 excluding special permit criteria.

13. Except "Yes" in the Solar Photovoltaic Overlay District, as permitted under the provisions of Section 3470.

2230. Scenic Development District

2231. Any use permitted in an R-40 District is permitted in a Scenic Development District.

2232. In addition, the Planning Board acting under Section 2233 may grant a Special Permit for an exception to allow hotels, motels, or professional offices and if operated accessory to and in the same structure as one of the above, restaurants, gift shops, or other retailing oriented to tourist trade.

2233. Special Permits for uses allowed under Section 2232 shall be granted only for development conforming with the following:

a) Lot area shall equal at least five acres for all uses requiring a Special Permit, and if more demanding, lot area shall be not less than 40,000 square feet per "activity unit", where one dwelling unit, one guest unit, or 150 square feet gross floor area in any other commercial use equals one activity unit.

b) Lot coverage by building and other impervious surfaces shall be not more than 20%.

c) Front yard not less than 200 feet, and contain no parking area within 100 feet of the street line.

d) The required side and rear yards shall be 50 feet to contain no parking or signs.

e) Lot frontage for all uses requiring Special Permits shall be not less than 400 feet.

f) Building height not in excess of 35 feet.

g) No outdoor storage, waste receptacles, or outdoor display of goods shall be visible from a public way.

h) No buildings shall be floodlit, and parking areas shall be illuminated only by shielded lights not higher than 15 feet.

i) All other requirements of the Bylaw (signs, parking, etc.) must be observed.

2240. Accessory Scientific Uses. The Board of Appeals may grant a Special Permit for a use accessory to a scientific research, scientific development, or related production activity, whether or not on the parcel as such activity.

A Special Permit shall be granted where the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

2300. NON-CONFORMING USES

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

2310. Abandonment. A nonconforming use or structure which has been abandoned or not used for a period of two years or more shall not be reestablished and any future use shall conform with this Bylaw.

2320. Extension or Alteration. Preexisting nonconforming structures or uses may be extended or altered only as follows.

a) No such extension or alteration shall be permitted unless a supportive finding is made:

- in cases where the use requires a special permit, by the Special Permit Granting Authority (SPGA) designated to act on special permits for that category of use, or

- where no such special permit is required, by the Zoning Board of Appeals.

b) The required finding is that the requested extension or alteration will not be substantially more detrimental to the neighborhood than is the existing nonconforming use, and requires a simple majority of those voting. Prior to action on such requested finding, notice of the meeting where the action will be taken shall be provided in the same manner as for a special permit hearing.

2330. Previously Issued Permits. Construction or operations under a building or Special Permit shall conform to any subsequent amendment of this Bylaw unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

2340. Use Change. Premises may be changed from one nonconforming use to a different nonconforming use as listed in Section 2220 only on Special Permit from the Board of Appeals. Such permit shall be granted only for uses whose externally observable attributes are no more damaging to or inharmonious with the environs than those of the use being replaced, where traffic generated by the proposed use will not excessively exceed that normally expected in the neighborhood, where no nuisance or hazard will be created, and where the proposed use is no more objectionable to the neighborhood, but not otherwise.

2350. Mobile Home. A mobile home located not in conformance with requirements of this Bylaw may not be replaced on the same site with a different mobile home.

2400. DIMENSIONAL REGULATIONS

2410. Applicability. The erection, extension, alteration, or moving of a structure or the creation or change in the size or shape of a lot (except through a public taking) must meet the requirements set forth in Section 2500, Intensity of Use Schedule, unless otherwise expressly provided by this Bylaw or by Section 6 of Ch.40A, G.L.

2420. Contiguous Lots. Existing non-conforming lots must meet the requirements of 40A, General Laws, Section 6 Massachusetts General Laws.

2440. Two or More Principal Buildings. Not more than one single-family dwelling (other than a guest house) shall be erected on a lot except in an Open Space Community. Two or more other principal buildings may be erected on a lot only if lot area requirements can be met for each such building without counting any land area twice. In addition, each such building must be served by access, drainage, and utilities determined by the Inspector of Buildings to be functionally equivalent to those required for separate lots by the Planning Board under its Subdivision Regulations.

2450. Nonconforming Lots.

2451. Applicability. July 1, 2006 shall be the effective date of this section subject to a favorable two-thirds vote of Town Meeting and subject to approval by the Attorney General.

a) Permits pending before the following Town entities; Board of Health, Conservation Commission, Board of Selectmen, Sewer Commissioners, Zoning Board of Appeals and/or Inspector of Buildings, on or before the effective date of this section shall be exempt from these requirements.

2452. Exemptions. Increases in area, frontage, width, yard or depth requirements of this Bylaw shall not apply to a lot, either vacant or with an existing dwelling for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements, and had less than the proposed requirement but at least 5000 square feet of area and 50 feet of frontage.

2453. Maximum Gross Floor Area. The aggregate floor area of all structures newly built or expanded on a residential non-conforming lot shall not exceed the percentage of lot area shown in Table 2456.

2454. Maximum lot coverage. Total building footprint area of all structures, including decks and other structures, whether roofed or not, located on a non-conforming lot shall not exceed the percentage of lot area shown in Table 2456.

2455. Maximum building height. No structure shall be built or modified to exceed building height shown in Table 2456.

2456. Table

Nonconforming Lot Size (square feet)	Maximum Gross Floor Area To Lot Area	Maximum Lot Coverage	Maximum Building Height
Less than 6,000	25%	25%	25 feet
6,000 to 7,000	25%	25%	26 feet
7,001 to 8,000	24%	25%	27 feet
8,001 to 9,000	24%	25%	28 feet
9,001 to 10,000	23%	25%	29 feet
10,001 to 11,000	23%	25%	30 feet
11,001 to 12,000	22%	24%	31 feet
12,001 to 13,000	22%	23%	32 feet
13,001 to 14,000	21%	22%	33 feet
14,001 to 15,000	21%	21%	34 feet
15,001 or more	20%	20%	35 feet

2457. Departure. The Board of Appeals may for "good cause" grant a Special Permit for departure from the requirements of Table 2456 but only in the case of Maximum Gross Floor Area and Maximum Lot Coverage in either case provided that all the following are shown:

Good and sufficient cause; Failure to grant the departure would result in exceptional hardship to the applicant; or conflict with existing laws.

The departure must be the minimum necessary to afford relief and not exceed an increase greater than **ten** percent **(10%) of the calculated area**.

Example: Lot Size 10,000 s.f. x 23% = 2300 s.f. (GFA allowed).
Maximum relief allowed upon evidence of exceptional hardship, 2300 s.f. x 10% = 230 s.f.
Total GFA = 2530 s.f.

2460. Lot Bounds. Each corner of any lot created on a plan endorsed by the Planning Board subsequent to May 1, 1979 shall, prior to foundation construction, be marked by a granite or concrete bound not less than 30" long and not less than 5" in least dimension, said bounds to be set by a registered land surveyor.

2470. Water Resource District. Single and two-family dwellings located within a Water Resource District shall be governed by the Lot Area Requirements of the R-40 District if more restrictive than otherwise applicable requirements.

2480. Lot Shape. No lot shall be created so as to be so irregularly shaped or extended that the square of the lot perimeter exceeds thirty (30) times the gross lot area for any lot in excess of 80,000 square feet, or twenty-two (22) times the gross lot area for any other lot.

A lot may exceed the shape factor of 22 or 30 only if the portion intended for building is designated on the plan and said portion is connected to the frontage and meets the shape and zoning requirements of the area in which it is located.

2490. Back Lot Division. A parcel with no other contiguous land in common ownership may be divided into two or three lots, one of which has less than the normally required frontage, and a single-family dwelling may be built on the reduced frontage lot, provided that such division is authorized on a Special Permit granted by the Planning Board. Such divisions shall be authorized if meeting each of the following, but not otherwise.

2491. The lot having reduced frontage must have frontage of at least 35 feet. The 35 foot width must continue for the entire length of the access strip.

2492. The lot having reduced frontage must contain at least twice as much lot area as otherwise required, without counting any portion of its access strip (the portion of the lot between the street and the point where lot width equals 100 feet or more).

2493. The lot having reduced frontage must be capable of containing a square with sides equal to the normally required lot frontage.

a. The lot shall have a uniform yard setback requirement of 25 feet from all property lines.

b. Within the setback, vegetation shall be retained and supplemented as necessary to obscure visibility.

2494. All other requirements specified in Section 2400 Dimensional Regulations must be met, except that calculations for the requirements of Section 2480 Lot Shape shall exclude the access strip.

2495. No lot having less frontage than normally required shall be approved by the Planning Board if its access strip abuts another such lot which is or was in the same ownership either at the time of application or at any time within the preceding five years.

2496. Egress from the created lots must involve no greater hazard owing to grade and Zoning Bylaw visibility limitations than would be normal for a standard lot in the same vicinity.

a. A vehicle turnaround must be provided to the satisfaction of the Fire Department.

b. The access drive must be setback a minimum 10 feet from the lot lines.

2497. Reduction of privacy and damage to the natural environment must be no greater than would be expected fro standard land division at that location. Stormwater must be designed so that post-development runoff is contained on site and does not exceed pre-development runoff.

2498. The proposal must be determined by the Planning Board to not circumvent the intent of the Subdivision Control Law.

Any reduced frontage lot created under these provisions shall be shown and identified on a plan endorsed by the Planning Board 'Lot _____ approved for reduced lot frontage'.

2500. Intensity of Use Schedule

D I S T R I C T	R-80[k,m]	GD[n] SDD[g,n]	R-40[m]	B-1[a,m,p,r] V-B[a,m]	B-2[j,n,p]	B-3[n]	B-4[n]
Minimum lot area of first dwelling unit (s.f.)[e.f]	80,000	40,000	40,000	20,000	20,000	20,000	40,000
Minimum lot frontage (ft.)[o]	150	150	125	125	125	125	150
Minimum front yard (ft.)[c]	40	40	30	0[l]	30[i]	30	30[i]
Min. rear & side yard (ft.)	25	25	15	12[d]	12[h]	12	30
Maximum lot coverage (%)[s]	10	10	20	100	50	50	25
Max. building height (ft.)[q s]	40	40	35	35	35	35	40
Min. usable open space (% of lot area)	40	40	20	-----	20	20	40

a. Requirements of the B-3 District shall apply to permitted dwellings.

b. (Not Used)

c. Required front yard shall not exceed the average setback on adjacent lots within 50 feet of the subject lot. Corner or through lots shall maintain front yard requirements for both frontages.

d. Side and rear yards not required for nonresidential structures with walls of fire resistive construction as defined by the current building law, except where such structures would adjoin a Residence District or a use normally permitted in a Residence District.

e. Water Resource Districts in compliance with Section 2470.

f. Increase by 100% for two-family dwelling and for each guest house, but not for an accessory dwelling authorized under Section 4120. Guest houses not to be within 30 feet of any principal structure. For hotel, motel, or similar establishments, lot area must be increased by 3,000 square feet per guest unit for each guest unit after the first.

g. For uses permitted under Section 2232 (Scenic Development District) intensity requirements of Section 2233 substitute for these.

h. Increase to 25 feet where abutting a residential use or district.

i. Increase to 50 feet for front yards adjoining MacArthur Boulevard. Section 3540 notwithstanding, no parking, loading, or storage areas shall be located within a required front yard. Within a required front yard, no trees of over 6" diameter shall be removed except as necessary for egresses, safe visibility, or removal of dead or diseased trees.

j. Requirements of the R-40 District shall apply to permitted dwellings.

k. Area required for guest house in R-80 District shall be computed as if in R-40 District. Guest houses not to be within 30 feet of any principal structure.

l. Maximum front yard shall be twenty-five (25) feet. However, no maximum setback is required for development where a building exists and is to be retained on the lot. Greater front yard depth may be authorized on special permit by the Planning Board upon its determination that lot shape and site design make greater depth to be of net benefit to the community.

m. No antenna or tower, other than those exclusively used by amateur radio operators, shall exceed a height of 40 feet above ground level at the base of the antenna or tower or the average finished grade on the street side of the building to which it is attached.

n. No antenna or tower, other than those exclusively used by amateur radio operators, shall exceed a height of 40 feet above ground level at the base of the antenna or tower or the average finished grade on the street side of the building to which it is attached, unless authorized by special permit granted by the Planning Board, upon the Board's determination that the antenna or tower is of the minimum height necessary for its purpose; is set back at least the height of the tower or antenna from any property line or is otherwise determined by the Planning Board to pose no hazard on abutting premises in the event of structural failure; and has been located, landscaped, and fenced or otherwise secured so as to minimize hazard and visual intrusion. Such permit shall require removal within one year of disuse.

o. For lots in the Traffic Management District, greater frontage may be necessitated.

p. Application of this table to Village Mixed Use Developments authorized under Section 4250 shall be as provided at Section 4250 c).

q. Increase allowable height by five feet for roof elements having a slope of 4" or more per foot.
(Note: The roof element with the 4” or greater slope must comprise at least 50% of the roof area for the increased height bonus)

r. Except building height in B-1 zoning district increase of allowable height by Special Permit by the Planning Board.

s. Nonconforming lots must meet the standards of Section 2450.

2600. DEVELOPMENT SCHEDULING

2610. Purpose and Intent. The purpose and intent of this Section is to insure a constant and harmonious pace of residential development in the Town of Bourne so that said rate of development shall not exceed the ability of the Town to provide adequate schools, roads, public safety protection and the capital outlays necessary to safeguard the health, welfare and safety of current and future residents of the Town of Bourne.

2620. Definitions.

Applicant - Individuals, corporations, partnerships, trusts and any other legal entity or form of doing business in which the applicant of record holds a legal or beneficial interest of ownership of greater than one (1) percent.

Calendar Year - The period beginning January 1 and ending December 31.

2640. Rate of Residential Development.

The Inspector of Buildings shall issue no more than 120 building permits for the construction of new residential dwelling units in a single year, together with any additional exemptions as hereinafter provided.

2650. Exemptions.

The limitation on the number of building permits that may be issued in any calendar year under Sec. 2640 herein, shall not be applicable to the following circumstances which are hereby expressly exempted therefrom:

a) Non-conforming separate lots protected under the terms of M.G.L. C. 40A, Sec. 6, 4th paragraph.

b) Lots shown on an approved subdivision plan, which was approved prior to the effective date of this bylaw, for a period of up to eight (8) years from the date of the endorsement of such original approval, as provided under the terms of M.G.L. C. 40A, Sec. 6, 5th paragraph.

c) The construction of a new dwelling unit which is a replacement for a dwelling unit which had been previously located upon the same lot.

d) A single family dwelling on a lot held in separate ownership and by the same owner for at least two (2) years, to be owned and occupied by the owner of said lot.

e) Bourne Affordable Housing Units, as defined in section V, accessory dwellings pursuant to a Special Permit issued under section 4120, Dwelling units to be built under any Commonwealth or governmental program or statute, including the Bourne Housing Authority, categorizing said unit(s) as low or moderate income housing, or otherwise defined or described as an Affordable housing unit, provided that such housing units have deed restrictions to ensure that they must remain affordable for no less than the maximum time period specified by the program or statute, and in the absence of any such stated time period, the deed restriction shall be permanent.

f) Dwelling units to be built under a legally enforceable occupancy restriction that limits occupants to only those who are aged fifty-five (55) years or older.

g) Dwellings authorized by a Special Permit granted by the Planning Board in accordance with Sec. 1330 of this Bylaw on condition that the Applicant has submitted documentation demonstrating to the satisfaction of the Planning Board that in light of this location, occupancy, or design, the units will have an unusually low impact on Town services and will not overburden any of them, or will provide net substantial benefit to the community as set forth in Sec. 2610 herein.

h) Dwelling units exempt form zoning bylaw changes by the Massachusetts General Laws expressly including Chapter 40A, Section 6.

2660. Issuance of Building Permits

a) Applications for building permits shall be dated and time-stamped upon receipt by the Inspector of Buildings. Building permits shall be issued on a first-in-time basis in twelve (12) even monthly amounts, with any unissued permits to be carried forward for issuance in the subsequent month until the authorized number of permits have been issued. No unissued building permits shall be carried forward from one calendar year to the next.

b) No Applicant shall submit a Building Permit Application within ten (10) days from the date of their last previous Building Permit Application submission, and no Applicant shall receive more than three (3) Building Permits in any given month.

c) It is the express intention of this provision that no Applicant shall employ any scheme or devise in order to obtain more building permits than said Applicant is lawfully entitled to under the terms of this Bylaw.

2670. Appeals. Any Applicant that is aggrieved by any decision of the Inspector of Buildings concerning the administration of this Bylaw, shall have a right of appeal to the Zoning Board of Appeals under the procedures as set forth in Sec. 1320 of this Bylaw. Any such appeal shall be filed in writing within thirty (30) days of the occurrence of the events being complained of by said aggrieved Applicant. The Board of Appeals, after due notice and public hearing shall have the authority to take appropriate action, if any, to insure that the procedures as set forth in Sec. 2660 herein have been adhered to.

2680. Effective Date.
This new and substituted bylaw, Section 2600, shall be effective Monday, July 1, 2002. Any Special Permit Application for the construction of residential dwellings or requests for the subdivision of land pursuant to the Subdivision Control Act M.G.L. C. 41, Sec. 81K-81GG filed with and date stamped by the Town Clerk on and after said July 1, 2002 shall be governed under the provisions of Sec. 2640 herein. For the period July 1, 2002 to December 31, 2002, the number of building permits allowed under Sec. 2640 shall be half the number as therein stated for a full calendar year.

2690. Annual Report.
The Inspector of Buildings shall annually, as soon as practicable, provide the Town Administrator and Board of Selectmen, Planning Board, and the Town Clerk, a report of the number of residential building permits he has issued the previous calendar year, broken down by the category they were issued under, Sec. 2640 or as an exemption under Sec. 2650 (a) through (g).

Said annual report shall be a public document and shall be available at the Selectmen's Office for Town Boards and committees and interested members of the public to obtain a copy thereof.

2700. FLEXIBLE RESOURCE DEVELOPMENT.

2710. Applicability. The following provisions are applicable only within the Bournedale Overlay District. Within that district, the Planning Board may grant a special permit for the following, subject to the regulations and conditions herein.

2711. Technology Campus. Technology Campus use may be permitted only on premises comprising not less than 50 contiguous acres having direct access from a limited access State highway unless it can be demonstrated that access to a limited access state highway is not feasible. (See section 2752a)

2712. Major Residential Development. Major Residential Development may be permitted regardless of site size or location within the District, whether or not opting to take advantage of the flexibility provisions of Section 2700, but complying with its standards and decision criteria.

2720. Purpose and Intent

a) To allow for greater flexibility and creativity in the design of development.

b) To encourage the permanent preservation of natural and cultural resources, including open space, agricultural and forestry land, waterbodies and wetlands, other natural resources, and historical and archeological resources.

c) To reflect Bourne's traditional character and land use pattern in which small villages contrast with open land.

d) To protect scenic vistas from Bournedale's roadways and other places.

e) To facilitate the economical and efficient construction and maintenance of streets, utilities and public services.

f) To protect existing and potential municipal water supplies, and the capacity and safety of the street network.

g) To encourage a non-sprawling and efficient form of development that conforms to existing topography and natural and cultural features.

h) To minimize the total amount of disturbance on the site.

i) To preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.

j) To encourage economic development through job-producing activities complementary to traditional and seasonally fluctuating sources of employment, making use of large-scale master planned campus areas consistent with a rural setting, providing for activities whose scale or type would be inappropriate to a village center location.

k) To further the goals and policies of the Bourne Master Plan.

2730. Procedural Requirements

2731. Pre-Application Meeting. A pre-application meeting between the Planning Board

and the applicant is strongly recommended.

2732. Sketch Concept Plan. Applicants considering Flexible Resource Development are strongly encouraged to submit a Sketch Concept Plan along with a Preliminary Subdivision Plan for review by the Planning Board. One of the purposes of this review is to determine the number of lots possible in the Flexible Resource Development. For this reason, it is strongly recommended that a copy of the existing conditions plan required in Section 2733 b) below be submitted at this stage.

2733. Submittals. Submittals for Flexible Resource Development shall include the following:

a) A Flexible Resource Development Plan showing the location and boundaries of the site, proposed land and building uses, lot lines, location of open space, proposed grading, location and width of streets and ways, parking, landscaping, existing vegetation to be retained, water supply or approximate location of wells, drainage, proposed easements and methods of sewage disposal. This plan shall be prepared by a team that includes a Registered Civil Engineer, Registered Land Surveyor and a Registered Landscape Architect or Architect.

b) An accompanying Existing Conditions Plan shall depict existing topography, wetlands, waterbodies and the 100 year floodplain, all existing rights of way, easements, and existing structures, the location of significant features such as woodlands, tree lines, open fields or meadows, scenic views, watershed divides and drainage ways, fences and stone walls, roads, driveways, cart paths, and resources of historic or archeological importance.

c) If germane, a subdivision plan for consideration under the Subdivision Control Law, either preliminary or definitive, at the applicant's choice.

d) A Site Analysis showing locations of soil test pits and percolation tests, with supporting documentation on test results.

e) A statement indicating the proposed principal uses to be allowed, and their extent; and a statement of the proposed use and ownership of any open space proposed under Section 2751.

f) A natural and wildlife resources inventory prepared consistent with guidelines approved or amended and approved by vote of the Conservation Commission, and filed with the Town Clerk.

g) An historical and archeological resources inventory prepared consistent with Guidelines approved or amended and approved by vote of the Historical Commission, and filed with the Town Clerk.

2734. Review and Decision. Upon receipt of the application and the required plans, the Planning Board shall transmit one copy each to the Board of Health, Conservation Commission and, in the case of a Technology Campus, to the Economic Task Force. Within 45 days of their receipt of the application/plans, those agencies shall submit any recommendations to the Planning Board.

2735. Special Permit Decision.

a) **Findings**. The Planning Board shall approve the development upon finding that it complies with the purposes and standards of Section 2700 and sensitively respects the protection of natural resources, historic and archeological resources, and scenic resources of the site. The Planning Board's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

b) **Conditions**. The Planning Board shall impose conditions in its decision as necessary to ensure compliance with the purposes of this Bylaw. Approval of a Flexible Resource Development shall be conditioned to provide that no further division of land which increases the potential number of dwelling units or results in an alteration to the area to be set aside as open space may occur without an amendment to the special permit. Any alteration of lot lines or layout of ways shall require approval by the Planning Board and shall be in compliance with the requirements of these Flexible Resource Development provisions and the Subdivision Rules and Regulations.

2740. Standards and Dimensional Requirements. Where the requirements of this section differ from or conflict with the requirements of Section 2500 Intensity of Use Schedule, the requirements of this section shall prevail.

2741. Density Limits. The following density limits shall be observed. If the parcel lies in more than one zoning district or the development involves more than one use, the total for each district or use shall be determined separately and summed. A Flexible Resource Development application may include non-contiguous parcels, whether in the same ownership or not, and if found by the Planning Board to serve the purposes of these provisions, permitted density may be transferred between those parcels.

a) The number of dwelling units under Flexible Resource Development shall not exceed that which would be permitted under a conventional subdivision plan that complies with the Bourne Zoning Bylaw and any other applicable laws and regulations of the Town or State without bonuses or substantial waivers or variances, as determined by the Planning Board, which shall consider any submitted analytic or graphical materials in making that determination.

b) The maximum number of hotel or motel guest units in the Scenic Development District shall be as provided at Section 4333.

c) The maximum floor area permitted in a Technology Campus shall be as constrained by applicable dimensional, buffering, and parking requirements.

2742. Minimum Lot Size. The minimum lot size shall be 30,000 square feet.

2743. Minimum Frontage. The minimum frontage for lots fronting on proposed internal roadways shall be 100 feet. The sharing of driveways to reduce curb cuts is encouraged.

2744. Setbacks.

a) For Major Residential Development the Planning Board may reduce the side and rear yard setbacks required at Section 2500 Intensity of Use Schedule (but not the setbacks required at Section 4331) by up to 50% if the Board finds that such reduction will result in better design, improved protection of natural, cultural or scenic resources, and will otherwise comply with this Bylaw.

b) For Technology Campus use, all buildings and parking areas shall be set back not less than two hundred (200) feet from the perimeter of the Campus. The Planning Board may grant a special permit authorizing a reduction of the perimeter setback (except where the perimeter abuts a residential use or is conflict with section 4330). The Board must find that the reduction will result in better design, improved protection of natural, cultural or scenic resources, and greater economic benefit to the Town, and will otherwise comply with this Bylaw.

2750. Other Requirements

2751. Open Space

a) All land area not utilized for lots, roads, and drainage shall be set aside as open space.

b) Applicants are encouraged to include within the open space any of the natural or cultural resources cited at Section 4331a) and b) that occur within the site.

c) Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking.

d) Subject to the approval of the Board of Health, the Planning Board may permit a portion of the open space to be used for sewage disposal leaching systems serving the development, where the Planning Board finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or waterbodies, and enhances the site plan.

e) Open space ownership shall be consistent with Section 4645.

2752. Technology Campus Provisions.

a). **Access.** Access to a Technology Campus shall be provided directly from a limited access State highway unless it can be demonstrated that access to a limited access state highway is not feasible. It shall be the Planning Board's sole discretion to determine if access is not feasible.

The applicant shall provide sufficient information to the Planning Board before the determination is made.

If the Board approves an alternative access the applicant must submit access and roads designs consistent with the standards of the Bourne Subdivision regulations specifically section 223 Standards of Access Adequacy.

The Planning Board may require further engineering or analyses to be prepared at the expense of the applicant, employing professionals approved by the Board.

b) **Signs.** Signs oriented to existing streets outside of the Technology Campus shall comply with the requirements of the district in which the campus is located. Signs oriented internally shall comply with the less restrictive of the requirements of the district in which the premises are located or sign area limitations of 50 percent of that which is allowed signs in business districts.

c) **Open Space**. Not less than 30% of the upland area of a Technology Campus shall be preserved as open space.

2760. Permitted Uses.

2761. Technology Campus Uses. The following uses are permitted within a Technology Campus development that has been approved on special permit under Section 2735, whether or not otherwise permitted under Section 2220 Use Regulation Schedule.

a) Educational and research uses by a non-profit educational institution.

b) Research, development, and manufacturing in fields specified in the special permit for Technology Campus development, such as biotechnology, medical, pharmaceutical, physical, biological and behavioral sciences and technology; marine and environmental science, and electronics and information technology, including the production of equipment, apparatus, machines and other devices for research, development, manufacturing and advance and practical application in any such field or area, and including offices, administrative and support facilities related to any of the foregoing activities.

c) Uses accessory to the above.

2762. Major Residential Development Uses. Uses allowed in a Major Residential Development are simply those allowed in the underlying district.

2800. DOWNTOWN DISTRICT (DTD)

2810. General Provisions and Description.

2811. Purpose and Intent. The intent of the Downtown Zoning 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 space.

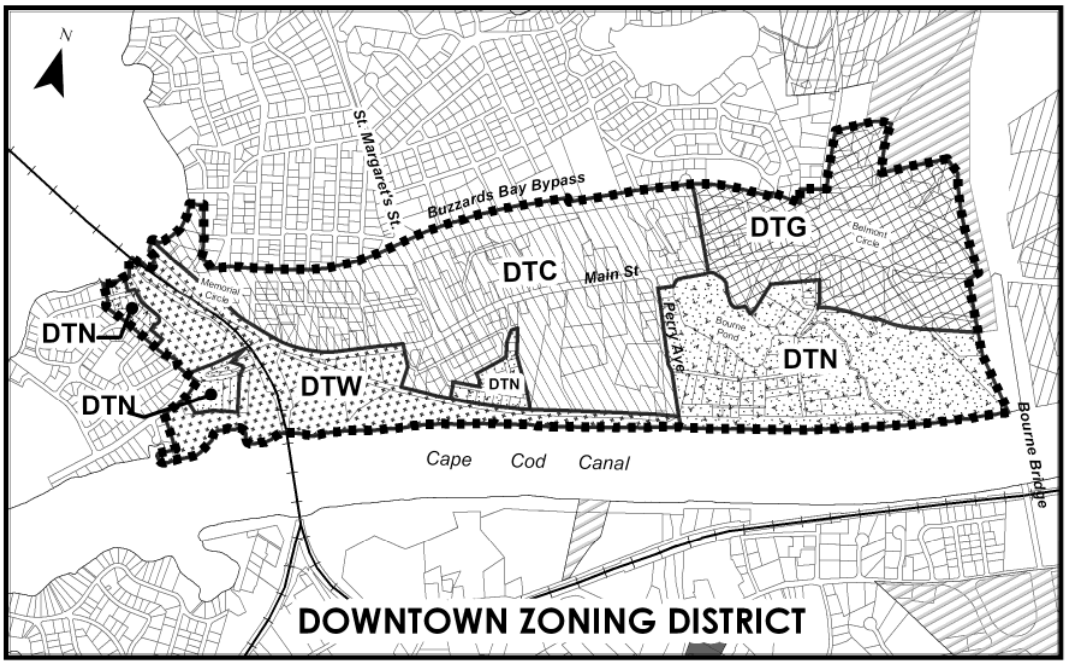
j) To create a downtown that serves residents, students and visitors alike.

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

according to 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) includes certain areas around Belmont Circle. This district is identical to Downtown Core (DTC) above 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
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 application 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 has been 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.

e) The Planning Board shall refer all developments applications in the DTD to the Design Review Committee for review of the proposal in accordance with §2815. The findings of the Design Review Committee shall be available to the Planning Board at the scheduled public hearing on the application for site plan review.

2815. DESIGN REVIEW COMMITTEE (DRC)

a. A Design Review Committee is hereby established to review development and sign applications in the Downtown District. The Design Review Committee shall make recommendations to the Planning Board, Zoning Board of Appeals, and Board of Selectmen on matters of architectural and design concerns in the review of applications for special permits/ and site plan review within the Downtown District. Architectural and design concerns shall include but not be limited to site design, building size and placement, design compatibility, exterior appearance, construction materials, finishes, landscaping, sign design and placement. The Design Review Committee shall also hear and issue a decision on all sign applications and forward their decision to the Inspector of Buildings.

b. Committee Composition:
   i. The DRC membership shall consist of five members and one alternate, preference shall be given so that the membership of the committee will include an architect, a landscape or civil engineer, a Downtown District property or business owner, a member of the Main Street Steering Committee, and a citizen at large.
   ii. The Planning Board shall appoint all members of the Design Review Committee for a term of three years, except that when the Committee is established, two appointments shall be for a two year term and the remaining appointments shall be for a one year term.

c. Applicability:
   i. The DRC shall be an advisory to the Planning Board, Zoning Board of Appeals, and Board of Selectmen for the purposes of site development.
   ii. The DRC shall hear and issue a decision on all sign applications, before a sign permit is issued by the Inspector of Buildings. The application must be accompanied by a decision approved by the DRC.

d. Procedure:

i. Development applications in the Downtown District shall be submitted to the Design Review Committee simultaneously with any application submitted to the Planning Board, Zoning Board of Appeals, or Board of Selectmen. Within 20 days of the receipt of the application the DRC shall hold a public meeting. The DRC shall transmit its recommendations in writing to the Applicant and the appropriate reviewing Board within 40 days of the receipt of the application.

Failure by the Design Review Committee to transmit its decision within the 40 day period allocated shall be considered a recommendation of approval of the application submitted, unless the applicant has granted an extension in a public meeting or in writing.

ii. Upon receipt of an application for a sign permit, the Inspector of Buildings shall immediately forward a copy thereof to the DRC. Within fourteen (14) days the DRC shall hold a public meeting. Within seven (7) days of the public meeting, the DRC shall notify the Inspector of Buildings, in writing, of its determination. Upon receipt of such notice, or upon the expiration of seven (7) days from the date of the public meeting, without having received any notification from the DRC, the Inspector of Buildings may, subject to the requirements of the DTD sign regulations, issue the sign permit.

e. Design Standards and Guidelines:

The Architectural Design Standards and Guidelines are hereby incorporated into this Bylaw as Appendix 1. These standards and guidelines are intended to guide the applicant and the DRC in the development of site and building design. The purpose and intent of the Design Guidelines are to conserve the value of the land and buildings and for the prevention of slum and blight. The Design Guidelines are not to be regarded as inflexible requirements and they are not intended to discourage creativity, invention or innovation. Strict compliance with the Design guidelines is not required unless so noted as a "Standard".

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: I) 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.
		Changes in plane and height, and the inclusion of elements such as balconies, porches, arcades, dormers, and cross gables shall be integrated into the design to enhance aesthetic qualities. Variations in wall and rooflines shall be used to reduce the massing of buildings. Roof features shall be in scale with the building's mass and complement the character of adjoining and/or adjacent buildings and neighborhoods.
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: I) 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.
		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.
		No more than 50% of the total number of dwelling units shall be of any one size (i.e. # of bedrooms).
Converted Dwelling	SP	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.
		A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot.
		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.
		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.
		The proposed conversion shall be suitably located in the district in which it is proposed, as deemed appropriate by the SPGA.
		No detached structure shall be converted under these provisions unless it has an exterior footprint of at least 500 square feet.
		A landscape plan appropriate for the project shall be included in the application.

Mixed Use Developments - Building containing dwelling units in combination with stores or other permitted business or commercial uses.	P (GFL)	New construction must include at least 33% residential uses of total square footage and a minimum of two (2)-story building.
		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.
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	Minimum lot size of 1,500 square feet per unit.
		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.
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	The Bed and Breakfast shall not use more than 2/3 of the gross habitable floor area of the primary building.
		The owner or manager of the lodging or boarding house shall reside on the premises.
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	
Kindergarten, day nursery or other agency for the day care of children.	P	
For-profit trade, professional, or other educational institution.	SP	See Section 2827
Place of Worship and associated on site uses	P	
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	
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.

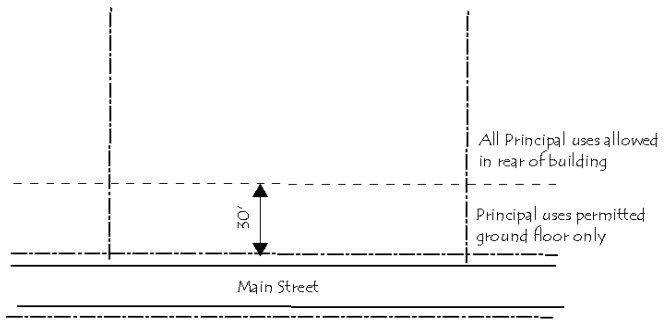
EXTENSIVE USES		
Farmstand or Farmers Market - Open market, salesroom or farm stand for the sale of nursery, garden or other agriculture produce (including articles of home manufacture from such produce).	P	During June, July, August and September, at least 25% of the products sold shall be produced by 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.

Figure DTD-1: Ground Floor Limitations of Specific Uses



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 ranges)		
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
Market 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), buildings 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 Definitions

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.

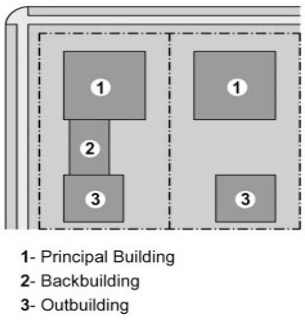
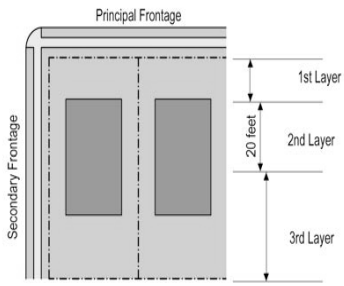
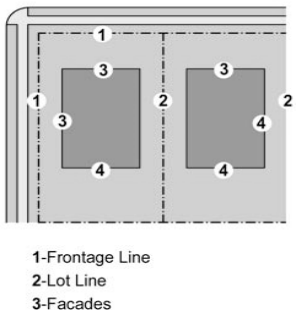
Building Coverage: The purpose of the building coverage standards is to promote development consistent with the desired character of DTD. The maximum building coverage allowed is stated in Table DTD-2.

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.

Figure DTD-2: General Building and Lot Layout Standards

Building Disposition	Lot Layers	Frontage & Lot Lines
		

Illustrations based on the SmartCode created by Duany Plater Zybeck & Company

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 having 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 minimum 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.

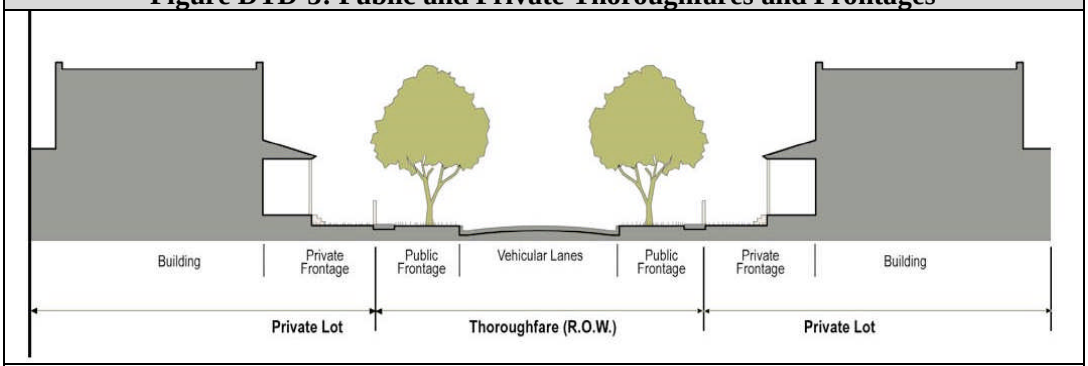
Lot Coverage, Maximum: A measure of the portion of a site that is impervious (i.e. does not absorb water) including but not limited to all areas covered by buildings, structures, parking surfaces and structures, driveways, roads, sidewalks and any area of concrete asphalt, except as otherwise defined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

Figure DTD-3: Public and Private Thoroughfares and Frontages



Based on the SmartCode created by Duany Plater Zybeck & Company

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 a lot line 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

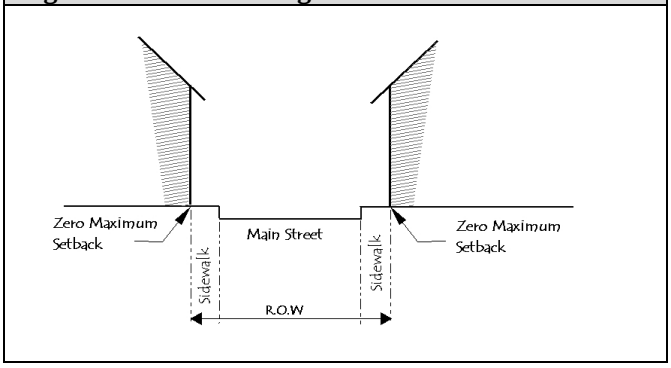
The maximum floor area ratio for any development within the DTD shall be as specified in Table DTD-2. An additional bonus floor area ratio of 50% may be granted by special permit for a mixed use development that has at least 50% of its parking spaces located in an enclosed structure.

2835. Applicability of Setbacks

a) **General Requirements:** The use of setbacks for front and side yards as prescribed in Table DTD-2 will only be permitted 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 maximum 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).

Figure DTD-4: Building Setbacks From Main Street



c) **Existing Building Front 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.

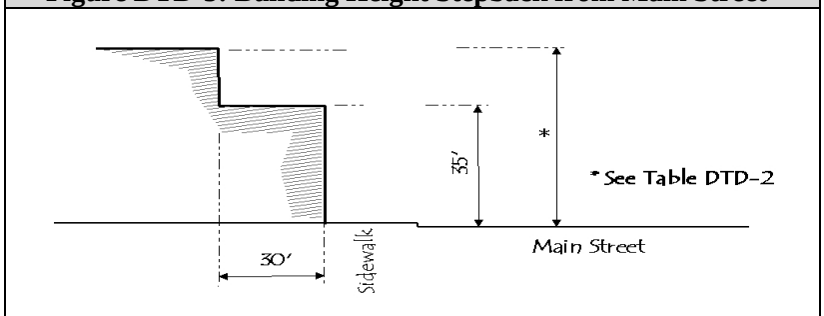
2836. Building Height and Bulk

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).

Figure DTD-5: Building Height Stepback from Main Street



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).

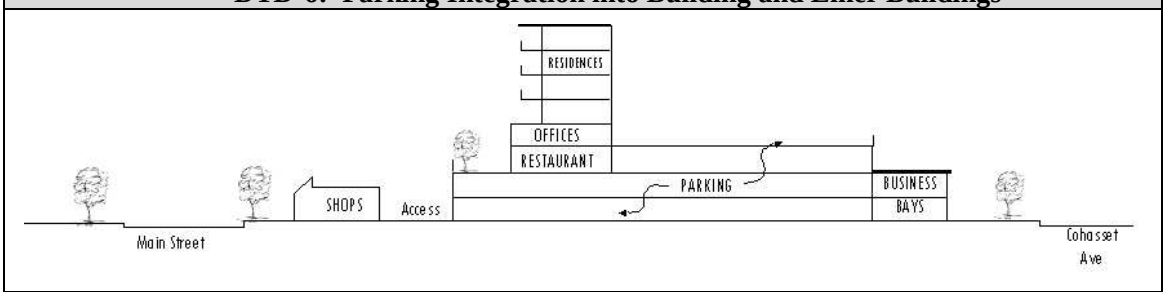
2837. Building Height and Bulk Bonuses for Public Parking

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.** The 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 linear building.

DTD-6: Parking Integration into Building and Liner Buildings



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 shall be 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 provide 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 in 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.

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) 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.

2) 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.

3) Affordable Housing:
    a. Residential developments whether new construction, alteration or expansion that results in a net increase of 10 (ten) or more dwelling 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 Department of Housing and Community Development standards for affordable housing.

    b. As an alternative to providing affordable units on site, an applicant may develop, construct or otherwise provide affordable units equivalent to those required off-site.

    c. The location of the off-site units shall be approved by the Planning Board after consultation with the Bourne Affordable Housing Partnership.

    d. Where feasible, the affordable units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule set forth in the Permit.

    e. Fees-in-Lieu-of and Affordable Housing Unit Provision:

        1) As an alternative to providing an affordable housing unit on site or off-site, an applicant may contribute funds to the "Bourne Affordable Housing Trust Fund" (Housing Trust) to be used for the development of affordable housing in lieu of constructing and offering affordable units within the proposed development or at an off-site locus.
        2) For the purposes of this bylaw the calculation of the fee-in-lieu of the construction of affordable units will be determined as a per-unit cost as calculated from regional construction and sales reports. The Planning Board will make the final determination of acceptable value, after consultation with the Bourne Affordable Housing Partnership.
        3) Payment of the Fee-in-lieu-of-units shall be made according to the schedule set forth in the conditions of the Permit.
        4) Payment made to the Bourne Affordable Housing Trust Fund in accordance with Bylaw shall be used only for purposes of providing affordable housing for low or moderate income households, as defined by the Bylaw.

5) The Housing Trust may use these funds through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments.

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.

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 *(restaurants shall be figured separately)*
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:

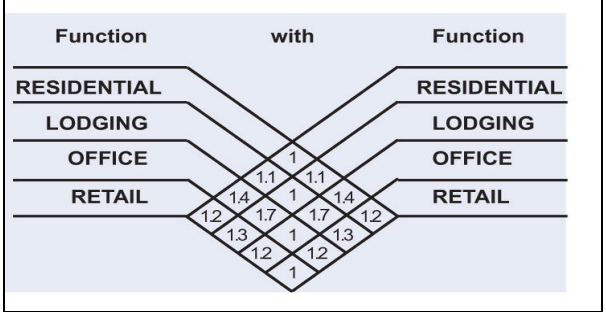
1) Fifty percent (50%) of the spaces required under Section 3300 for all uses other than residential dwelling units.
2) Parking space requirements for residential dwelling units shall be one parking space for one-bedroom units and two parking spaces for units with two or more bedrooms.

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



b) Off-Site Parking Credit - Parking requirements may be reduced by up to fifty percent (50%) with a Special Permit by the Planning Board if an off-street public parking lot of 20 spaces or more exists within 300 feet of the principal land use, and the public parking lot has ample spaces available to serve the immediate area as determined by a survey of peak hour occupancy and usage. If this rule cannot be met, the applicant can secure private off-site parking within 500 feet of the site by ownership or lease with another landowner with the following conditions:
   1) The off-site parking will be shared by more than one landowner; and
   2) The greater distance is justified because of pedestrian traffic patterns and the vitality of the area that would be part of the walk.

c) On-Street Parking Credit - All non-residential properties located adjacent to a public right-of-way where on-street parking is permitted may receive credit for one off-street parking stall for each 20 linear feet of abutting right-of-way with parallel parking. This provision shall be applied for on street parking on the same side of the street as the proposed land use, or on the opposite side of the street if the property on that side of the street does not have the potential for future development.

d) Public Parking Fund & Permit Program - Reserved

e) Traffic Circulation Improvement and Reduction Incentives - For redevelopment, the SPGA may provide relief from required parking where the applicant:

   1) Permanently eliminates and/or significantly reduces the width of existing curbcuts in a manner that improves the through flow of traffic on Main Street;
   2) Provides a perpetual agreement for one or more driveway consolidations or interconnections that will alleviate traffic on Main Street
   3) Provides a perpetual agreement specifying Transportation Demand Management measures for employees on site or within, such as carpooling, ridesharing, transit use, walking and bicycle incentives.

2855. Parking Location and Access

a) Off-Street Parking Location - Surface and above ground structured parking on Main Street shall be located in the second or third layer and masked by a streetwall or liner building. Underground structured parking may be located throughout the lot and underneath buildings. By special permit, surface and above ground structured parking may be allowed on the front of the lot behind the front façade of the primary building and screened with sufficient landscaping. It shall be limited to a single row of vehicles and associated turning space. Also within the DTD District, to the extent feasible, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.

b) Curbcuts and Driveways - New curb cuts on existing public ways in the DTD shall be minimized. No more than one curb cut on Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Main Street within 200 feet of any intersection. New curbcuts on Main Street should only be allowed where the curbcut leads to parking for at least twenty (20) vehicles. Driveways should not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide.

To the extent feasible, access to business for purposes of delivery or parking shall be provided through one of the following methods:

1) Through a common driveway serving adjacent lots or premises
2) Through existing side or rear streets and access points thus avoiding the principal thoroughfare; or
3) Through designated public loading spaces on street or in existing municipal lots.

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 3330 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. f
	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-five (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 (2) 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.

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 than three (3) weeks prior to the event.

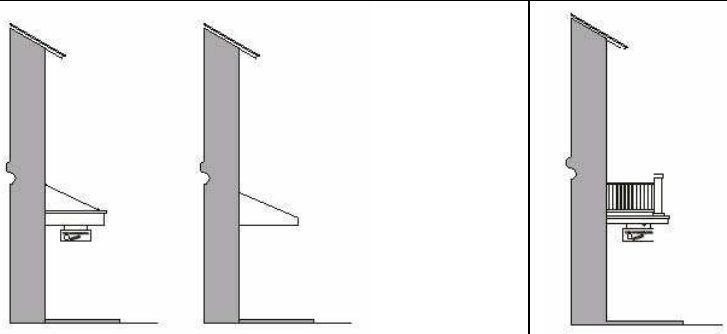
2867. Lighting Standards

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 shall 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) feet 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 an 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



Awnings and Marquees	*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.

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.

2880. DOWNTOWN (DTD) SIGN REGULATIONS

2881. General DTD Sign Regulations.

a) No person shall erect, modify or move any signs within the DTD without first obtaining a permit from the Inspector of Buildings. The Inspector of Buildings shall not issue a sign permit without first receiving the approval of the Design Review Committee.

b) Permit Applications shall be accompanied by six (6) copies of a site plan showing the location of the sign, sign elevation drawings showing the proposed size, supporting structure, materials, and color.

c) Upon receipt of an application for a sign permit the Inspector of Buildings shall immediately forward all materials to the Design Review Committee. (See §2815)

d) No signs shall be located in any public right of way, except for awnings or projecting signs with the approval of the Board of Selectmen; after receiving a recommendation from the Design Review Committee.

No sign shall be attached to a tree or utility pole whether on public or private property.

Signs shall not flash, blink or fluctuate.

This sign bylaw shall be used in conjunction with the Architectural Design Standards and Guidelines incorporated herein as Appendix 1.

2882. Non-Conforming Signs

a) When a business with a nonconforming sign is replaced with a new business, the nonconforming sign shall be removed and replaced with a permitted conforming sign.

b) Any sign that is erected, modified or moved must conform to these regulations; non-conforming signs must be removed and replaced upon the occupancy of a new business.

c) If any nonconforming sign or portion thereof that is damaged or destroyed by any means shall not be reconstructed except in conformity with this bylaw.

2883. Sign Construction and Maintenance

a) All permanent signs shall be professionally constructed of high quality durable materials.

b) Sign switches, conduits and panel boxes shall be concealed from view.

c) Signs shall be designed to be vandal and weather resistant.

d) Signs shall be properly maintained so that they are in proper working order and do not endanger the public.

e) Signs must be removed within 30 days of a business or tenant vacating the premises. The sign shall be removed to the satisfaction of the Inspector of Buildings.

f) When a sign is removed due to replacement or termination of the lease, the tenant or owner shall fill and paint any holes caused by the removal of the sign.

2884. Multi-Tenant Projects

a) Multi-tenant structures or multiple structures which display more than one exterior sign shall implement an exterior sign program. Sign programs serve to create a coordinated project theme of uniform design elements including: color, lettering style, material, and placement. Each business should have a consistent palette of signs designed in a similar character and style.

b) The sign program shall be initially approved by the Design Review Committee.

c) Once a sign program is approved, the Inspector of Buildings may issue a sign permit upon receiving approval from the Town Planner. Signs must conform with these guidelines, and to the previously approved sign program.

2885. Permanent Signs

a) **Primary Occupancy Signs.** The primary sign is the main sign used to identify a business. A primary sign is any sign painted on or attached parallel to the face of the building, including individually mounted letters, painted signs, and awning signs.

1) One primary sign for each storefront or building facade that fronts a public street or alley is permitted. The primary sign shall not exceed one (1) square foot per 1 foot of frontage, subject to meeting other sign design criteria.

2) The design of the primary sign shall be integrated with and compliment the overall design of the facade. The location of the sign shall be centered above the storefront and below the second floor windows.

3) The primary sign may be a projecting sign or awning sign to enhance pedestrian visibility.

b) **Pedestrian Signs.** Pedestrian signs are small signs, typically projecting signs supported by a decorative bracket, which are located above the storefront entry and are oriented to the pedestrian.

1) One pedestrian sign for each storefront is permitted. The pedestrian sign shall be no larger than 2 feet by 3 feet, subject to meeting the other design criteria.

2) The bottom of pedestrian signs shall be located at least 8 feet above the sidewalk, and be rigidly supported.

3) The pedestrian sign shall be supported by decorative chain or bracket, designed and constructed with a high level of craftsmanship and detail. Creative signs that "symbolize" the business are encouraged.

c) **Monument or Freestanding Signs.** Monument and free-standing signs are located adjacent to the right of way independent of the building. Monument and free-standing signs must be located outside the sight triangle area so as not to obstruct views of vehicles at the intersection.

1) Monument or freestanding signs are allowed in addition to the primary and pedestrian signs when a building's front entrance is set back at least 15 feet from the street. The maximum allowable height of all signs is eight feet, except that the Design Review Committee may allow up to 12 feet if found that such height is necessary for the site and is compatible with the appearance, scale and character of the area. The sign shall not exceed an area no larger than 30 square feet per sign face, subject to meeting other design criteria.

2) A monument sign shall be set onto a base or frame, presenting a solid, attractive and well-proportioned appearance that complements the building design and materials.

3) A freestanding sign is a sign supported by two or more columns, uprights or braces in, or upon the ground.

4) Height (of a sign): The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.

c) **Directory and Upper Floor Signs.**

1) For two or more story multiple-tenant buildings, one small directory sign with nameplates of the individual tenants is permitted on the ground floor. The maximum letter height for tenant names is 2 inches.

2) Where a second or third story tenant has a separate entry door on the street, a small projecting pedestrian sign is permitted, in keeping with the guidelines for pedestrian signs. Such signs shall be placed near the tenant street entry.

3) Commercial uses on second floor of multiple story buildings that do not have ground floor occupancy may have a window sign in addition to otherwise permitted building-mounted or free-standing signs. One window sign is permitted per framed window area and cannot exceed 15% of the total second floor glass area.

d) **Window Signs.** Any sign placed within a window facing the street.

1) Window signs above the second floor are not permitted. The maximum letter height for window signs is 12 inches. Second floor window signs shall be non-illuminated, and shall consist of paint, gold-leaf or similar high-quality graphic material on the glass surface.

2) One window sign is permitted per enterprise on the ground floor. Window signage shall not cover more than 25% of the window area, excluding the area of any glass doors, or one square foot per one foot of

frontage, whichever is less.

3) Permanent Interior window and door signage shall be professionally designed and constructed. Signs made of gold leaf and other high-quality graphic materials that compliment the storefront display are permitted.

4) Window signs constructed of paper, cardboard, plastic, chalk- or white-board signs are prohibited. Except that one 11”x 17” civic or charitable poster or flyer may be placed in a storefront window.

5) Any graphics, displays, or sign panels with lettering more than one inch high, mounted within four feet of a window shall be considered a window sign, except for the following:
   - Displays with lettering less than one inch high;
   - Products on shelves for sale to the public, or
   - Signs depicting hours of operation. (11” x 17” maximum)

2886. Special Signage

Special signage are additional artistic signs that identify the business and convey a message through the use of a pictorial or graphic image, and may include a limited amount of wording that is clearly secondary to the artistic quality of the sign.

a) Flags

1) One flag per storefront, not exceeding 3 feet by 5 feet that conveys a message of “open” or “sale” is permitted. The lowest point of the flag must be at least 8 feet above the surface of the sidewalk or pedestrian way. Flag must be removed daily at the close of business.

2) Flags must be mounted on a decorative bracket attached perpendicular to the building face.

b) Murals

1) Life-size murals painted on the wall surface of a building may be permitted upon approval of the Design Review Committee to ensure the artwork complements the design of the building in color, shape and location on the building.

c) Menu Holders

1) An exterior menu holder is permitted on the facade of a restaurant.

2) The menu holder shall be limited to the size of two pages of the menu utilized by the establishment.

3) A menu holder shall be located so as not to cause a safety hazard to pedestrians.

4) The menu holder shall not be used for additional business identification or additional signage.

5) Free standing “A” Frame menu boards may be allowed upon approval of the Design Review Committee. Must be removed at the close of business.

d) Off-Site Signs

1) Off-site directory signs on buildings or free-standing ladder signs that direct pedestrians to businesses down side streets and/or alleys are permitted with the permission of the building/site owner. Initial directory or ladder signs shall be approved by the Design Review Committee via a sign program; thereafter directory signs that are consistent with the sign program may be added upon the approval of the Town Planner.

2) Directory and ladder sign panels shall not exceed 4 feet by 8 inches.

3) Directory signs shall not count against the signage allotment for building or site signs.

4) Signs shall be professionally designed and constructed.

e) Sidewalk Café Signage

1) A sidewalk cafe may have signage on a cafe umbrella(s) in addition to the main occupancy frontage signs. Signage shall be limited to the name of the cafe business. The maximum letter height is 6 inches and the business logo shall not exceed 1 square foot in area.

2) The total signage on an umbrella shall not exceed 10% of the area of the umbrella.

3) Generic advertising, such as a product name is not allowed.

4) Sidewalk Café signs must be approved by the Design Review Committee.

2887. Temporary Signs.

a) Grand Opening Banner

1) Banners advertising a new business opening are permitted for a maximum of 30 days.

2) The banner shall include a date visibly noted on the sign and be removed within 30 days of the posted date.

3) No other types of banners or flags are permitted.

4) "A" Frame signs may be permitted on a limited temporary basis for special events upon approval of the Design Review Committee. Placement of the "A" frame sign shall be solely on the applicant's property.

b) Construction Signs:

1. One temporary sign, advertising the various construction trades participating in the project is allowed.

2. Sign shall not exceed 50 square feet in sign area or 6 feet in height.

3. The sign shall not extend beyond the subject property nor interfere

with any traffic safety visibility area of the parcel.

4. The sign may remain on the property until occupancy, unless an extension has been granted by the Inspector of Buildings.

c) Real Estate Signs

1) No more than one real estate sign per property shall be permitted, however it may remain until the entire project or tenant space is leased or sold.

2) Maximum sign area per sign is 9 square feet, and shall be located flat against the building wall or within a window, and shall not project above the eave line.

3) Vacant lots may mount the sign on a free-standing monument, located outside of any sight visibility area; no portion of the sign may extend across the property line.

2888. Signs Not Permitted

a) Rooftop signs, cabinet signs, including neon or digital/LED, banners (except for grand opening and civic event signs), balloons, flashing signs, billboards, plastic flags, whiteboards, chalkboards and blackboards, wired framed yard signs (except for temporary political or construction signs).

b) Any exterior sign advertising or publicizing an activity, service or product not conducted on the premises upon which the sign is maintained, except for public events and as otherwise allowed by the guidelines.

c) Internally illuminated signs of any kind or style.

d) Single pole centered signs, aka “lollipop” signs. (See idea galley in Appendix 1)

2889. Exemptions

The following signs shall be exempt from the requirements of the DTD sign regulations:

a) Flags or emblems of government, political, civic, philanthropic, educational or religious organizations, displayed on private property, as long as such flag or emblem does not exceed 15 square feet;

b) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazard, parking, swimming, dumping, etc.;

c) Address numerals and other signs required to be maintained by law or governmental order, rule or regulation; provided, the content and size of the sign do not exceed the requirements of such law, order, rule or regulation;

d) Small signs, not exceeding five square feet in area, displayed on private

property identifying entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and the like;

e) Holiday decorations, clearly incidental and customary and commonly associated with any national, local or religious holiday; provided such signs shall be displayed for a period of not more than 45 consecutive days nor more than 60 days in any one year.

f) Special Community/Civic Event Signage is subject to the review by the DRC.

2890. Appeal

Any person aggrieved b y the decision of the Design Review Committee may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Design Review Committee.

SECTION III GENERAL REGULATIONS

3100. LOWLAND REGULATIONS

3110. Floodplain Overlay District Provisions. Floodplain Zones includes all Special Flood Hazard Areas within the Town of Bourne designated as Zone A, AE, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Bourne are panel numbers 25001C0294J, 25001C0312J, 25001C0313J, 25001C0314J, 25001C0316J, 25001C0317J, 25001C0318J, 25001C0319J, 25001C0482J, 25001C0484J, 25001C0491J, 25001C0492J, 25001C0501J, 25001C0502J, 25001C0503J, 25001C0504J, 25001C0506J, 25001C0507J, 25001C0508J, 25001C0511J, 25001C0512J, 25001C0513J, 25001C0514J, and 25001C0516J, dated July 16, 2014.

The exact boundaries of the Floodplain Overlay District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and the Engineering Department.

a) All development in the Floodplain Overlay District, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);

2) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

4) Coastal Wetlands Restriction DEP (currently 310 CMR 12:00;

5) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

b) Substantial Damage and Substantial Improvements are subject to cumulative costs. All permits for the same structure within a two-year period are considered a single improvement and/or repair. This period runs two (2) years prior to the issuance of any permit under consideration.

c) The following shall be prohibited in the Floodplain Overlay District: mobile homes, campers, mobile home parks, and campgrounds. In 'VE' Zones, the following are also prohibited: any man made alteration of sand dunes, which would increase

potential flood damage.

d) Where these Floodplain Overlay District Provisions impose greater or lesser restrictions or requirements than those of other applicable bylaws or regulations, the more restrictive shall apply.

3111. Base Flood Elevation and Floodway Data.

a) Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designation, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

b) Base Flood Elevation Data. Base Flood elevation data is required for Subdivisions proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones

3112. Notification of Watercourse Alteration. In a riverine situation the Planning Board shall notify the Conservation Agent who shall in turn notify the following of any alteration or relocation of a watercourse.

a) Adjacent Communities

b) NFIP State Coordinator
Massachusetts Department of Conservation Services
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

c) NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

3120. Cranberry Bogs.

a) No cranberry bog shall be created, and no land shall be separated from premises containing an active cranberry bog, in such manner as to leave less than 100 feet of separation between the bank of the bog and the property line, as proposed.

b) In any development under Section 4600 Open Space Community, no dwelling shall be separated by less than 200 feet from any active cranberry bog bank, and the plan design shall minimize the number of dwelling units located within 300 feet of the bog bank.

3200. SIGN REGULATIONS

3210. General Sign Regulations.

a) No sign shall be erected and no existing sign shall be enlarged, reworded, redesigned, or altered in any way unless it conforms with the provisions of this Bylaw. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as to the date of destruction shall not be repaired, rebuilt, restored, or altered unless in conformity with this Bylaw.

b) No sign permit is required for the following signs, which must nevertheless comply with this Bylaw:

1) Signs of not more than 12 square feet in area, to be removed within 30 days of erection;

2) Unlighted on-premise signs guiding and directing traffic and parking, if not exceeding one square foot in area;

3) Signs bearing only property numbers, post office box numbers, names of occupants of premises or activities thereon, if not exceeding two square feet in area;

4) One temporary unlighted sign not over six square feet in area pertaining to the sale, rental or lease of the premises.

No sign other than the above shall be erected, enlarged, or structurally altered without a sign permit issued by the Inspector of Buildings, which shall only be issued for signs in conformance with this Bylaw. Permit applications shall be accompanied by two prints of scale drawings of the sign, supporting structure, and location. A copy of any sign Special Permit issued by the Board of Appeals shall also accompany the application. Every sign for which a permit has been issued shall be plainly marked with the name of the person, firm or corporation owning, erecting, maintaining or operating such sign, and the date of permit issuance.

c) All signs shall be maintained in a safe and neat condition to the satisfaction of the Inspector of Buildings and in accordance with the State Building Code.

d) Except for directional signs in accordance with Section 3250, no billboard or other sign shall be erected or maintained unless its subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services, or activities on those premises. When a sign no longer complies with this paragraph because of a change in the use or structural condition of the premises, the owner shall, upon written notice of the Inspector of Buildings, bring the sign into compliance or remove it. If within 30 days the order is not complied with, the Inspector of Buildings shall remove the sign at the expense of the owner.

e) No signs shall be placed within a public way or on public property except with a permit from the Board of Selectmen, which shall not be granted in violation of Section 3.1.5 or 3.1.6 of the Town Bylaws. Signs placed on shade trees are subject to approval by the Tree Warden (Sec. 9, Ch.37, G.L.).

f) Signs, any part of which moves or flashes, or signs of the traveling light or animated type, and all beacons and flashing devices whether a part of, attached to, or apart from a sign, are prohibited.

g) No sign shall project from a building or over any pedestrian or vehicular way more than 24 inches, nor over any public right-of-way or other public property.

h) No part of any attached sign shall extend above the highest point on the wall or roof of the building to which it is attached. No free-standing sign shall exceed fifteen feet in height unless authorized to do so on special permit by the Board of Appeals, which shall grant approval only upon determining the following:

1) the increase in height is necessitated by unusual site circumstances; and

2) the resulting sign will not intrude into any scenic views; and

3) the design and illumination avoid creation of hazardous distraction for motorists; and

4) the proposed sign height is precedented by the height of signs on nearby properties or by the height of building on the same premises; and

5) compensatory scenic enhancements are to be made, such as landscaping beyond that otherwise required.

In no event shall a free-standing sign exceed 35 feet in height.

3220. Residence or Government Districts. In Residence or Government Districts, the following signs are permitted:

a) One sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no sign shall exceed two square feet in area.

b) One sign not over nine square feet in area pertaining to permitted buildings and uses of the premises other than dwellings and their accessory use.

c) One temporary unlighted sign not over six square feet in area pertaining to the sale, rental or lease of the premises.

d) Unlighted directional signs not exceeding one square foot each in area pertaining to permitted buildings and uses of premises other than dwellings and their accessory uses.

e) Signs totaling not more than 50% of the area allowed in a Business District, for an Open Space Community with extensive resort development under Section 4642b.

3230. Scenic Development Districts. In Scenic Development Districts, regulations for Residence Districts shall apply, except that for uses allowed on Special Permit under Section 2232 signs up to 50% of the area allowed in Business Districts shall be allowed.

3240. Allowed Signs. In Business Districts, only the following signs are allowed in addition to

those allowed under Section 3210:

a) Signs attached to a building, provided that there are not more than two such signs per separate enterprise, and that they aggregate not more than the following percentages of the area of the wall or the horizontally projected area of the roof (length times eave-to-ridge height) to which they are attached:

Village Business V-B District:	5%
Other Business Districts:	15%

b) One free-standing sign with total area of not more than 16 square feet if in the V-B district or 80 square feet if in any other Business district. For premises having frontage on more than one street, a second free-standing sign may be allowed, with the allowed area divided between the signs.

c) The total area of all signs on the premises, both attached to a building and free-standing, shall total not more than 40 square feet if in the V-B district or two square feet per foot of frontage on the street to which they are oriented if in any other Business district.

3250. Off-Premise Directional Sign. An off-premise direction sign 6 feet by 6 inches or 6 feet by 1 foot designating the route to an establishment and containing no advertising matter are allowed only on a ladder sign erected and maintained by the Town of Bourne.

3300. PARKING REQUIREMENTS

3310. Number of spaces. Adequate parking must be provided to service all increases in parking demand created by new construction, whether through structures or additions to old ones, or through change of use creating higher parking demand. The number of parking spaces must be as required in Section 3320, unless in performing site plan review the Planning Board or, in acting on a Special Permit the Special Permit Granting Authority, determines that a lesser provision would be adequate for all parking needs because of such special circumstances as shared parking for uses having peak parking demands at different times, unusual age or other characteristics of site users, company-sponsored car-pooling, or other trip conserving measures. The number of spaces required by either the Regulations of the Massachusetts Architectural Board at 521 CMR 23 or those of Town Bylaw 3.1.34 are included within the totals as required by Section 3310.

Required parking spaces must be on the same lot as the use they serve, with the following exceptions:

a) Spaces on a separate lot in the same ownership may be credited if not further than 350 feet from the building entrance of the activity they serve, and are not separated from it by a street having right-of-way width of 60 feet or more, and

b) For premises located in the B-1 or V-B Districts, up to eight public on-street or off-street parking spaces may, if approved for that use on special permit by the Planning Board, be credited towards meeting these requirements for any lot, on condition that:

1) such spaces are within 350 feet of the building entrance via sidewalk, and are not reserved for alternative use, and

2) the applicant assures pedestrian access to those spaces and his premises by funding or carrying out construction of sidewalks the full length of the frontage of his premises, or by making needed improvements to existing sidewalks, as required by the Board, and

3) the Board determines that the resulting parking will be adequate and safe.

3320. Table of Requirements.

Dwellings, Guest Houses	2 parking spaces per dwelling unit
Congregate Dwelling	1 space per bedroom
Hotel, Motel, Lodging House	1 space per guest unit
Office, Stores	1 space per 180 sq. ft. leasable floor area, but not fewer than 3 spaces per separate enterprise.
Restaurant or other food service	One space per four seats at tables plus one space per two seats at counters plus one space for each ten square feet of waiting area likely to be used by patrons while waiting to be seated or served (to be designated on plan submittals) plus one space per two peak shift employees, plus an additional 5 spaces shall be required for take out. Calculations shall include both interior and outdoor seating and waiting.
Place of Assembly	One space per three persons occupancy as allowed under the *Massachusetts State Building Code*.
Bowling Alley	4 spaces per lane
Other Commercial Recreation	1 space per 2 persons participant capacity, plus 1 space per 3 persons spectator capacity
Nursing Home, Hospital	1 space per 4 beds
Industrial, Wholesale, or Warehouse	1 space per 1 1/4 employees per shift, but not less than 1 space per 1,000 square feet of storage area plus 1 space per 500 square feet of production area plus 1 space per 180 square feet of office area.
Other Uses	individually determined by the Inspector of Buildings, except that determination will be by the Planning Board in cases

referred to that Board by the Inspector of Buildings for site plan review.

3330. Surfacing.

3331. Required parking, loading, and waste receptacle areas and their access drives shall be paved with bituminous concrete unless serving a one- or two-family dwelling or an individual mobile home or campground rental plot, or unless they are authorized to be paved with an alternative surface on Special Permit acted on by the Planning Board. Such authorization may be granted by the Planning Board upon its determination that drainage, erosion, siltation, dust, and appearance will be satisfactorily controlled.

3332. Where an alternative to bituminous concrete is authorized on Special Permit, the following shall be complied with.

a) Access drives shall be paved with bituminous concrete or other pavement authorized by the Planning Board for at least 15 feet inside of the street or property line unless the street itself is not paved.

b) Grading and materials selection shall assure that surface materials will not be carried into the street, and that drainage is positively provided for.

c) If there are six or more parking spaces there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.

3340. Egress Standards.

3341. **High-intensity uses.** Except in the V-B district, any driveway likely to carry more than 200 trips per average business day (based upon the most recent edition of the Institute of Transportation Engineers Trip Generation Manual) must comply with the following unless granted a special permit under Section 3344 for an alternative configuration.

	On Arterial Street* (except in B-1 District)	Other Locations
Driveway or intersection sight distance:	400'	225'
Driveway centerline separation from other driveways serving 100+ trips:	275'	125'
Maximum driveway width unless greater width is justified by engineered design:	24'	20'
Minimum curb radius:	50'	30'
Left turn onto 3+ lane road must be physically precluded:	YES	NO
Acceleration/deceleration lanes required on State numbered highways:	YES	NO

* See Definition

3342. **Shared Driveways.** A shared driveway shall not be considered to provide adequate access for parking if it is the sole means of access for parking on more than two lots, unless granted a special permit under Section 3344 authorizing service to a larger number of lots from a shared driveway.

3343. **Interim Egress Control.** Until June 1, 2020, or, if earlier, until opening of a limited-access highway connecting the Mid-Cape Highway (Route 6) with MacArthur Boulevard (Route 28) or Route 25, all development in the Traffic Management District shall be subject to the following.

a) Access separation. No new street, driveway, or other means of vehicular access to an arterial street shall be created unless it is separated from all other means of vehicular access on the same side of the street by at least 1,000 feet, measured centerline to centerline along the edge of the street right-of-way, unless granted a special permit under Section 3344 authorizing less separation. However, each lot or set of contiguous lots held in ownership separate from that of all abutting land as of the date of adoption of this provision shall be allowed a single access to an abutting arterial street, provided that the access shall be located so as to minimize movement conflicts with all other accesses to the same road.

b) Land division and sale. No land in the Traffic Management District shall hereafter be divided into separate lots or ownerships unless each resulting building lot will be entitled to vehicular access under these provisions, through one or more of the following:

- having location and configuration making it feasible to meet the requirements of Section 3343(a), or

- having an alternative means of access, such as an authorized shared driveway (see Section 3342), or

- having frontage on a non-arterial street, or

- having been granted a special permit under the provisions of Section 3344.

c) Other requirements. The standards of the table in Section 3341 (except for the required driveway centerline separation) must be met by all uses, regardless of trip generation level.

3344. **Special Permits.** The Special Permit Granting Authority (SPGA) for special permits authorized in Sections 3341, 3342, and 3343 shall be the Planning Board, except that where a Special Permit is also required by Section 2200 Use Regulations, the SPGA authorized by that Section shall also be the SPGA under this Section. Special permits under Section 3340 shall be granted only if the SPGA finds the following:

a) an alternative configuration is proposed which, because of peculiarities of the site and without necessity of public expenditure for traffic engineering improvements:

- will provide a level of egress safety equivalent to that typically anticipated through development on sites within the Traffic Management District in full compliance with these provisions, or

- will provide egress safety superior to that which could be achieved through compliance with the above requirements, or

- reflects the minimum departure from the requirements of this Section necessary to avoid loss of all reasonable economic use of the parcel in question, and

b) the alternative proposed does not circumvent the intent of the subdivision control law.

3350. Backing. Parking areas with six or more parking spaces shall be so designed and located that their use does not require backing onto a public way.

3360. Off-street Queues. Automatic car washes shall provide space for not less than 15 cars per washing lane to queue off-street. Other drive-in facilities which from time to time have queues of vehicles waiting admission shall have comparably sufficient on-site space for such queues without requiring cars to stand on any public way or across any public sidewalk.

3370. Loading facilities. Adequate off-street loading facilities and space must be provided to service all needs created through new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no vehicle need regularly back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so, and so that use of parking spaces is not impaired.

3380. Unregistered Vehicles. No person shall permit more than one unregistered motor vehicle trailer or major parts thereof, except for farm vehicles, to remain ungaraged on any lot owned, occupied or controlled by him at any time unless under a Class 1, Class 2, Class 3, or a Department of Public Utility Towing Permit license for sale of motor vehicles. In no event shall an unregistered inoperative vehicle be stored in a front yard.

3390. STORAGE TRAILERS & STORAGE CONTAINERS

Storage trailers and storage containers are permitted in residential districts or residentially used properties located in a commercial district only if they comply with the following restrictions, requirements and limitations.

Storage Trailer Storage Container definition: a container, including what is sometimes referred to as storage "pod" or "portable on demand units"; any box van that has been disconnected from a chassis; and similar intermodal type shipping/cargo containers, that are (a) designed and commonly used for storing, shipping or transporting products and materials, and (b) are typically transported by a separate motorized vehicle or upon a trailer.

3391. Short-Term Loading and Unloading.

a) Up to three (3) trailers or containers may be placed on a property to be loaded or unloaded at the same time.
b) The trailers or containers shall not be on the property for a period of more than seventy-two (72) hours.
c) The trailers or containers shall be sited on a hard surface and meet all other requirements for placement of containers.
d) The use of trailers or containers for loading and unloading shall not be counted towards the 60-day limitation set below.

3392. Short-term Storage.

a) Before placement of storage trailers or storage containers a building permit must be obtained from the Inspector of Buildings.
b) Only one (1) one storage trailer or storage container may be located on a property at any given time.
c) No storage trailer or storage container shall be located on a property for a period of more than sixty (60) consecutive days. No property shall be permitted to have a storage trailer or storage container more than two (2) 60-day periods in any 12-month period.
d) The storage trailer or storage container shall be located in a legal parking space on the property.
e) No storage trailer or storage container shall be located within fifteen (15) feet of the edge of pavement or back of curb of any street.
f) No storage trailer or storage container shall be used in conjunction with or associated with a home occupation.(See §4110)
g) No hazardous materials shall be stored in a storage trailer or storage container placed on the property.

3393. Construction Projects. Storage trailers and storage containers are permitted in conjunction with construction projects subject to the following restrictions, requirements and limitations.

a) The use of storage trailers and storage containers is limited to the storage of tools or building supplies needed for a construction project or personal property of the owner or tenant of the building on the property that is being built on or remodeled.

b) All storage trailers and storage containers shall be located on the property where the work is being performed.

c) In non-residential zoning districts, storage trailers and storage containers used in conjunction with construction projects must be located on the property in such a manner so as to not occupy:

i. open space:

ii. easements:

iii. stormwater detention facilities:

iv. perimeter landscaping areas

v. required parking

d) No storage trailer or storage container may be stacked one on top of another storage trailer or storage container or on top of any building.

e) All storage trailers or storage containers shall be removed from the property within fourteen (14) days of completing the construction project; removal time may be extended at the discretion of the Inspector of Buildings.

f) No hazardous materials shall be stored in the storage trailer or storage container placed on the property.

3394. Nonconforming Storage Trailers and Storage Containers.

Storage trailers and storage containers that are not lawfully conforming at the time of the adoption of this bylaw must come into compliance or be removed by April 17, 2012.

3400. ENVIRONMENTAL CONTROLS

No activity shall be permitted in any district unless it is demonstrated that the following will be met:

3410. Interferences. Except for warning devices, temporary construction or maintenance work, parades, recreational activities, or other extraordinary circumstances, no noise, sound from public address or other amplification systems, vibration, odor, or flashing shall be perceptible without instruments more than 400 feet beyond the boundary of the lot if originating in the B-3 District; more than 200 feet beyond the boundary of the lot if originating in a V-B, B-1, B-2, or B-4 District, or more than 100 feet beyond the boundary of the lot if originating in a Residence, Scenic Development District or Government District. Such interferences originating within Business Districts shall not be perceptible more than 100 feet within a Residence or Scenic Development District.

3420. Wastes. Trash and other waste shall be effectively confined to the premises and stored out of sight of any public way, or disposed of. All dumpsters shall be adequately screened by fence or thickly planted shrubs and not located in any required front yard and at least 30' from the public way. The height of the fence or shrubs shall be at least the height of the dumpster.

3430. Air Quality. All mandatory regulations of the Southeastern Massachusetts Air Pollution Control District shall be complied with.

3440. Electronics. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises.

3450. Lighting. All permanently installed outdoor lighting fixtures, whether ground, pole, or wall-mounted, shall be subject to the following, except that lighting for signs is subject only to Section 3200.

3451. Fixtures. Lighting fixture types are defined as follows:

Type 1. No light cutoff.
Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.
Type 3. Luminaire shielded such that total cutoff is at less than 90 degrees from vertical, and no light sources is in direct view from five of more feet above the ground at any point off the premises.

3452. Height/overspill limitations. The following limitations on luminaire height and illumination overspill shall be observed by all uses, unless in performing Site Plan Review the Planning Board determines that it is inherently infeasible for that use (e.g. public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill onto residential premises.

HEIGHT/OVERSPILL LIMITATIONS

	DISTRICT	
	R-40, R-80	Other
Maximum luminaire mounting height (feet)		
Fixture Type 1	10	20
Fixture Type 2	15	25
Fixture Type 3	20	30
Maximum off-site overspill (foot-candles)		
Fixture Type 1	0.2	0.2
Fixture Type 2	0.3	0.5
Fixture Type 3	0.5	1.0

3453. Other Requirements.

a) No flickering or flashing lights shall be permitted, except for decorative lighting between November 1 and January 31 and for warning devices.

b) Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent both direct visual contact and flashing reflected from the sky.

c) All parking areas and pedestrian facilities serving non-residential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn that those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal foot candles, and an illumination ratio (brightest/darkest) of not more than 4:1. However, in performing Site Plan Review under Section 1230 the Planning Board may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is

not necessary or appropriate for the protection of the public safety.

3454. Lighting Plan. An exterior lighting plan is required for applications requiring site plan review under Section 1230, to include the following, plus any additional information required by the Board if needed to determine compliance with these provisions.

a) Locations, supports, mounting heights, and orientation of all luminaires.

b) For all luminaires, descriptions and diagrams of physical configuration and photometric data, such as those available from manufacturers, indicating fixtures, lamps, reflectors and filters and showing the angle of light cut-off and light distribution patterns.

3460. WIND ENERGY CONVERSION SYSTEMS (WECS).

3461. Purpose. The purpose of this section is to provide for the development and use of wind power as an alternative energy source, benefiting both the economy and the environment, while protecting public health, safety and welfare, preserving environmental, historic and scenic resources, controlling noise levels and preventing electromagnetic interference.

3462. Applicability. Any application to erect a wind energy conversion system shall comply with section 3460, with the following exemptions:

A. WECS having manufacturer's rated capacity of not more than 300 watts, or

B. Building-mounted WECS having overall height not more than eight feet (8') above the roof's highest point.

3463. Definitions.

A. Wind Energy Conversion Systems (WECS)
All equipment, machinery and structures utilized in the connection with the conversion of wind to other forms of energy.

B. Commercial Wind Energy System (CWES)
A WECS consisting of one or more wind turbines with a rated capacity greater than 10kW.

C. Residential Wind Energy System (RWES)
A WECS consisting of a single wind turbine, with a rated capacity of not more than 10kW, intended as an accessory use.

D. Neighborhood Wind Energy System (NWES)
A Class I, II, or III net metering wind turbine located in a residential district serving multiple residential customers served by a single utility and as further defined by the Massachusetts Department of Public Utilities (DPU).

E. Wind Turbine: A single device that coverts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower with or without guy wires.

F. Fall and Ice Shed Zone

The area that lies within a circle around each NWES and CWES tower, the radius of which is arrived at by application of the following formula: ["hub height + rotor diameter x 1.5"]. All NWES and CWES shall maintain the required Fall and Ice Shed Zone ("Safety Zone") from any occupied structure (residentail and non-residential), public or private road or regularly used public area. Such Safety Zone shall be entirely on the applicant's development site or under applicant's control. However, the preceding notwithstanding, the Safety Zone shall in no event be less than that specified by the supplier and/or manufacturer of the WECS in its standard safety specifications in effect at the time of project permitting.

G. Critical Infrastructure

Facilities and infrastructure listed within the Town of Bourne's Pre-Disaster Hazard Mitigation Plan.

3464. Special Permit Granting Authority: The Planning Board shall be the Special Permit Granting Authority for all WECS application. No Special Permit shall be granted unless the Planning Board finds that the proposed WECS is in harmony with the purpose and intent of this Bylaw and will not be detrimental or injurious to the neighborhood in which it is to be constructed, or to the public, taking into consideration among other things the height of the WECS in relation to the anticipated amount of electrical energy generation, the location of the WECS in relation to topography, the natural environment, dwellings, historical and scenic features, and safety, and that all requirements, standards and conditions for the granting of the Special Permit have been satisfied. Furthermore, no Special Permit shall be granted unless the Planning Board determines that the proposal will not have an undue adverse impact on historic resources, scenic views, natural resources and/or residential property values.

3465. Development Requirements.

A. Required of all WECS

1. Proposed WECS shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

2. Applicants shall provide a complete description of the proposed WECS including technical, economic, environmental, and other reasons for the proposed location, height and design.

3. **Height Calculation.** Overall height of the WECS shall be measured from the land in its natural state at the base of the tower prior to grading or filling to the highest point reached at any time by any part of the wind turbine. For WECS attached to a building, height is to be measured as specified in footnote "n" to the Section 2500 Intensity of Use Schedule, and the provisions of that footnote must be complied with.

4. **Flight Path Height Restriction.** No WECS located in the flight path as shown on a map entitled "USCG Air Station Cape Cod Emergency Visual Routes in Inclement Weather" Bourne, Massachusetts, dated January 26, 2007 shall be erected or altered to a height, which would exceed one hundred (100) feet. WECS erected between 60 to 100 feet within the USCG flight path shall include a fixed warning light.

5. Monopole towers are the preferred type of support.

6. **Setbacks. (except for acoustic setback covered under "Noise"..**

   a) NWES and CWES shall observe a setback distance from all property lines equal to the Safety Zone.

   b) No part of the WECS support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zone where the land is located.

7. **Wetlands.** No part of a WECS shall be located within the jurisdiction of the Bourne Conservation Commission unless issued an Order of Conditions.

8. **Noise.**

   8.1 All WECS shall observe a minimum acoustical setback from any adjacent residentially used or zoned parcel a distance of at least ten(10) times rotor diameter, measured from the closest part of the WECS tower to the closest property line of all residentially used or zoned parcels.

   8.2 The WECS and associated equipment shall conform to the following minimum sound level limitations:

   a) No WECS shall produce a dB(A) sound pressure level that is 6 dB or more above the lowest predevelopment L90 dB(A) level (statistical noise level exceeded 90 percent of the time) measured over a sufficient time duration to represent the quietest part of the daytime or nighttime for which operation is scheduled to occur (See ANSI S12.18).

   b) No WECS shall produce, during the hours of 7:00pm and 7:00 am, a broadband sound pressure level that exceeds 35 dB(A), attributed to the WECF itself.

   c) No WECS shall produce lower frequency sound pressures, attributed to the WECS itself, that exceed 50 dB(C), or lower frequency sound pressures that are shown to contain a separation of 10dB or greater when measurements in dB(A) are subtracted from measurements in dB(C).

   d) No WECS shall produce amplitude modulated noise, measurable in overall A-weighted sound pressure level, which is shown to contain peak to trough separations of 4dB or greater.

e) No WECS shall produce a Pure Tone condition, as that term is defined in Massachusetts 310 CMR 7.10, as measured in octave bands or by equivalent measurements in 1/3rd octave or narrow band.

8.3 All above measurements shall be attended and shall be taken on any adjacent residentially used property, or on adjacent land zoned to permit residential use. Compliance at the closest property line is required.

8.4 Measuring for background (ambient) sound levels shall:

A). Be attended measurements; B). Exclude periods of insect or other seasonal noise, or otherwise adjust collected data so that impacts from the same are removed; C). Exclude periods or moments of observed heightened sound levels not considered typical ambient noises (i.e. passing airplane or train); and D). Be avoided or suspended in (or adjusted to eliminate) periods of poor weather conditions and/or periods of significant wind speeds.

8.5 With post-construction testing or monitoring, aerodynamic amplitude modulated noise ("AAM") shall be examined with the sound level meter ("SLM") set for fast response, with a sampling rate of at least one measurement per 1/8th second. AAM noise shall be recorded in overall A-weighted sound pressure level and 1/3 octave band center frequencies for the predominate frequencies of interest. Audio recordings shall be made periodically during testing to provide audible indication of the nature or cause of the sounds being measured.

8.6 Post-construction lower frequency sound analysis shall be recorded in dB(A), dB(C), and 1/3 octave band for the predominate frequencies of interest.

8.7 Post-construction infrasonic sound pressures shall be measured using the best technologies available at the time of such testing and may include un-weighted measurements, and measurements in dB(G), dB(L) and/or dB(Z).

8.8 Pre-permitting acoustical projections and modeling shall be done under the supervision of the special permit granting authority ("SPGA"). Post-construction acoustical monitoring and testing shall be performed under the supervision of the Zoning Enforcement Officer or his designee, hereinafter the "Enforcing Person", who may order mitigation measures including operational controls of any WECS if needed to insure ongoing compliance with this by-law.

8.9 As to both pre-permitting, and post-construction testing and monitoring when ordered by the Enforcing Person, WECS developers and owners must hire, at it or their sole cost and expense, a qualified acoustical engineer to undertake a study or studies, or to undertake short or long term monitoring (as appropriate for the condition under study), to quantify sound pressures likely to emanate from or emanating from the applicable WECS and to submit one or several written report(s) of such study, which shall be public information.

8.10 With both pre-permitting and post-construction acoustical testing, the WECS developer or owner must pay into a special municipal account sufficient funds to cover reasonable peer review done by a qualified acoustical engineer hired by the SPGA or Enforcing Person as applicable. Any such funds shall be administered in accordance with M.G.L. c. 44 § 53.

8.11 A qualified acoustical engineer (for pre-permitting or post construction testing) shall be either a degreed engineer practicing acoustical engineering and working for a firm that is a member of the National Council of Acoustical Consultants (NCAC) or a member of the Institute of Noise Control Engineering (INCE). All persons conducting sound pressure measurements to assess compliance or likely compliance with this by-law shall be trained in the current techniques and principles of sound measurement equipment and instrumentation, and shall take such measurements under the supervision of the qualified acoustical engineer described above.

8.12 All sound pressure level measurements will employ appropriate equipment that is properly calibrated to industry standards. The precise location(s) of the measurement site(s), as well as dates, times, frequency, and duration of the measurements or measurement periods shall be as determined by the SPGA or Enforcing Person. All testing or monitoring results, reports, studies and conclusions shall be made a permanent part of the public record. Those records shall include all raw data collected in formats that facilitate peer and public review of the data and the study or studies. To facilitate such peer and public review, wherever possible, such raw data shall be submitted in digital form as well as hard copy. Wherever possible, all such collected data shall become internet/web-accessible to the public with uploads either continuously during testing or periodically as soon as practical.

8.13 The acoustical set back prescribed above is a minimum standard. The SPGA may deny an application for a special permit even where such minimum standard is met, if it finds, based on the pre-permitting acoustical studies required by this by-law, that a greater distance is required to insure compliance with the noise limitations prescribed above.

8.14 Because RWES are considerably smaller than NWES and CWES, the SPGA may determine that no pre-construction noise modeling or testing is required.

8.15 Upon written notification of a complaint of excessive noise, the Enforcing Person or his designee, shall record the filing of such complaint. The Enforcing Person shall promptly investigate. If noise levels are determined to be excessive, the Enforcing Person shall require the property owner to perform ambient and operating decibel measurements at the nearest point from the wind turbine to the property line of the complainant and to the nearest inhabited residence, as described herein.

8.16 If the noise levels are found to have exceeded the above allowable limits the Enforcing Person shall notify in writing the owner of the property to correct the violation. If the noise violation is not remedied within 30 days the WECS shall remain inactive until the noise violation is remedied, which may include relocation or removal.

8.17 If determined that allowable limits have not been exceeded, notice in writing shall be provided to the person who has filed such complaint and the owner of the property stating that no further action is required. Any person aggrieved by the decision may appeal said decision to the Board of Appeals in accordance with Section 1320 of this Bylaw. Any such appeal must be filed within (30) days after the receipt of the decision of the Enforcing Person.

9. **Shadowing/Flicker.** The WECS shall be sited in a manner that does not result in shadowing or flicker impacts above 5 hours per year to a residence. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

10. **Prevention of Access**. The applicant/owner shall ensure that all related components of the WECS are protected from unlawful access.

11. **Visual Impact.** The applicant shall employ all reasonable means, including restraint in tree removal, landscaping, and alternative locations to minimize the visual impact of all WECS components. All components of the WECS and its support structure shall be painted plain non-reflective muted colors.

12. No WECS shall exhibit any form of decoration or graphics unless given express approval by the Planning Board, and then shall be limited to the name of occupant of the premises or manufacturer located on the nacelle of the wind turbine.

13. **Electromagnetic interference**. No WECS installation shall cause electromagnetic interference. If interference is established the Inspector of Buildings shall notify the owner of the property in writing to correct the violation. If the interference is not remedied within 30 days the WECS shall remain inactive until the interference is remedied, which may include relocation or removal.

14. **Lighting**. If lighting is proposed (other than required FAA lights) the applicant shall submit a plan indicating the horizontal foot candles at grade, within the property line and for twenty-five (25) feet beyond the property lines. The plan shall also indicate the locations and types of luminaries proposed.

15. **Vegetation**. Existing vegetation must be shown including average height of trees and any proposed vegetation removal on the subject property or abutting properties. The Planning Board shall also consider the height of vegetation at maturity.

16. **Compliance with FAA Regulations and MMR Flight Paths.** WECS must comply with applicable FAA regulations and MMR flight paths as shown on the map referred to in Section 3465(4).

17. **Avian impact avoidance.** Applicants for a special permit for a CWES shall submit to the Planning Board documentation that the siting, equipment selection, facility design, and operation management will effectively minimize avian impacts, evidenced by an avian impact assessment conducted by a qualified third party, assessing the potential impact of the proposed WECS upon bird and bat species. The avian study shall at a minimum report on a literature survey for threatened and endangered species, and any information on critical flyways. The applicant must identify any plans for post-construction monitoring or studies. The analysis shall also include an explanation of potential impacts and propose a mitigation plan, if necessary.

B. Residential Wind Energy Systems (RWES).

1. Shall consist of a single wind turbine per lot, with a rated capacity less than 10 kW.

2. The overall height shall be determined by special permit. Overall height must be consistent meeting the setback requirements of Section 3465 A.6 and, if more restrictive, shall not exceed seventy-five (75) feet in overall height unless as part of the special permit process the applicant demonstrates that additional height is functionally essential and that the additional height does not does not substantially increase any adverse impacts.

C. Neighborhood Wind Energy System (NWES)

1. Shall consist of a single Class I, II, or III net metering wind turbine as defined by the Massachusetts Department of Public Utilities, with a rated output greater than 10kW, located in a residential district.

2. Shall be owned by or serve the energy needs of multiple residential customers, served by a single utility in a single neighborhood.

3. Shall be subject to the requirements of the CWES specified in Section 3465 D.

D. Commercial Wind Energy Systems (CWES).

1. A Wind Turbine with a rated capacity of more than 10 kW

2. May include multiple wind turbines, however, in no event, shall the number of wind turbines exceed one (1) per two (2) acres,

3. Land area may be comprised of several contiguous parcels single or multiple ownership.

4. A wind turbine erected on a lot with another principle use requires a lot area twice the minimum lot area as stated in Section 2500.

5. Height shall be determined by special permit. The Planning Board shall make findings that the height proposed reflects industry standards for a similarly-sited facility, and is the minimum necessary for adequate operation of the CWES.

6. Projects including land in multiple ownerships shall include each owner of the land as a party to the application and, upon plan approval, subject to its provisions.

7. Telecommunications. CWES may include telecommunication antennas provided they comply with Section 2500 of this bylaw. The telecommunications carrier shall be named as the co-applicant. Co-applications are encouraged.

3466. Procedural Requirements:

A. Special permit submittals

1. **Site Plan.** A site plan must be submitted, prepared to scale by a registered land surveyor or civil engineer showing the location of the proposed WECS, distances to all property lines, existing and proposed structures, existing and proposed elevations, public and private roads, above ground utility lines and any other significant features or appurtenances. Any portion of this section may be waived if in the opinion of the Planning Board the materials submitted are sufficient for the Board to make a decision.

2. **Inspection**. Provisions for inspection and maintenance must be made and identified in the submittals.

B. Building permit submittals

1. **Wind Turbine structure drawings.** Building permit applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. Documentation showing compliance with the Massachusetts State Building Code certified by a licensed professional engineer shall also be submitted. (Manufacturer specifications may be suitable at the discretion of the Inspector of Building)

2. **Electrical drawings.** Building permit applications for WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

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

4. **Insurance.** The applicant shall be required to show evidence of liability insurance in an amount and for duration sufficient to cover loss or damage to persons and structures occasioned by the failure or performance of the facility.

C. **Abandonment** A WECS shall be considered to be abandoned if it is not operated for a period of two years or if it is designated a safety hazard by the Inspector of Buildings. Once a WECS is designated as abandoned, the owner shall be required to physically remove the WECS within 90 days of written notice. "Physically remove" shall include, but not be limited to:

1. Removal of WECS, any equipment shelters, and security barriers from the subject property.

2. Removal of foundation, unless in the opinion of the Inspector of Buildings the foundation will pose no hazard.

3. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

4. Restoring the location of the WECS to its natural condition, except that any landscaping and grading shall remain in the after-condition.

D. **Modifications.** All modifications to a WECS made after issuance of the Special Permit shall require approval by the Planning Board.

E. **Professional Fees.** The Planning Board may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be the expense of the applicant.

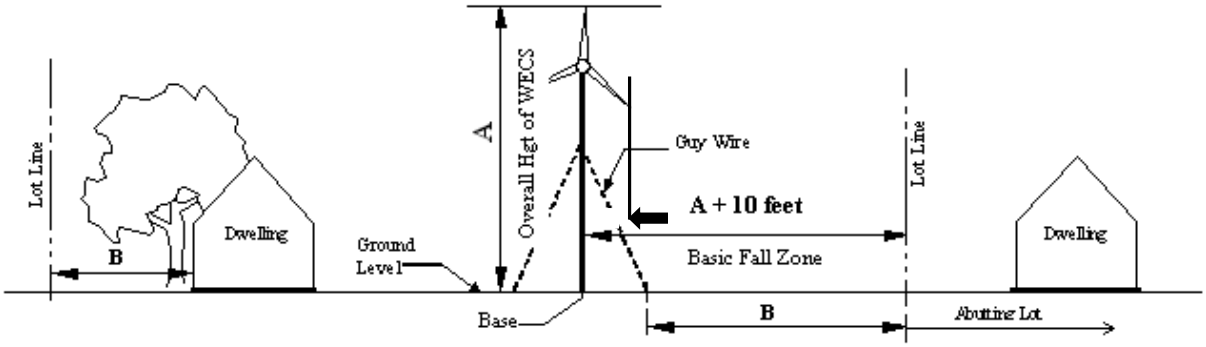
3467. Security.

A. **Requirement.** In conjunction with the above special permit approval process the Planning Board may require the posting of a bond or other security to assure satisfactory fulfillment of the above, in such sum and in accordance with such conditions as the Board may determine necessary.

B. **Exception.** The Board need not require security where there is full assurance of compliance with the above special permit

C. **Amount**. The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

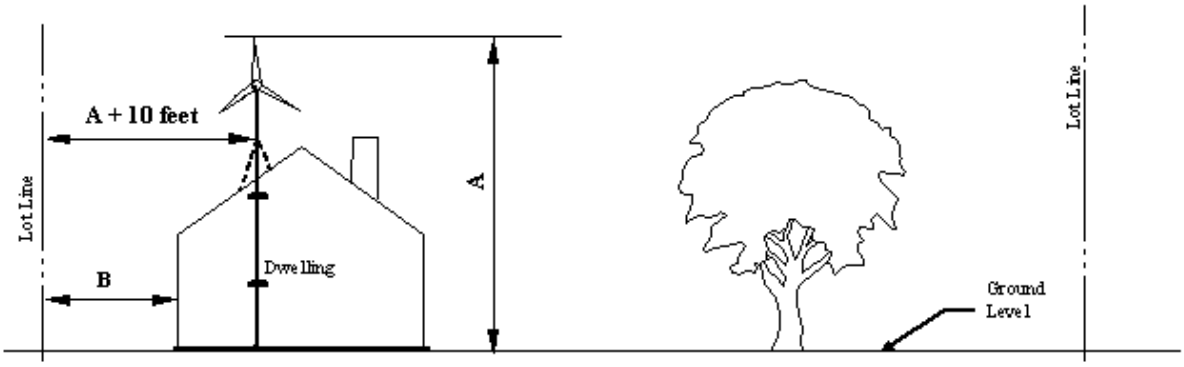
Figure A, B & D



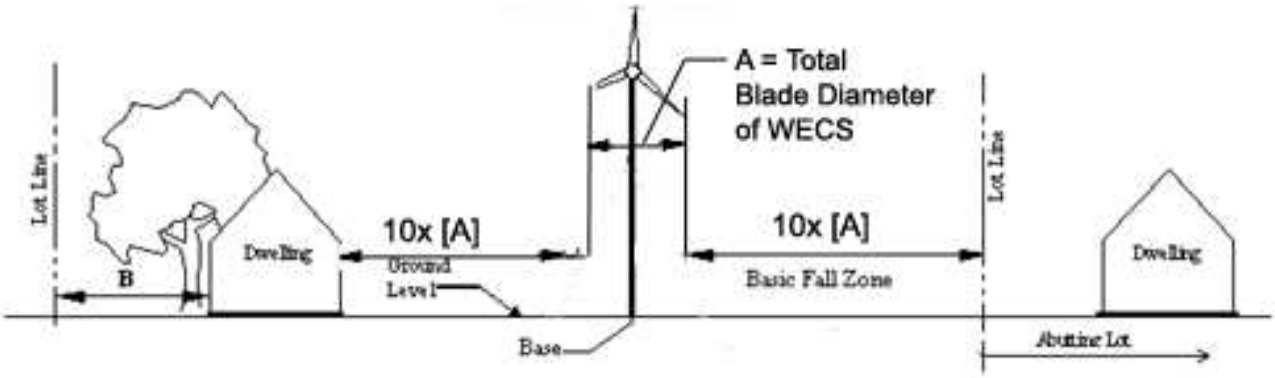
A = Overall height of WECS
B = Standard structure setback

Free standing WECS
(Figure A)

10Kw and smaller



Building Mounted WECS
(Figure B)



A = Total blade diameter of WECS
B = Standard structure setback

Free standing WECS
(Figure D)
10Kw and larger

3470. SOLAR PHOTOVOLTAIC SYSTEM (SPS) Ground Mounted

3471. Purpose. The purpose of this section is to promote the goals of the Local Comprehensive Plan and the Commonwealth of Massachusetts Green Communities Act, by providing expedited project plan review and design standards for large-scale, ground-mounted solar photovoltaic systems.

The provisions set forth in this section provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale ground-mounted solar systems that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations.

3472. Applicability. This section applies to large-scale (250 kW or larger), ground-mounted solar photovoltaic systems. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

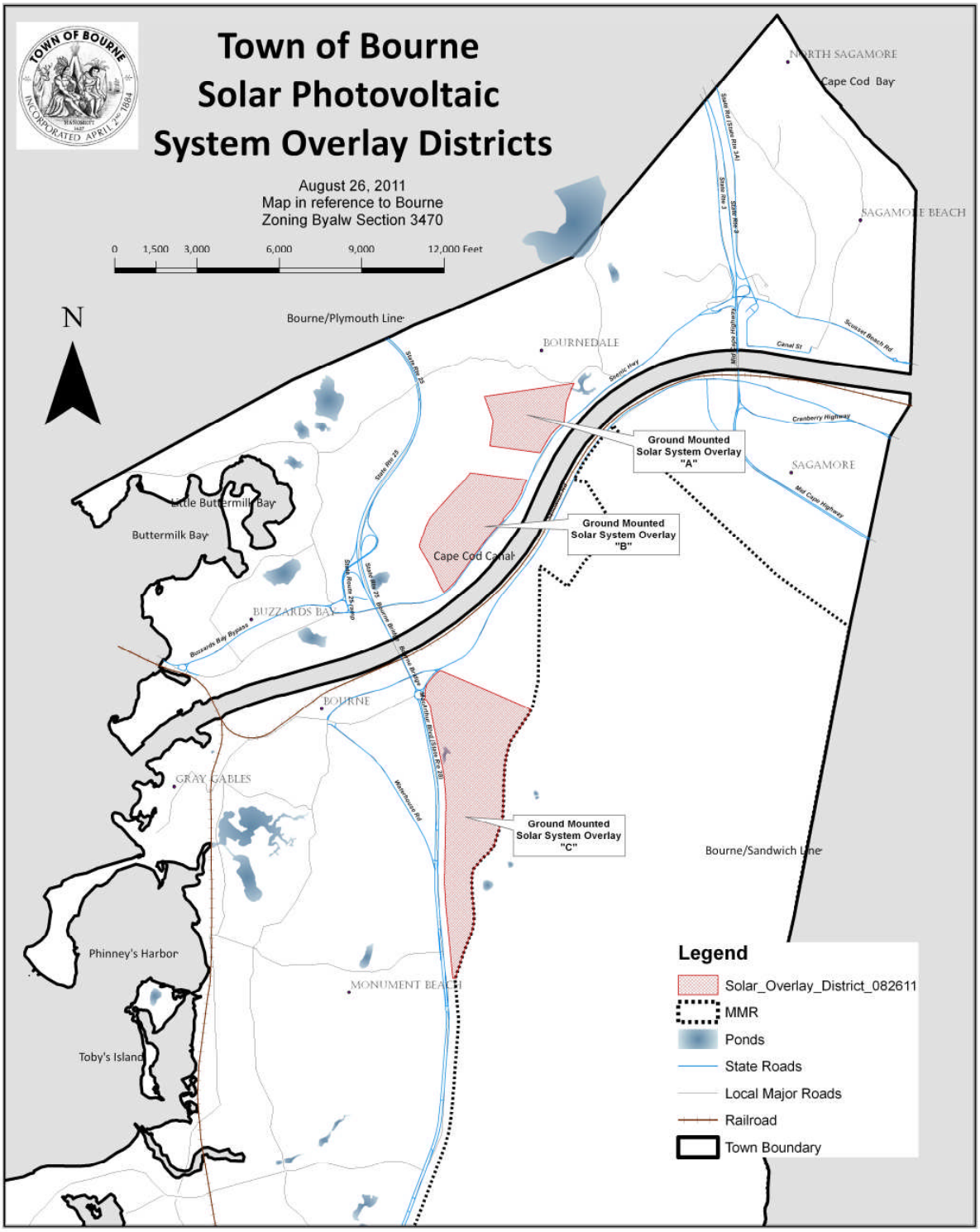
3473. District Established. A Solar Photovoltaic Overlay District (SPOD) is hereby established, and shall be considered as superimposed over any other districts established by this section, and as shown on the map entitled "Solar Photovoltaic System Overlay Districts" dated August 26, 2011, included herein.

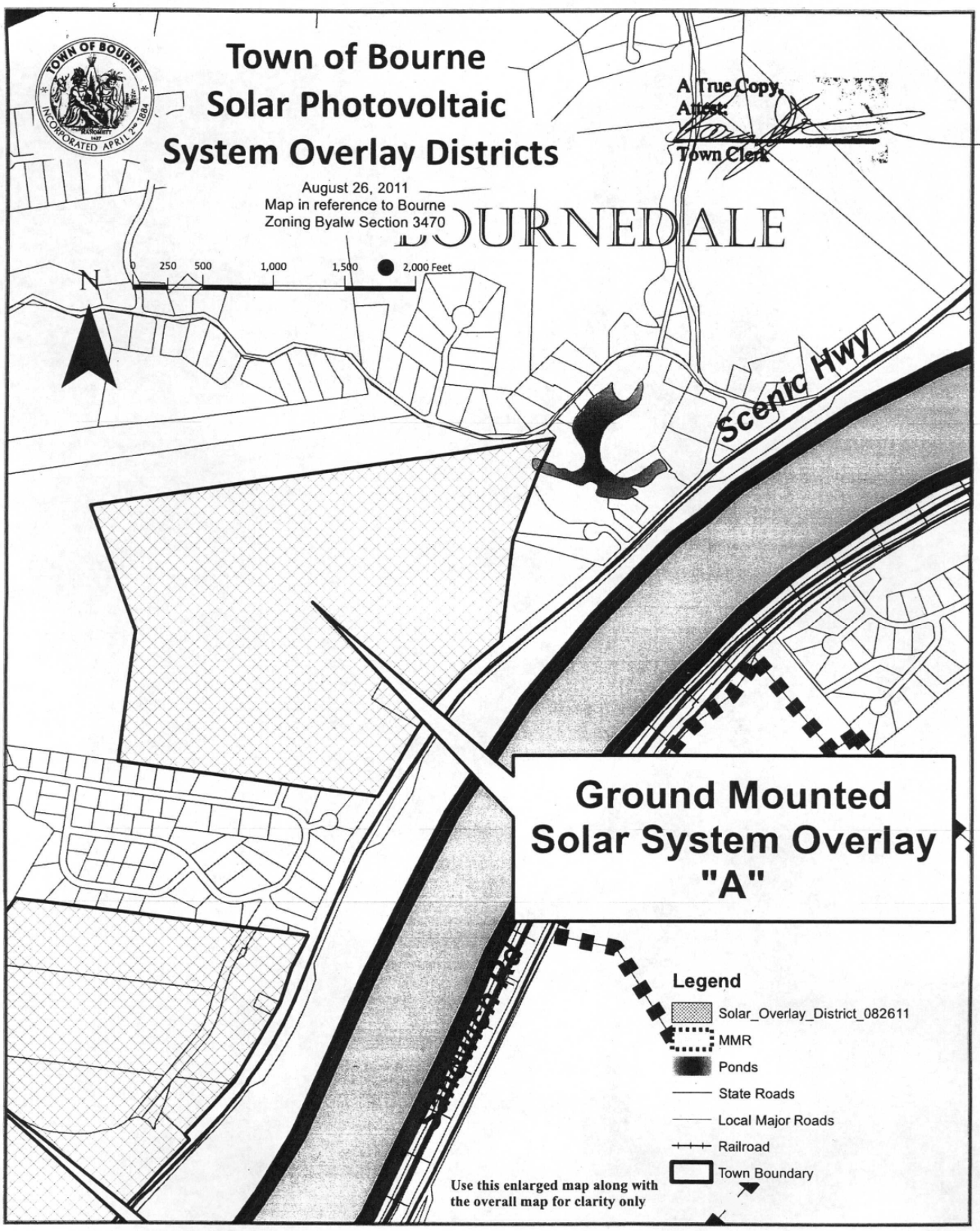
3474. Definitions. These definitions shall apply to Section 3470 exclusively:

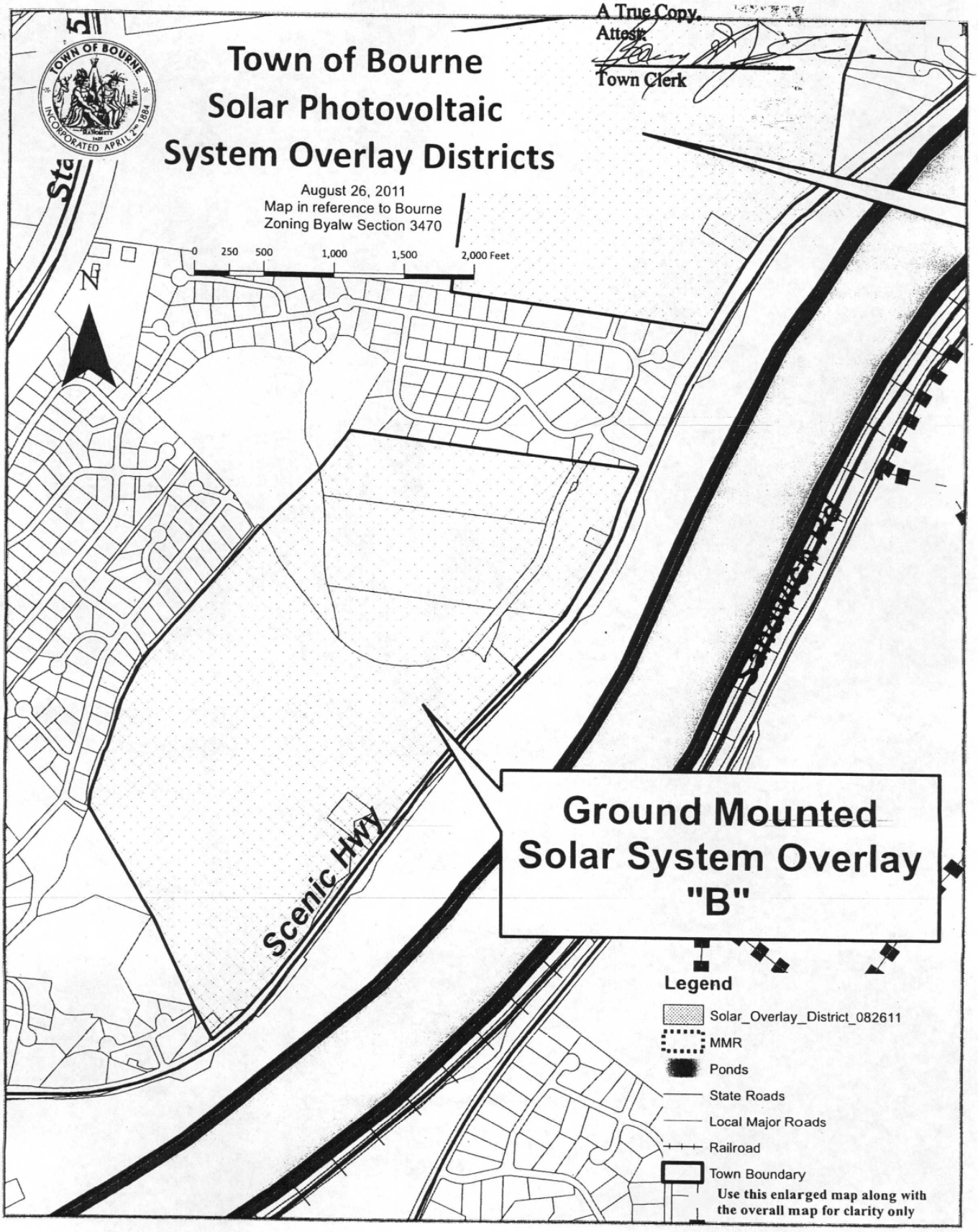
a) **Solar Photovoltaic System (SPS)**
A large-scale solar photovoltaic system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at least 250 kW direct current (DC).

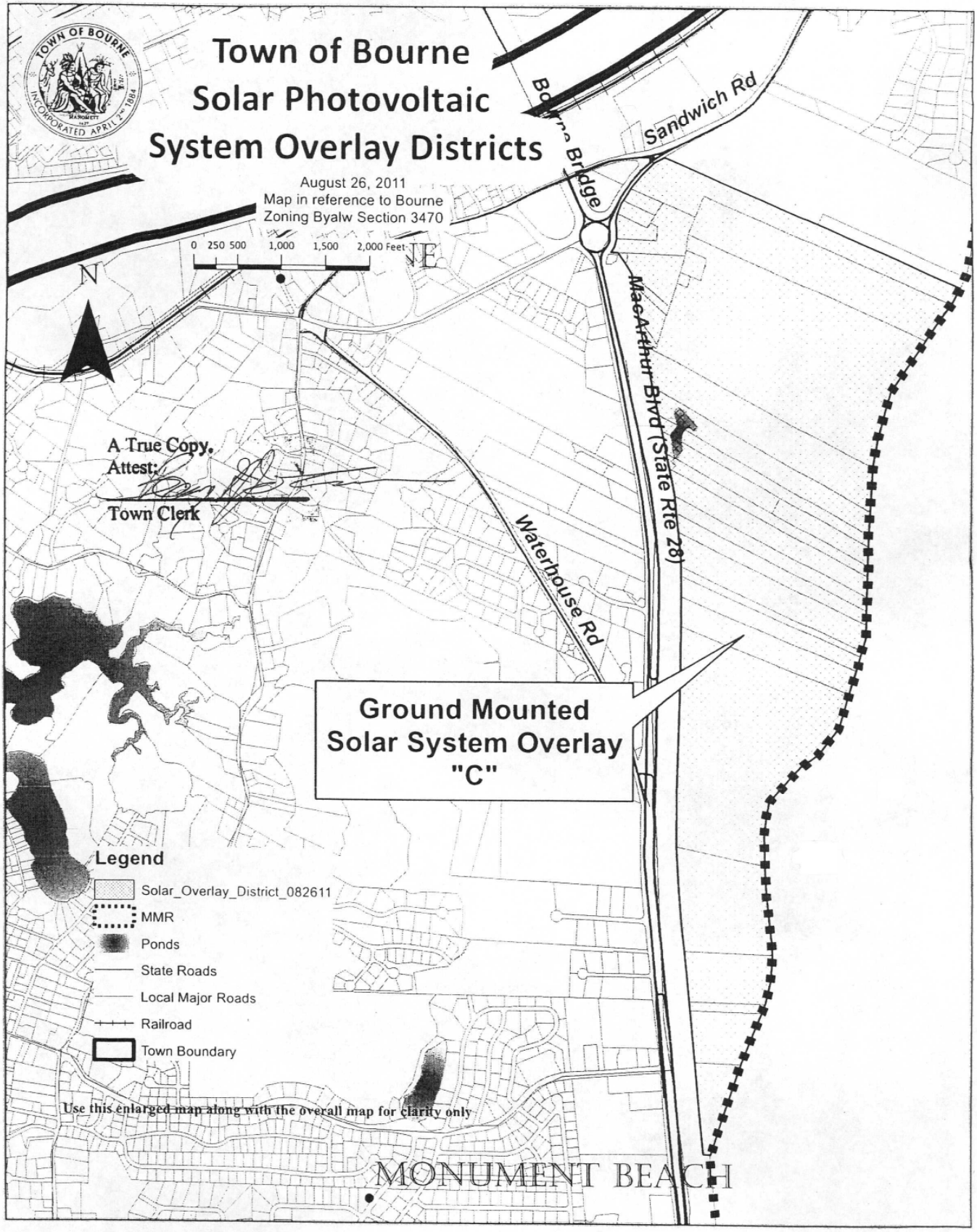
b) **Off-Grid System**
A solar photovoltaic system where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

c) **Rated Nameplate Capacity**
The maximum rated output of electric power production of the photovoltaic system in direct current (DC).


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 1,500 3,000 6,000 9,000 12,000 Feet
N
Bourne/Plymouth Line
NORTH SAGAMORE
Cape Cod Bay
SAGAMORE BEACH
BOURNEDALE
Canal St
Sunset Beach Rd
Cranberry Highway
Mid Cape Highway
SAGAMORE
Ground Mounted
Solar System Overlay
"A"
Ground Mounted
Solar System Overlay
"B"
Ground Mounted
Solar System Overlay
"C"
Little Buttermilk Bay
Buttermilk Bay
Cape Cod Canal
BUZZARDS BAY
Buzzards Bay Bypass
BOURNE
GRAY GABLES
Bourne/Sandwich Line
Phinney's Harbor
MONUMENT BEACH
Toby's Island
Legend
Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
A True Copy,
Attest:
Town Clerk
BOURNEDALE
0 250 500 1,000 1,500 2,000 Feet
N
Scenic Hwy
Ground Mounted
Solar System Overlay
"A"
Legend
Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with
the overall map for clarity only


A True Copy.
Attest:
Town Clerk
Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 250 500 1,000 1,500 2,000 Feet
Scenic HWY
Ground Mounted
Solar System Overlay
"B"
Legend
Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with
the overall map for clarity only


Town of Bourne
Solar Photovoltaic
System Overlay Districts
August 26, 2011
Map in reference to Bourne
Zoning Byalw Section 3470
0 250 500 1,000 1,500 2,000 Feet
N
Sandwich Rd
Bridge
MacArthur Blvd (State Rte 28)
Waterhouse Rd
A True Copy,
Attest:
Town Clerk
Ground Mounted
Solar System Overlay
"C"
Legend
Solar_Overlay_District_082611
MMR
Ponds
State Roads
Local Major Roads
Railroad
Town Boundary
Use this enlarged map along with the overall map for clarity only
MONUMENT BEACH

3475. Application and Review.

(1) Before being approved or disapproved by the Inspector of Buildings, the SPS of 250kW or larger of rated nameplate capacity shall undergo Site Plan Review (SPR) by the Planning Board.

(2) Required Submittals. The project proponent shall provide the following:

A. A site plan prepared by a registered professional engineer licensed to practice in Massachusetts; in addition the site plan shall include the following:

1) Property lines and physical features, including roads, for the project site;

2) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

3) Drawings of the SPS signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

4) One- or three-line electrical diagram detailing the solar photovoltaic system, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

5) Documentation of the major system components to be used, including the photovoltaic (PV) panels, mounting system, and inverter;

6) Name, address, and contact information for proposed system installer;

7) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;

8) The name, contact information and signature of any agents representing the project proponent; and

B. Documentation of control of the project site (see § 3476 below);

C. An operation and maintenance plan (also §3477 below);

D. Zoning district designation for the parcel(s) of land comprising the project site;

E. Description of financial surety that satisfies §3484 (3) below.

3476. Site Control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic system.

3477. Operation and Maintenance Plan. The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic system, which shall include specific measures for maintaining safe access to the installation, a stormwater management plan, and general procedures for and frequency of operational maintenance of the installation.

3478. Utility Notification. No large-scale ground-mounted solar photovoltaic system shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement..

3479. Dimensional Requirements. SPS are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), however a fifty (50) foot setback is required when adjacent to conservation lands or residentially zoned or used lands.

3480. Design Standards.

a) **Lighting.** Lighting shall be consistent with Section 3450. Lighting of other parts of the system, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

b) **Signage.** Signs on SPS are restricted as provided in Section 3200 for the underlying district. A sign shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. SPS shall not be used for displaying any advertising.

c) **Accessory Structures.** All structures accessory to SPS shall be subject to regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts, all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping.

3481. Utility Connections. All utility connections from the SPS shall be placed underground. In performing site plan review, the Planning Board may waive this requirement, taking in consideration of the soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

3482. Safety and Environmental Standards.

a) **Emergency services.** The owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the SPS shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

b) **Land clearing, soil erosion and habitat impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the SPS or otherwise prescribed by applicable laws, regulations, and bylaws.

3483. Monitoring and Maintenance.

a) **Conditions.** The owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained at the level approved during site plan review. The owner or operator shall be responsible for the cost of maintaining the SPS.

b) **Modifications.** All material modifications made after site plan review approval or the issuance of the required building permit shall require an amended site plan review approval.

3484. Abandonment or decommissioning.

1) Removal requirements. Any SPS which has reached the end of its useful life or has been abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Inspector of Buildings by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

a) Physical removal of all components of the SPS, including but not limited to structures, equipment, security barriers and transmission lines from the site.

b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

c) Stabilization or revegetation of the site as necessary to minimize erosion. The Inspector of Buildings may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPS shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the SPS fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

3) **Financial Surety.** A form of surety shall be provided, either through escrow account, bond or otherwise, to cover the cost of removal and disposal in the event the Town must remove the SPS and remediate the landscape, in an amount and in a form acceptable to the Town Counsel but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations.

3500. LANDSCAPING AND SCREENING

3510. Parking Lot and Buffer Plantings. The following shall be observed in all districts.

3511. Applicability. Street, sideline, parking area, and district boundary plantings shall be provided as specified below when any new building, addition, or change of use requires a parking increase of six or more spaces. In performing Site Plan Review, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

3512. Plants.

(i) Type of materials. Required plants shall include both trees and shrubs, and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 3" caliper, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24" in height at the time of building occupancy, reach an ultimate height of at least 36", and be of a species common in the area.

(ii) Number of plants. The minimum number of trees in the planting areas equals planting area length (in feet) divided by 30, and the number of shrubs equals planting area length (in feet) divided by three. Plants preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area.

3513. Planting Areas.

(i) Street planting area. Street planting is required for premises abutting any arterial street, except within the V-B or B-1 districts, which are exempted from this requirement. The required number of plantings shall be located within 15 feet of the street property line along the entire street frontage except at drives.

(ii) Sideline planting area. Sideline planting is required for premises abutting any arterial street. The required number of plantings shall be provided within five feet of the side lot line between the front lot line and the building setback (as actually proposed, not as minimally required) except at openings for shared access with adjacent premises.

(iii) District boundary planting area. District Boundary planting is required on any premises along the full length of any boundary abutting or extending into a Residential District and being developed for a use not allowed in that Residential District, unless in performing Site Plan Review the Planning Board determines that abutting property is unbuildable or visually separated by topographic features. The required number of plantings shall be located within ten feet of the boundary.

(iv) Parking area plantings. Parking lots containing 30 or more spaces must be provided with plantings as follows. A minimum of 2% of the interior area of the lot shall be unpaved planting area. A minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

3514. **Existing Vegetation.** Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of 6" or greater caliper, dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade change more than one foot unless dictated by plant health, access safety, or identification of the premises.

3515. **Exceptions.** Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

3516. **Maintenance.** All plant materials required by this bylaw shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season.

3520. **Erosion Control.** All slopes exceeding 15% resulting from site grading shall either be covered with loam to a depth of 4" and planted with vegetative cover sufficient to prevent erosion, or be retained by a wall constructed of masonry, reinforced concrete or creosote-treated pile or timber.

3530. **Screening.** Exposed storage areas, machinery, garbage “dumpsters,” service areas, the storage of vehicles including boats, recreational vehicles, trucks, utility trailers, utility buildings or structures, contractor’s yards, open storage and loading or service yards shall be screened from view of abutting properties by a wall, stockade fence, or densely planted trees, or be equivalently obscured by natural vegetation, and shall not be located within any required front yard.

3540. Parking and Loading Area Setbacks. The required distance between off-street parking and loading areas and any street line shall be 5% of lot depth from that street, but no such requirement shall be greater than 50 feet nor less than 15 feet. The required distance between off-street parking and any property line shall be five (5) feet wherever sideline planting areas are required under Section 3513 (iii), or three (3) feet elsewhere. Off-street parking servicing non-residential uses located in non-residential districts shall not be allowed within 30 feet of a Residential District. In the B-4 district, see also Section 2500, footnote "i".

3550. Corner Visibility. At corners no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 1/2 and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining points on said street lines 20 feet back from their point of intersection.

3560. High Fences or Walls. Sight-obstructing fences or walls exceeding six feet in height must observe yard requirements for a building.

3570. Natural Cover Removal. A Special Permit from the Planning Board is required for exposing more than 10,000 square feet of bare earth through either removal or filling on any parcel or contiguous parcels in the same ownership, (or if in different ownership, is part of a common proposed site development scheme) unless in conjunction with agricultural activity, landscaping incidental to a dwelling existing on the premises, or in conjunction with a currently valid building permit or Special Permit for earth removal under the Zoning Bylaw, or within streets which are either public or designated on an approved subdivision plan. A Special Permit under this Section shall be granted only subject to the following:

a) **Submissions.** Information shall be submitted showing existing and proposed topography and vegetation (or other cover surface, if any) and outlining methods of preventing erosion, silting or other instability during and after land or vegetation alteration.

b) **Criteria.** Adequate measures are to be provided to prevent erosion, silting or other instability both during and after land or vegetation alteration. The Planning Board may require the applicant to submit a report from the Soil Conservation Service or soil loss calculations prepared by a soils scientist or engineer in cases where doubt as to adequacy of proposed measures exists.

3580. Security.

a) **Requirement.** In conjunction with either the above special permit approval process or with Site Plan Review under Section 1230, the Planning Board shall require the posting of a bond or other security to secure faithful and satisfactory performance of proposed erosion control measures, in such sum and in accordance with such conditions as the Board may determine necessary, consistent with guidelines to be adopted by the Planning Board for the administration of this provision.

b) **Exception.** The Board need not require security where there is full assurance of compliance with erosion control requirements without it, taking into consideration the size of the area disturbed, materials retained on the site, slope and topography of the land, the nature of vegetation being disturbed and being retained, and the time period during which earth will be exposed.

c) **Amount.** The amount of security required shall not exceed either the estimated costs of the measures proposed, or the estimated cost of restoration of affected lands and property if the work is not performed as required, whichever is the greater.

SECTION IV SPECIAL REGULATIONS

4100. ACCESSORY USES

4110. Home Occupations. Home occupations are permitted within a dwelling (but not its accessory buildings) if no more than 30% of the gross floor area of the residence is used for the occupation, not more than one person not a member of the household is employed on the premises in the occupation, there is no exterior display or visible storage or other variation from the residential character of the premises, traffic generated does not exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided for off-street, other than within a required front yard.

4120. Accessory Dwelling. A special permit authorizing one accessory dwelling may be granted only if consistent with the following.

4121. Development Requirements.

a) In conformance with Section 2450.

b) The Board of Health must have documented to the Board of Appeals that sewage disposal will be satisfactorily provided for, including provision for an appropriate reserve area on the site.

c) Parking as required at Section 3320 shall be provided either in a garage or on paved surfaces not located within any required yard.

4122. Occupancy Requirements

a) Either the principal or the accessory unit must be owner-occupied, except for temporary absences.

b) An accessory unit authorized under these provisions shall not be used for summer rental, boarding and lodging, or other commercial use.

4123. Procedural Requirements

a) To approve a special permit for an Accessory Dwelling, the Board of Appeals must make a determination that all of the above requirements have been met, and also that the particular circumstances of the case make such use appropriate, including consideration of whether lot area or other site characteristics assure mitigation of any impacts on the neighborhood, whether there is enforceable assurance that occupancy of the unit will serve significant community purposes, such as facilitating care for the elderly or handicapped, or providing housing at unusually low cost, and whether site and building design will effectively avoid any departure from the character of the neighborhood

b) A Certificate of Occupancy for an Accessory Dwelling shall be issued for a period no greater than three years. Continued occupancy beyond that shall require a new Certificate of Occupancy, to be granted only upon documentation to the Inspector of Buildings that the relationships satisfying Section 4122 or on which the decision under paragraph a) was based are still in existence.

c) Upon termination of occupancy satisfying Section 4122, or a condition of the special permit, separate occupancy of the accessory dwelling shall not be reestablished unless a new special permit is granted, on grounds that either the requirements of Section 4122 and the original special permit will again be satisfied, or that special circumstances of the structure or its occupants would make single-family occupancy a hardship, and that the granting of such Special Permit would not be detrimental to the neighborhood.

d) A Certificate of Compliance with the above paragraph must be provided by the owner to the Inspector of Buildings upon transfer of any beneficial interest in the property, and recorded at the Registry of Deeds.

4200. SPECIAL RESIDENTIAL USES

4210. Mobile Homes. Mobile homes may be occupied only in a campground, or mobile home park. Campers may be occupied only within a licensed campground.

4220. Campers and Trailers. A camper, utility trailer, boat trailer, or house trailer (but not a mobile home) may be stored in a garage, or to the rear of the residence of its owner, in each case observing yard requirements except when loading.

4230. Mobile Home Parks. Mobile home parks shall conform to the following minimum requirements:

a) Lot area minimum of 30 acres, but not less than 20,000 square feet per mobile home.

b) Each mobile home plot shall have an area of not less than 4,000 square feet.

c) Mobile homes shall not be closer to each other or other structures than 10 feet end to end, or 24 feet laterally.

d) Each plot shall be serviced with water and sanitary drainage suitable for permanent connection.

e) No mobile home shall be placed within 200 feet of a street line, or 60 feet of any other lot line.

f) Minimum lease shall be for not less than one month.

All mobile homes placed in a mobile home park shall meet requirements of Article II of the Sanitary Code of the Commonwealth of Massachusetts.

A condition for approval of a special exception to permit mobile home parks shall be that the park be developed and operated in accordance with a plan which has been reviewed by the Planning Board, designating plots, vehicular access, auto parking facilities, and water and sewage systems.

4240. Campgrounds. Campgrounds shall conform to the following minimum requirements:

a) Lot area (see definitions) minimum of 20 acres, but not less than 7,500 square feet per campsite.

b) Each rental plot shall have an area of not less than 2,500 square feet and a width of not less than 40 feet in its smallest dimension.

c) If each plot is not serviced with water and sanitary drainage, common sanitary facilities shall be provided.

d) No unit for overnight occupancy shall be placed within 100 feet of a street line, or 60 feet of any other lot line.

e) No unit shall be occupied for more than six months in any 12-month period.

A condition for approval of a special exception to permit campgrounds shall be that the campground be developed and operated in accordance with a plan which has been reviewed by the Planning Board, designating plots, vehicular access, auto parking facilities, and water and sewer systems.

4250. Village Mixed Use Developments. Mixed use involving both residential and non-residential principal uses on the same lot may be authorized on special permit by the Planning Board in the B-1, B-2, B-4 and VB districts subject to these provisions. Such mix shall include non-residential uses and may include single, two-family, or multi-family dwellings as a co-occupant of a building together with one or more non-residential uses. The purpose of authorizing such mixed use is to broaden the diversity of housing provisions within the Town, to contribute to housing affordability, and to add residential activity to village centers. Special permits for mixed use shall be granted upon determination by the Planning Board that the proposal serves those purposes, is of net benefit to the neighborhood and the Town in relation to the considerations of Section 1330, and is in compliance with the following:

a) Dwellings may be permitted under these provisions only on premises where the majority of the first floor area of all buildings on the lot combined will be occupied by one or more non-residential uses.

b) Dwellings shall only be permitted upon the certification of the Board of Health or the Sewer Inspector that the sewerage system is adequate to service the proposed non-residential use and the proposed number of residential units. In addition, each building must be served by access, drainage, and utilities determined by the Planning Board to be functionally equivalent to those required for separate lots.

c) Requirements of Section 2400 Dimensional Regulations and 2500 Intensity of Use Schedule shall apply to dwellings authorized under this subsection, except that the extra lot area requirements otherwise required for two or more principal buildings by Section 2440 shall not apply and the protection against change in dimensional requirements provided by Section 2450 for single - and two-family dwellings shall be extended to apply to buildings containing multi-family dwellings.

d) Area requirements must meet the minimum lot area requirements for a commercial use as shown on Section 2500.

Because residential and commercial uses have peak parking demands at different times, the authorization in Section 3310 for the Planning Board to reduce required parking can normally be expected to result in no more than one additional parking space per dwelling unit in addition to those required for the non-residential uses on the premises.

4260. NONCONFORMING AFFORDABLE LOTS.

4261. Purpose. The purpose of this bylaw is to increase the supply of housing that is available and permanently affordable to low or moderate income households by allowing affordable dwelling units to be built on non-complying lots, provided the lots meet the criteria listed herein.

It is intended that the affordable housing units created under this bylaw qualify as low or moderate income units for purposes of M.G.L. ch. 40B sec. 20-23 and shall be in compliance with 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards promulgated thereunder by the Department of Housing and Community Development (DHCD) for inclusion in the DHCD ch. 40B Subsidized Housing Inventory as Local Action Units.

4262. Applicability. This bylaw applies to lots of record as of January 1, 2010 which do not meet the zoning requirements for a buildable lot. Any increase in tax assessment for an applicable lot will occur upon issuance of the special permit for the affordable single-family dwelling on that applicable lot.

4263. Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section.

a) The SPGA shall only allow the construction of one (1) single family dwelling per lot. The dwelling must be restricted as an affordable homeownership or affordable rental dwelling unit in perpetuity or the maximum time period allowed by law.

b) The SPGA, at the request of the applicant may allow the existing dwelling on the adjacent lot to be restricted as the affordable unit. However before the occupancy permit of the new unit is issued the existing dwelling must be restricted in accordance with M.G.L. ch. 40B sec. 20-23 and 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards promulgated thereunder by the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Ch 40B Subsidized Housing Inventory as Local Action Units.

c) The Special Permit Granting Authority may impose conditions and restrictions on the special permit, including, but not limited to,

i. Restricting the total number of bedrooms or occupants in the dwelling,

ii. Requiring that a Regulatory Agreement and/or Deed Rider, in an acceptable form, be executed and recorded at the Barnstable Registry of Deeds by the applicant,

iii. Such other restrictions or limitations as are considered necessary or appropriate to carry out the intent and purposes of the bylaw.

4264. Use regulations. The following criteria must be met for a parcel to be eligible for the nonconforming affordable lot exemption:

a) Must be located within a residential zoning district;

b) Must contain at least 10,000 square feet;

c) Must contain at least 90% upland as defined by this bylaw;

d) Must satisfy applicable Board of Health regulations;

e) Must satisfy applicable Town of Bourne Conservation Commission Wetlands Protection Regulations;

f) Must have a minimum of eighty (80) feet of frontage on a way, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide the needs of vehicular traffic.

g) The new structure shall conform to applicable setbacks.

h) The new structure must conform to the gross floor area limitations of Section 2456.

i) No lot shall be built upon if it was purposely created as an unbuildable lot as part of a subdivision open space or park, or by any other condition or agreement with the Town;

j) No part of any access driveway shall be within twenty (20) feet of a principle structure on an adjoining lot, and;

k) No part of any affordable structure shall be placed within 80’ of an existing principle structure for those lots where the affordable lot is located behind an existing lot.

l) Shall not be located within a Zone II Water Recharge Area.

m) Shall not be located within a Special Flood Hazard Area.

n) When creating the new affordable parcel, the remaining parcel must also meet the minimum requirements listed above.

o) A Lot granted a special permit for the purposes of a nonconforming affordable lot shall not be afforded the privilege of section 4100 –accessory dwelling.

The above criterion shall not be waived.

4265. Plan Processing.

1. Board of Health Review. The Board of Health shall report to the Planning Board in writing its approval or disapproval of the site plan. If the Board of Health disapproves said plan, it shall make specific findings as to why the lot shown cannot be used for a building site without injury to the public health. Approval of the plan by the Planning Board shall then only be given on condition that the lot shall not be built upon without prior consent of the Board of Health.

2. Review by Other Town Agencies. The Planning Board shall distribute copies of the Plan to the Conservation Commission and the Bourne Housing Partnership for comments.

4266. Affordability. No Building Permit or Certificate to Occupy shall be issued by the Inspector of Buildings until the developer has demonstrated that all of the applicable requirements of Section 4264 have been met.

4267. Rate of Development. The Inspector of Buildings shall issue no more than one (1) building permit per applicant per calendar year for a nonconforming residential lot. In addition no more than two (2) building permits per calendar year shall be issued for a village; as designated by the precinct map.

4268. Definitions. *(For the purposes of this section of the bylaw only)*

Applicant - Individuals, corporations, partnerships, trusts and any other legal entity or form of doing business in which the applicant of record holds a legal or beneficial interest of ownership of greater than one (1) percent.

Calendar Year - The period beginning January 1 and ending December 31.

Village – Designated by the official precinct as shown in the Town Clerks office.

Building Permit - refers to a affordable non conforming lot

Non-complying Lot - a lot for single family use which as of January 1. 2010 was held in common ownership with any adjoining land and was merged for tax purposes, and has not been combined by deed.

4269. Issuance of Building Permits

a) Applications for building permits shall be dated and time-stamped upon receipt by the Inspector of Buildings. Building permits shall be issued on a first-come basis.

a) No Applicant shall receive more than one (1) Building Permit in any given calendar year.

b) It is the express intention of this provision that no Applicant shall employ any scheme or devise in order to obtain more building permits than said Applicant is lawfully entitled to under the terms of this Bylaw.

4300. BOURNEDALE OVERLAY DISTRICT

4310. Applicability. The Bournedale Overlay District shall be considered to be super-imposed over any other districts established in this Bylaw. Land in the Bournedale Overlay District shall be subject to the following requirements, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts.

4320. Use Regulations. The following use regulation departures from the provisions of underlying districts shall apply in the Bournedale Overlay District:

4321. Major Residential Development. Shall be allowed only if authorized on special permit under the provisions of Section 2700.

4322. Technology Campus. Use shall be allowed in the R-80 district if authorized on special permit under the provisions of Section 2700.

4323. Professional Office. Use shall not be allowed within the Scenic Development District.

4330. Dimensional Regulations. The following departures from the dimensional regulations of underlying districts shall apply in the Bournedale Overlay District:

4331. Setbacks. The following setbacks to any building or parking facility for five or more vehicles shall be maintained. However, if meeting such setbacks leaves otherwise developable property without economically beneficial use, the Planning Board may grant a special permit authorizing a departure despite non-compliance provided that the relief granted is the minimum necessary to allow economic use.

a) 200 feet from natural wetlands, water bodies, public water supply wellheads, or vernal pools, and 50 feet each side of ascertainable wildlife migration corridors, in each case as documented in inventory materials approved or amended and approved by vote of the Conservation Commission following a public hearing held thereon, and filed with the Town Clerk prior to the special permit application date.

b) 100 feet from historic structures, archeological sites, or Indian burial grounds and 50 feet each side of corridors of ascertainable Indian trails, in each case where those locations are documented in inventory materials approved or amended and approved by vote of the Bourne Historical Commission following a public hearing held thereon, and filed with the Town Clerk prior to the special permit application date; or 100 feet from arterial streets, as defined in this Bylaw.

4332. Frontage. Lot frontage on arterial streets not subject to the limitations of Section 3343 Interim Egress Control shall equal not less than 200% of that otherwise required.

4333. Lot Area. In the Scenic Development District the lot area per hotel or motel guest unit may be as low as 10,000 square feet provided that the applicant documents to the satisfaction of the special permit granting authority that peak hour auto trip generation from the site will be no more than four times that which would be expected for single-family development of the same site.

4334. Parking Location. In the Bournedale Overlay District, all accessory parking serving other than one or two family homes shall be screened from the street through location no nearer the street than the building or activity being served, and if necessary to obscure visibility, plantings shall be provided in addition to those otherwise required at Section 3500, Landscaping and Screening.

4335. Building Height. In a Technology Campus the Planning Board may grant a special permit authorizing an increase to the allowable building height provided that the increase meets the Purpose and intent of Section 2720.

4400. EARTH REMOVAL

The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil or similar materials within any 12 month period shall be allowed only on Special Permit in accordance with Section 2200, unless such removal is incidental to construction on the premises under a current building permit, or for operation of a cranberry bog. A Special Permit for removal shall be granted only subject to the following:

4410. Plan. The application shall be accompanied by a plan indicating existing topography base grades below which no excavation will take place, and existing and proposed cover vegetation.

4420. Screening. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet the requirements of Section 3400.

4430. Restoration. Following removal, all excavated areas shall be restored by grading to provide drainage and for slopes not to exceed one foot horizontal to two feet vertical, and by covering with four inches of topsoil, and by planting with cover vegetation, which shall have been established prior to release of the bond.

4440. Bond. A performance bond shall be posted in an amount sufficient to assure satisfactory fulfillment of the above.

4500. MOTOR VEHICLE SERVICES

Motor vehicle service stations shall be granted a Special Permit only in conformity with the following:

4510. Egress. No location shall be approved if a vehicular entrance or exit will be so located as to create unusual hazard. Egressing vehicles shall have at least 400 feet visibility in each travel direction, and no vehicular entrance or exit shall be located within ten feet of a side lot line or within 50 feet of the midpoint of the arc connecting sidelines of intersecting streets. Entrances and exits shall occupy not more than 40% of lot frontage, and shall be clearly channeled through use of curbed areas or similar devices.

4520. Pedestrian Relationship. No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas, or compact retail districts.

4530. Queues. There shall be adequate space off-street for not fewer than two cars to await service per filling position, and no service building shall be located within 40 feet of a street line.

4600. OPEN SPACE COMMUNITY

4610. Applicability. The Planning Board may grant a Special Permit except with respect to Residence District R-80: for exceptions to Section 2200 Use Regulations and to Section 2500 Intensity of Use Schedule, to allow the construction and occupancy of a subdivision designed as an Open Space Community, consistent with the following regulations and conditions.

4620. Objectives. The intent of an Open Space Community is to allow relatively intensive use of land, while at the same time maintaining existing character; to preserve open space for conservation and recreation; to introduce variety and choice into residential development; to meet housing needs; and to facilitate economical and efficient provision of public services and to encourage development of well designed resorts with accessory recreation facilities.

4630. Procedures.

4631. Pre-application Review. To promote better communication and avoid misunderstanding, applicants are encouraged to submit preliminary materials to the Planning Board for informal review prior to formal application.

4632. Applicants for a Special Permit for an Open Space Community shall submit to the Planning Board eight (8) copies of an application and an Overall Development Plan. Such plan shall encompass at least ten acres of land, which is contiguous, though not necessarily in one ownership. If the plan involves more than one ownership, each owner of land included in the plan shall be a party to the application and, upon plan approval, subject to its provisions.

4633. Overall Development Plan. The Overall Development Plan shall include the following (at uniform scale if shown on separate sheets):

a) Existing Site Conditions: location and boundaries of the site, water bodies and streams, distinction between upland and wetland, topography, including identification of land having slopes in excess of 25%, and existing ways.

b) Proposals: proposed lot lines, streets and ways, water system, drainage system, common open space, and other land for non-residential use.

c) If the community includes multifamily structures or 50 or more lots or an extensive resort development, the Overall Development Plan shall also include identification of general cover type (wooded, cropland, etc.), location of major tree groupings, and other outstanding trees or other botanical features, indication of vegetation removal and retention, and proposed vegetation; and shall also show any additional information listed under Section 4.2 of the Regulations of Massachusetts D.E.Q.E. adopted under Section 40, Ch.131, G.L., unless certain items are waived by the Planning Board, as not being germane or feasible. Floor plans and elevations at 1/16" equals 1'0" or larger scale shall be submitted for all proposed buildings other than detached one or two-family dwellings.

4634. Other Materials. The application materials shall indicate each landowner's interest in the land to be developed, the form of organization proposed to own and maintain the common open space, the substance of covenants and grants of easements to be imposed upon the use of land and structures, and a development schedule, indicating cumulative maximum number of dwelling units and hotel and motel guest units proposed to be completed by the end of each year in the schedule and the latest date of completion for any proposed community facilities, which schedule as approved or amended and approved shall be made part of the Special Permit.

4635. Review and Decision. Forthwith upon their receipt of the application and required plans, the Planning Board shall transmit one copy each to the Board of Health and Conservation Commission. The Board of Health and Conservation Commission shall submit reports to the Planning Board within 35 days of referral, and the Planning Board shall make no decision upon the application until receipt of all such reports or until 35 days have elapsed since date of referral without such reports.

4636. Criteria. Approval of an Open Space Community shall be granted only upon Planning Board determination that the plan complies with Section 4640, and that the plan is superior to a conventional one in preserving open space for conservation or recreation; in utilizing natural features of the land; in allowing more efficient provision of streets, utilities and other public services; and at least equal to a conventional plan in other respects.

4637. Relationship to Subdivision Plan. Planning Board approval of a Special Permit for an exception to Section 2200 Use Regulations and Section 2500 Intensity of Use Schedule to allow an Open Space Community shall neither oblige the Planning Board to approve any related Definitive Plans nor substitute for such approval. Normally, the Overall Development Plan and Special Permit application shall be prepared and submitted to the Planning Board concurrent with a Preliminary Plan for subdivision of land. The applicant may submit a combined plan and application which conforms to all requirements of Section 4600 and all Preliminary Plan requirements of the Subdivision Regulations of the Bourne Planning Board. Following approval of a Special Permit and a Preliminary Plan, a Definitive Plan prepared by a Registered Land Surveyor and a Registered Civil Engineer shall be submitted to the Planning Board consistent with the Subdivision Regulations of the Bourne Planning Board.

4640. Requirements. An Open Space Community must conform to the following:

4641. Number of Dwelling Units. The basic maximum number of dwelling units allowed shall equal the "Applicable Land Area" divided by the lot area requirements for a single-family dwelling in that district, as shown at Section 2500, then rounded to the nearest whole number. "Applicable Land Area" equals the total area encompassed by the Overall Development Plan, minus:

a) Coastal or freshwater wetlands, as defined in Section 40, Ch.131, G.L.;

b) Land having slopes in excess of 25%;

c) Land designated on the plan for uses, other than open space, not primarily servicing residents or overnight guests of the development.

d) Land otherwise prohibited from development by local or state law, regulation, or statute or by a prior conservation restriction recorded in the Registry of Deeds.

Where the Community includes more than one ownership, and/or lies in more than one district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable total, which may be located on the plan without respect to allowable subtotals by district or ownership areas.

The Planning Board may approve an Open Space Community containing more than the basic maximum number of dwelling units, upon the Board's determination that the proposed Community, through the quality of its site selection, programming, and design, displays exceptional sensitivity to the objectives of this Bylaw. The increase over the basic maximum number of dwelling units allowed shall normally be equal to:

a) the number of units (up to 25% of the total in the Open Space Community) which the Bourne Housing Partnership certifies will meet the definition of a Bourne Affordable Housing Unit (see Section V).

b) a percentage increase over the basic maximum number of dwelling units allowed under the first paragraph of 4641, equal to one-half the number of bonus points earned under a) through j) below.

In no event, however, shall the Planning Board allow an increase to the extent that the applicable land area per dwelling unit in the entire development is reduced below 30,000 sq. ft. per dwelling unit.

a) Objective :	**Encourage residential choice.**
Bonus points:	0.25 x percentage of all dwelling units equipped for and legally reserved for the elderly.
b) Objective:	**Avoid excessive school impact.**
Bonus points:	5 x Number of proposed dwelling units Number of proposed bedrooms in excess of one per unit.
c) Objective:	**Protect existing natural areas.**
Bonus points:	0.2 x acres of wooded area on which the majority of trees of 4" plus caliper are retained.
d) Objective:	**Protect existing natural areas, prevent groundwater and surface water pollution.**
Bonus points:	0.2 x acres of wetland (as defined in C.131, Section 40, MA. G.L.) retained in a natural state.
e) Objective:	**Protect existing natural areas, prevent erosion.**
Bonus points:	0.4 x acres with average slope greater than 15% which are retained in their natural state.
f) Objective:	**Protect existing natural areas; prevent water pollution.**
Bonus points:	0.4 x acres of land within 200 horizontal feet of a river, pond, stream, canal, or ocean, retained in a natural state.
g) Objective:	**Minimize incongruity with surrounding area.**
Bonus points:	0.1 x percentage of plan boundary abutted by 200 ft. or more buffer strip retained in a natural state.
h) Objective:	**Minimize visual disruption.**
Bonus points:	0.1 x percentage of dwelling units with highest, habitable floor at a level below the highest ground elevation within 500 ft.
i) Objective:	**Encourage active and passive recreation.**
Bonus points:	0.5 x acres of Common Open Space which is accessible to the general public or developed for active recreation or in excess of the minimum area requirements of Section 4645 Open Space.

j) Objective: **Avoid excessive traffic increases, promote traffic safety.**

Bonus points: 10 points if all of the following are met:

(1) no more than 10% increase in average daily traffic, at the place of greatest increase;

(2) for all egresses, at least 400 feet visibility in each travel direction;

(3) no street egress serving 20 or more dwelling units within 150 feet of an intersecting street, or within 150 feet of egress from a parking area for 30 or more vehicles.

Applicants seeking any of the above bonuses shall submit calculations and any other documentation necessary to demonstrate qualification for the bonus.

At least 25% of all affordable units shall be built in each of the first four years of development scheduling. Each such affordable unit shall be approximately equal in floor space and quality of construction to all other units.

ILLUSTRATIVE SUPPLEMENT

Bonus Summary	**Maximum Bonus Points**	
Criterion	**Number**	**How Earned**
a. Units for elderly	10	40% of d.u.'s reserved for elderly
b. Units with 1 bedroom or less	10	Half or more 1 bedroom and studios
c. Undisturbed woodland	10	50 acres
d. Undisturbed wetland	10	50 acres
e. Undisturbed slope	10	25 acres
f. Undisturbed waterfront	10	25 acres
g. Buffer strip	10	Full buffer
h. Relative building height	10	All buildings on lowland
i. Developed, public, or additional open space	10	20 acres
j. Traffic increase and safety	10	No increase more than 10% and for all exits, good visibility and adequate distances to other streets and major driveways
	100 Points	

4642. Allowable Uses. Uses allowed at any location shall be only those allowed in the district in which the location lies, except as provided below.

a) Multifamily dwellings shall be allowed in compliance with the following:

(1) Multifamily dwellings shall be allowed only in communities containing 25 or more acres.

(2) There shall be not more than 20 dwelling units in a single structure.

(3) Structures shall provide a separation of no less than their building height from any other structure on the same lot and from any lot line. Structures shall provide a separation of no less than twice their building height from the boundary of the Overall Development Plan.

(4) Parking areas shall not be located within any required yard, and shall be screened from public ways by building location, grading, fencing, or plantings. Parking areas shall not be located within 75 feet of the boundary of the Overall Development Plan. Such parking area shall contain no more than 36 spaces, and be separated from all other parking areas by at least 20 feet.

(5) No buildings shall be floodlit. Drives and parking areas shall be illuminated by shielded lights not higher than 15 feet.

b) Extensive resort development may be allowed in compliance with the following:

(1) Extensive resort development shall be allowed only in communities containing 50 or more acres.

(2) (Deleted).

(3) Two guest units may be built instead of each dwelling unit allowed under Section 4641.

(4) (Deleted).

(5) The Open Space Community shall not increase peak season average daily traffic by more than 25% above current levels on any street within 1/2 mile of any egress. The applicant shall submit calculations and any other documentation necessary to demonstrate compliance with this requirement.

(6) Access via minor streets servicing single-family homes shall be avoided.

(7) Maximum building height shall be 20 feet above the highest natural grade within 200 feet of the structure, or 35 feet, whichever is the lesser.

(8) Extensive resort development shall be separated from the Overall Development Plan boundary by a buffer strip, which shall be 150 feet wide where the boundary is a public way and 100 feet elsewhere. The buffer strip shall be maintained with vegetative or other natural cover and shall not contain any structures, parking areas, or paving except for driveways.

(9) Structures shall provide a separation of no less than their building

height from any other structure on the same lot and from any lot line.

(10) Parking areas shall not be located within any required yard, and shall be screened from public ways and any proposed residential uses in the community by building location, grading, fencing, or plantings. Each parking area shall contain no more than 36 spaces, and shall be separated from all other parking areas by at least 20 feet.

(11) No building shall be floodlit. Drives and parking areas shall be illuminated by shielded lights not higher than 15 feet.

4643. Dimensional Regulations. Dwellings shall be on designated lots, whether or not the lots are or can be owned separately or independently of adjoining lots. More than one multifamily dwelling may be erected on a lot. Dimensional regulations for individual lots (but not for determining the allowable number of dwelling units) shall be as follows, rather than as provided at Section 2500.

	DISTRICT R-40, SD, B-4
Minimum lot size (s.f.)	15,000
Minimum lot frontage (ft.)	100
Minimum front yard (ft.)[a]	30
Minimum side and rear yards (ft.)[a]	15
Maximum lot coverage (%)	20
Maximum building height (ft.)	35

[a] Increase to 50 feet where abutting the boundary of the Overall Development Plan.

4644. Improvements. Access, drainage, utilities, and grading shall meet functional standards equivalent to those established in the Planning Board's adopted Subdivision Regulations. Prior to issuance of building permits within an Open Space Community, the Planning Board shall certify to the Inspector of Buildings that a detailed site plan has been submitted to them and meets those standards, and before occupancy permits for any structure are issued, the Planning Board shall certify to the Inspector of Buildings that improvements to meet such standards have either been completed to serve such structure, or security for their completion has been received.

4645. Common Open Space. All land not designated for roads, lots for dwellings, or other development within the Community shall be held for common open space. Common open space shall be preserved for recreation or conservation, and shall comprise not less than 30% of the land within the Development Plan. Such open land shall either be conveyed to the Town and accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, or be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plan. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. Where land is proposed for golf course or similar extensive recreational use, a deed restriction, enforceable by owners of the lots or residential units, shall be recorded in the Registry of Deeds, restricting use to that shown on the Development Plan. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadway. Building coverage shall not exceed 5% in such conservation or recreation areas.

4646. Long-term Compliance. Subsequent to approval of such Community, no land therein shall be sold and no lot line or structure altered from that shown on the Overall Development Plan so as to increase the extent of nonconformity with the standard dimensional regulations of this Bylaw (see Section 2500). Prior to sale of any lot within a community, or issuance of a building permit for construction therein, such lots shall be shown on a plan recorded in the Registry of Deeds or registered with the Land Court, which plan shall make reference to the recorded land agreements referred to in Section 4645. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the Community.

4650. Housing to Meet Community Needs. Any development eligible for submittal for a Comprehensive Permit under the provisions of Chapter 40B may, in lieu of proceeding under Chapter 40B provisions, seek a special permit for Open Space Development subject to regulations which differ from the above as follows.

4651. The units must be determined to be "consistent with local needs", as that term is defined in Section 20, Chapter 40B, M.G.L.

4652. The number of dwelling units may be as much as twice that allowed under current provisions at Section 4641 (except for units having sewage disposal with a Water Resource District), provided that the Planning Board determines that the number allowed is necessary for project feasibility, does not result in overburdening of streets or utilities serving the development, and is not more damaging environmentally than an equivalent number of housing units developed at the otherwise allowable density. The dwelling units may be in single family, two family or multifamily structures.

4653. Multifamily dwellings may be allowed on a parcel as small as 10 acres, rather than the 25 acres stipulated at item 4642 a) 1).

4654. All other requirements of Section 4600 must be complied with.

4700. WATER RESOURCE DISTRICT

4710. Purpose. The purpose of the Water Resource District is to protect, preserve and maintain the existing and potential ground and surface water resources of the Town of Bourne.

4720. Use Regulations. The Water Resource District shall be considered to be superimposed over any other district established in the Bylaw. Land in the Water Resource District may be used for any use otherwise permitted in the underlying district, subject to the following limitations. However, these limitations shall not be construed to authorize regulation exceeding the limitations on zoning authority over agricultural and other uses as contained in Section 3 of Chapter 40A, G.L.

4721. Prohibitions. The following are prohibited on any lot or portion of a lot within a Water Resource District.

a) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21 (2)a. Generally, those are the following (see 310 CMR 22.21 (2)a, on file with the Inspector of Buildings, for exact provisions):

(1) Landfills, open dumps, and sludge or septage landfills;

(2) Auto graveyards or junkyards;

(3) Stockpiling and disposal of snow from outside of the District, if containing ice control chemicals;

(4) Individual sewage disposal systems designed to receive more than 110 gpd per 1/4 acre or 440 gpd on any one acre;

(5) Sewage Treatment Facilities subject to 314 CMR 5.00, until such time as that Regulation may be amended to specifically allow private sewage treatment facilities;

(6) Facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00, except:

[i] Very Small Quantity Generators as defined under 310 CMR 30.390;

[ii] household hazardous waste centers and events under 310 CMR 30.00;

[iii] waste oil retention facilities required by MGL C 21, § 52A;

[iv] remediation treatment works approved under 314 CMR 5.00.

b) All uses required to be prohibited in wellhead protection zones by 310 CMR 22.21(2)b, unless designed in accordance with specified performance standards. Generally, those are the following (see the 310 CMR 22.21 (2)b, on file with the Inspector of Buildings, for exact provisions):

1) Storage of sludge and septage unless in accordance with 310 CMR 32.30 and 310 CMR 32.31;

2) Storage of commercial fertilizers and soil conditioners unless within a structure designed to prevent generation and escape of contaminated runoff or leachate;

3) Storage of animal manure unless covered or contained;

4) Storage of liquid hazardous materials as defined in MGL C. 21E unless in a free standing container within a building or above ground with adequate secondary containment.

5) Earth removal to within 4 feet of historical high groundwater unless regraded to a higher level within 45 days, except for excavations for building foundations or utility works;

6) Storage of liquid petroleum products, except:

   [i] normal household use, outdoor maintenance, and heating of a structure;

   [ii] waste oil retention facilities required by MGL C. 21, § 52A;

   [iii] emergency generators required by statute, rule, or regulation;

   [iv] treatment works approved under 314 CMR 5.00 for treatment of contaminated ground or surface waters;

   provided that such storage is in a free standing container within a building or above ground with adequate secondary containment;

7) Development resulting in impervious surface of more than 15% or 2,500 square feet on any lot, unless a system for artificial recharge of precipitation is provided that will not result in degradation of groundwater quality (see also Sections 4722(a) and 4734).

c) As a principal use, manufacturing, processing, mixing, storage, transport, or disposal of hazardous materials in excess of quantities which, as wastes, are allowed small quantity generators as defined in DEP Regulations 310 CMR 30[1].

d) Motor vehicle service, washing, or repair.

e) Storage of more than 100 tons of coal.

f) Dry cleaners, laundromat.

g) Storage of ice removal chemicals.

[1] Section 310 CMR 30.351 is the exact reference as of 12.13.89.

4722. Uses Requiring Special Permits. Within the Water Resource District, the following shall be allowed only if granted a Special Permit from the Special Permit Granting Authority (See Section 4740) and if the use is not otherwise prohibited.

a) Covering with impervious surface more than 40% of the portion of lot area within the Water Resource District.

b) Removal of existing groundcover vegetation from more than 70% of lot area.

c) Discharge to surface water requiring a permit under 314 CMR 3.00 ('NPDES' permit).

d) Stable, barn, or similar confinement for four or more horses, cows, goats, and/or sheep, or more than fifty poultry, or a number of other animals equivalent to the above in waste production.

e) Contractor's yard.

4723. Change of Use. Change in activity resulting in exceeding any limitations established in a special permit, or crossing the thresholds of paragraphs 4721 or 4722, shall constitute change of use and is allowed but only on approval of a special permit, regardless of whether classified under 4721 or 4722.

4730. Design and Operation Guidelines. Within the Water Resource District, the following design and operations guidelines shall be observed in all new construction except for single-family dwellings.

4731. Safeguards. Provisions shall be made to protect against hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for hazardous materials, and indoor storage provisions for corrodible or dissolvable materials.

4732. Location. Where the premises are partially outside of the Water Resource District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

4733. Disposal. Provisions shall be made to assure that any waste disposed on the site shall contain no hazardous materials, or shall be disposed in strict accordance with 310 CMR 30, Hazardous Waste Regulations.

4734. Drainage. Provision shall be made for on-site recharge of all stormwater runoff from impervious surfaces unless, in cases where such surfaces are no more than 15% of lot area or 2,500 square feet, whichever is larger, the Planning Board in conducting Site Plan Review and following consultation with the Conservation Commission, determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge following consultation with the Conservation Commission.

Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board following consultation with the Conservation Commission. Dry wells shall be used only where other methods are infeasible and shall employ oil, grease, and sediment traps. Drainage from transfer areas for hazardous materials shall be separately collected for safe disposal.

4735. Sewerage. Sanitary sewers within the Water Resource District shall be designed and constructed in a manner such that groundwater levels, flows, and/or recharge will not be significantly lowered, diverted, or otherwise altered by such construction, and that risk of leakage is minimized.

4740. Special Permits.

4741. Authority and Procedure. The Special Permit Granting Authority (SPGA) shall be the Planning Board, except that where a Special Permit is required by Section 2200 Use Regulations, the SPGA authorized by that Section shall also be the SPGA for Water Resource Protection. Upon receipt of the Special Permit application, the SPGA shall transmit one copy each to the Planning Board (if not the SPGA), Conservation Commission, Board of Health, and the Inspector of Buildings for their written recommendations. Failure to respond within 35 days of transmittal shall indicate approval by said agencies.

4742. Submittals. In applying for a Special Permit under this Section, the information listed below shall be submitted, unless the SPGA, prior to formal application, determines that certain of these items are not germane:

a) A complete list of all hazardous materials to be used or stored on the premises, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion, and leakage, and to provide for control of spills.

b) A description of potentially hazardous wastes to be generated, including storage and disposal methods.

c) Evidence of qualified professional supervision of design and installation of any proposed storage facilities or containers for hazardous materials or waste.

d) For disposal on-site of domestic wastewater with an estimated sewage flow greater than 15,000 gpd per Title V, evidence of qualified professional supervision of design and installation, including an assessment of nitrate or coliform bacteria impact on groundwater quality.

4743. Special Permit Criteria. Special Permits under Section 4740 shall be granted only if the SPGA makes the following determinations:

a) if on-site disposal is the reason a special permit is required (4722 items b, c, and d), that for the portion of the site within the Water Resource District, nitrate loading would not exceed 10 parts per million based upon the following estimates, or other figures approved for the specific project:

- Sewage volume based on realistic estimate (not simply design volume as required under Title V).
- Rainfall = 42".
- Fertilizer adds 0.6 pounds of nitrates per 1000 square feet of lawn or garden.
- Nitrate concentrations:
  - Leachate effluent = 40 ppm.
  - Pavement runoff = 3.0 ppm.
  - Roof runoff = 0.75 ppm.
  - Natural area recharge = 0.05 ppm.
- Recharge percentages:
  - Leachate effluent = 95%.
  - Pavement and roof = 95%.
  - Natural and fertilized areas = 45%.

and also that for other contaminants, similar analysis would indicate groundwater meeting all standards for drinking water (310 CMR 22.00).

The area north of Route 6 and the Route 6 Bypass and west of Route 25, as shown on the map titled "Buttermilk Bay Overlay District", dated March 2, 1991, is hereby established as the Buttermilk Bay Overlay District. Within that district all otherwise applicable requirements of the Bylaw continue to apply, except that nitrate loading as calculated above shall not exceed 15.5 pounds per acre per year.

b) that no public or private well located off-site will be degraded below State drinking water standards as a result of development on this site, for which determination the delineation of water table contours and future contaminant plumes may be required;

c) that proposed control and response measures adequately and reliably mitigate risk to groundwater quality resulting from accident or system failure.

In its written decision the SPGA shall explain any departures from the recommendations of other Town agencies.

The Special Permit Granting Authority may retain qualified experts at the reasonable expense of the applicant if necessary in order to evaluate the application.

4744. Conditions. Special permits shall be granted only subject to such conditions as necessary to assure adequate safeguarding of water quality, which may include the following, among others:

a) Monitoring wells to be located downgradient of potential pollution sources, with periodic sampling to be provided to the Board of Health at the owner's expense.

b) Pollutant source reduction, including limitations on use of parking area de-icing materials and periodic cleaning or renovation of pollution control devices, such as catchbasin sumps.

4750. Violations. Written notice of any violation shall be provided to the owner of the premises, specifying the nature of the violation and specifying a time for compliance including cleanup of any spilled materials which is reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance.

4800. OTHER SPECIAL DISTRICTS

4810. SENSITIVE USE DISTRICT

4811. General. Within Sensitive Use Districts uses shall be allowed as provided in Section 2200 for the underlying district, with the following additional requirements.

4812. Adult Uses.

a) Adult uses may not be located within 500 feet of any R-40 or R-80 District, or within 500 feet of any church, school, park, play field, or other location where large numbers of minors regularly congregate.

b) Appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically 'adult') use in Bourne, not employing unusual color or building design which would attract attention to the premises.

4813. Signs. Signs are restricted as provided in Section 3200 for the underlying district. Sign content shall identify the name of the establishment but shall contain no advertisement in addition to that.

4814. Special Permits. Special Permits shall be granted for adult uses only upon determination by the Special Permit Granting Authority that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not involve minors in any way.

4820. MARINE CENTER OVERLAY DISTRICT (MCOD)

4821. Purpose. Due to the distinct features of land use, maritime history, natural and cultural resources located on and abutting the Kingman Yacht Center, located along Shore Road, the Town of Bourne finds it beneficial to enact the Marine Center Overlay District (MCOD) for the following purposes.

a) To protect the heritage of the Town through preservation and adaptive reuse of the water dependent properties and abutting, commonly-owned, undeveloped properties which constitutes or reflects distinctive features of the environmental, cultural and economic history of the Town;

b) To encourage the goals, policies and recommendations of the Local Comprehensive Plan;

c) To encourage attractive and viable use of existing water-related and water-dependent uses along the waterfront;

d) To foster appropriate use, scale, setbacks, height, design and density of these properties that are historically consistent with and complimentary to the overall neighborhood character;

e) To preserve and encourage the permanent conservation of sensitive environmental resources such as coastal bank areas, existing vegetative buffers and undisturbed riverfront areas;

f) To link existing public recreation and conservation areas to the active waterfront areas with public access trails, harborwalks and greenways;

g) To provide for expanded on-site parking and improved pedestrian and vehicular traffic circulation within existing marine facilities;

h) To improve coastal water quality through implementation of innovative and enhanced stormwater and wastewater treatment systems; and,

i) To encourage mixed-use developments that provide new economic development for the Town.

4822. Permitted Uses.

a) Without need for the approval of any other special permit granting authority, all residential uses permitted in the underlying zoning district(s) are also permitted throughout the overlay district upon the issuance of a MCOD Special Permit with Site Plan Review issued by the Planning Board (hereinafter "Board"). Commercial or mixed-use residential/commercial developments are permitted only in the B-2 portion of the overlay district.

b) Single use residential dwellings are permitted in the R-40 portion of the MCOD provided the majority of the aggregate first floor area of all buildings within the full and complete mixed-use project will be occupied by one or more non-residential uses.

c) Development within the MCOD shall include non-residential and residential uses, including but not limited to single, two-family, or multi-family dwellings, as a co-occupant of a building, lot, or elsewhere within the project;

d) All multi-unit residential development approved under the MCOD shall be permitted only if it is to be serviced by a public or private wastewater treatment system that is capable of meeting the 10mg/1 total nitrogen standard and be approved by the Board of Health and/or the Massachusetts Department of Environmental Protection;

e) The Board may permit multiple principal structures on a single lot within the MCOD. The MCOD may contain more than one (1) lot.

4823. Dimensional Requirements. The Requirements of Section 2400 Dimensional Regulations and 2500 Intensity of Use Schedule shall not apply to dwellings authorized under this subsection. The project shall meet the following dimensional requirements.

Applicable to all locations within the MCOD:

Minimum Front yard:	Twenty-five (25) feet.
Minimum Side Yard:	Five (5) feet with a waiver to zero (0) feet for attached or accessory structures.
Minimum Rear Yard:	Twenty (20) feet with a waiver to five (5) feet for accessory structures.
Minimum Tract Area:	Fourteen (14) acres including all lots within project
Maximum Height:	Thirty-five (35) feet for new buildings.

Applicable within the Residential district portion of the MCOD:

Lot Frontage:	At least two hundred and fifty (250) feet, and must provide a reasonable means of ingress and egress for residences and emergency vehicles.
Lot Coverage:	Not more than 15%.
Usable open space:	Not less than 40%.
Residential use:	Up to twelve (12) multifamily dwelling units, with no more than four (4) units per structure.

Applicable within the B-2 district portion of the MCOD:

Residential use:	No more than six (6) units, all to be within mixed-use buildings.

4824. Access. To assure that development will respect the special circumstances of access to the site by trailer-borne water craft and sight distances often limited by the geometry of access streets, all projects shall provide a detailed traffic impact study, including mitigation strategies, of all proposed driveway intersections along any arterial street and of the routes from the site to state-numbered highways, as specified by the Planning Board as necessary to reflect those considerations.

4825. Parking. All uses shall meet the parking requirements listed in Section 3300, as further articulated below.

a) For Marina and related uses, 0.6 parking spaces shall be provided per slip and 0.5 parking spaces per rack storage space.

b) Tandem parking is permitted for each individual residential dwelling unit.

c) Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands as noted above that occur at different times of day is strongly encouraged.

d) Any development authorized pursuant to MCOD provisions must be served by access which meets the egress standards of Section 3340, whether that access is pre-existing or not, if that access is determined by the Planning Board to be likely to carry more than 200 trips per average summer business day, based on consideration of the ITE *Trip generation Manual* (latest edition), trip reductions attributable to the parking serving multiple uses, and other use and site-specific considerations.

4826. Design Guidelines. The following design guidelines shall be used as general guidance by the Board in its review and approval of all projects authorized pursuant to the MCOD. Strict compliance with these guidelines is not required as a condition of approval unless so noted as "shall" below or within the conditions of the special permit.

a) *Pattern of Development:* Within the MCOD, the development plan should be consistent with the preservation of water-related and water-dependent uses and encourage variable building sizes, mixed-uses, mixed-income housing and landscaped parking area with interconnected and walkable pedestrian walkways.

b) *Landmarks:* Public signage and other monuments, including but not limited to gazebos, overlooks, seating areas or waypoints should be integrated as important landmarks, termination points and serve as major points of orientation.

c) *Driveway and Pedestrian Walkway Patterns:* New driveways and pedestrian walkways should be interconnected in clear patterns while accommodating traffic safety impacts such as sightlines, vehicle turning movements and the circulation of emergency vehicles. Deeded Conservation Restrictions under MGL c. 184 shall be provided for any public access easements.

d) *Building Arrangement:* Variations in building footprint, height, scale and massing are encouraged to enhance the walkability and the spatial character or pedestrian scale of the proposed waterfront mixed-use village area.

e) *Topography:* Within the R-40 portion of the MCOD, all proposed structures should be stepped into the natural topography of the property.

f) *Pedestrian Access:* Walkways are required for access to active public waterfront areas, rear parking lots and garages behind buildings to allow more street-side parking and eliminating driveway curb-cuts in front of the buildings. In compliance with 521 CMR, all applicable accessibility

requirements shall be included within all commercial or mixed-use redevelopment areas.

g) *Sidewalks:* Sidewalks should be at least five (5) feet in width, with crushed stone/shell, when connecting water-dependent areas such as boat storage, repairs, docks and piers. Elsewhere within the waterfront mixed-use village area, all sidewalks and pedestrian plazas should be brick with granite edging unless abutting a landscape strip.

h) *Fences, Walls, Trees and Landscape Screens:* Fences, walls and landscape screens define walkways, give pedestrian scale to street and maintain historic character. Native landscaping material is required.

i) *Parking Lots:* Where possible, parking areas should be located in the rear or side of buildings, should be linked by walkways, and should have landscaped edging for screening, buffering and low impact stormwater management.
Except for expansion of existing paved parking area, surfaces such as crushed stone, gravel or shells are required for all new driveways or parking areas.

j) *Buildings:* Within the waterfront mixed-use village area, the basic design elements of the building design should encourage a sympathetic design of traditional architectural variety and enhance the overall cohesive village character as reflected in the existing retail structures and other water-dependent maritime buildings. Basic design elements shall include the roof shape, building scale, massing, rhythm of openings, sense of entry, placement, exterior siding, detailing and articulation.

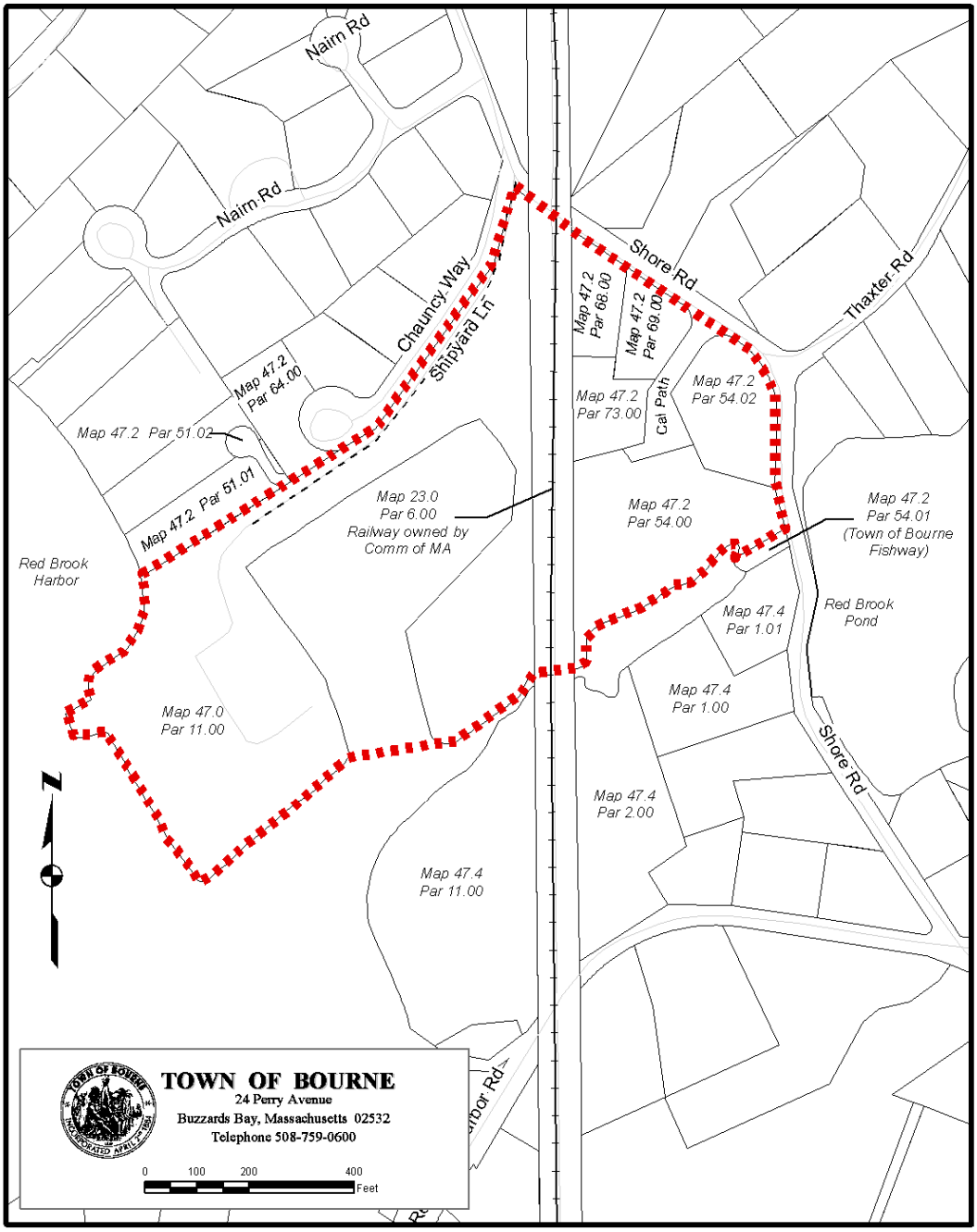
k) *Low Impact Development:* In the design of stormwater drainage systems, low impact stormwater management techniques such as, but not limited to, bio-retention systems, rain gardens and vegetated swales shall be used where feasible.

4827. Special Permit Procedure & Criteria: The Planning Board shall act upon special permit applications pursuant to the MCOD provisions in accordance with the procedures and decision criteria of Section 1330. The Board may retain qualified experts at the reasonable expense of the applicant if necessary in order to evaluate the application.

4828. Pre-Existing, Nonconforming Uses, Dimensions and Densities. All pre-existing, nonconforming uses, dimensions, densities and parking facilities that exist on the MCOD property as of the effective date of the Section shall be permitted as a matter of right for so long as such uses, dimensions and densities remain in existence.

Marine Center Overlay District

March 22, 2007



4900. SEASONAL CONVERSION

4910. **Applicability.** Any structural alteration of a seasonally occupied dwelling or guest unit designed or intended to extend the length of the occupancy of the dwelling shall be deemed a change of use. The Inspector of Buildings shall not issue a building or occupancy permit without prior granting of a Special Permit by the Board of Appeals.

For purposes of this Section, the term "structural" shall be defined to include, but not be limited to, winterization and installation of basements: or heating systems.

4920. **Requirements.** Special permits for such conversion from seasonal to year-round use shall be granted only if:

4921. After considering recommendations of the Board of Health, provisions for on-site sewage disposal are deemed to be adequate.

4922. All applicable requirements of the Zoning Bylaw will be met.

4923. The Board of Appeals determines that the proposed alteration does not substantially alter the historic visual character of the neighborhood by excessive height, mass, or design.

4930. A proposal failing to meet these requirements shall be deemed more detrimental to the neighborhood than the existing use, therefore not eligible for an extension of use under Section 2320 or Section 2340. In making its determination the Board of Appeals may place restrictions on use of the altered facilities.

SECTION V D E F I N I T I O N S

In this Bylaw the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings.

Accessory Building
A building devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.

Accessory Dwelling
A subsidiary dwelling unit created within or as an extension to an existing single-family dwelling.

Accessory Use
A use customarily incidental to, and on the same lot as, a principal use and occupying less than 30% of the habitable floor area on the premises and less than 50% of the lot area.

Adult Use
An adult bookstore, adult motion picture theater, adult cabaret, massage parlor, or similar establishment or portion of an establishment customarily not open to the public generally but only to one or more classes of the public excluding any minor by reason of age as a prevailing practice.

Adult Bookstore
An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272, G.L.

Adult Cabaret
A bar, restaurant, or other establishment licensed under Section 12 of C. 138, G.L., which regularly features exotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult Motion Picture Theater
An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272, G.L.

Animal Kennel or Hospital
Harboring and/or care of more than three dogs, three months old or over, irrespective of the purpose for which they are maintained.

Art Gallery *(applies only to the Downtown Bylaw-section 2800)*
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.

Arterial Street

Any state-numbered highway, any other street with right-of-way width of 60 feet or more, and the following named streets:

Barlow's Landing Road (east of Shore road)
Bournedale Road
Clay Pond Road
County Road
Head of the Bay Road
Herring Pond Road
Old Plymouth Road
Sandwich Road
Scusset Beach Road
Shore Road

Artist's Loft *(applies only to the Downtown Bylaw-section 2800)*

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) *(applies only to the Downtown Bylaw-section 2800)*

An automated device, which is operated by the customer that performs banking or financial transactions.

Basement

That portion of a building which is partly below and partly above grade, and having at least 1/2 its height above grade.

Bedroom

Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds 60 sq.ft. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

Bourne Affordable Housing Unit

A dwelling unit for which the Bourne Housing Partnership certifies the following, based upon procedural regulations for implementation of this provision, such regulations to be adopted and from time to time amended following public hearings by that Partnership.

a) There is assurance through shared equity, repurchase agreement, or other means enforceable by the Town that the unit will be limited as permanently as legally permissible to sale, resale, or rental to households having income at or below 80% of the Barnstable County median household income, with adjustments for household size, as reported by the U.S. Department of Housing and Urban Development.

b) There is assurance that the annual cost of the unit to tenants or purchasers will be no more than 30% of their gross household income.

c) There is assurance that a good faith effort will be made to give occupancy preference to persons resident in the Town year-round or employed by the Town.

Building Footprint

The area within the perimeter of a building measured at the foundation. The term building footprint shall not include open uncovered patios, decks, unroofed structures and unroofed stoops or stairs or roof projections. It shall include all porches, roofed areas and any cantilevered portions of the building."

Building Height

The vertical distance between the highest point of the building or other structure and the average of the elevation of the land that adjoins the building or other structure on all sides, 12' from the building, with that elevation to be based upon the land in its natural state prior to construction, grading or filling, not finished grade. Height limitations shall not apply to chimneys, spires, cupolas, wind energy conversion systems and TV antennas, except as specified in footnote 'n' to Section 2500 Intensity of Use Schedule. Building height shall be determined separately for separate portions of buildings where that separation is articulated by related breaks of three feet or more in both roof and wall planes.

Business Offices *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Camper

A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational, and vacation purposes, but not for permanent residence. Includes equipment commonly called 5th wheels, independent travel trailer, dependent travel trailer, tent trailers, pickup campers, motor homes, converted buses and other equipment, trailered boats, but not mobile homes.

Campgrounds

Premises used for campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

Cellar

That portion of a building which is partly or completely below grade and having at least 1/2 its height below grade.

Chief Zoning Enforcement Officer

Also known as the Inspector of Buildings, charged with the authority to enforce the Town of Bourne Zoning Bylaws.

Clinic, Dental or Medical *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Contractor's Yard

Premises used by a contractor or subcontractor for exterior storage of equipment and supplies, fabrication of sub-assemblies, or parking of wheeled/tracked equipment.

Convenience Store Gas Station *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Cranberry Bog, Active

Prepared land, bounded by the bog bank, on which cultivated cranberry vines are grown, if harvested within the past two years, or if assessed under Chapter 61A, G.L., or if proposed for creation, through filing of a notice of intent with the Conservation Commission.

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.

Dwelling

A building or part of a building used exclusively as the living quarters for one or more families.

Dwellings, Attached Single-Family

Dwellings arranged, each on a separate lot, with one or more party or common walls.

Dwelling, Multifamily

Three or more dwelling units on a single lot, irrespective of structure type, ownership or tenure.

Dwelling Unit

A building or portion of a building suitable for living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both a refrigerator and kitchen sink) not shared with any other unit; or quarters for up to six persons in a lodging house, dormitory, congregate housing, or similar group dwelling.

Enforcement Officer(s)

Appointed annually by the Town Administrator, to serve under the authority and supervision of the Inspector of Buildings/Chief Zoning Enforcement Officer. Duties under this bylaw shall include taking actions on violations and any other lawful actions necessary or appropriate to ensue compliance with this Bylaw.

Extensive Resort Development

Premises within an Open Space Community containing a hotel, motel, or inn and any of the following ancillary facilities:

a) if operated accessory to a hotel, motel, or inn:
   - convention facilities;
   - restaurants with no service in cars and only incidental take-out service;
   - retail sales or service establishment principally serving overnight guests;

b) standard and par-3 golf courses;

c) indoor and outdoor recreational facilities for the exclusive use of overnight guests and/or residents of the Open Space Community.

Family

One or more persons, including domestic employees, occupying a dwelling unit and living as a single housekeeping unit; provided that a group of six or more persons who are not within the second degree of kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

Fishing-Related Activities

Activities in support of shell and lobster fishing, including shelling, cleaning, and sales (but not cooking or on-premises consumption), and storage and maintenance of equipment, where done as an accessory use and for profit.

Flea Market

The sale of new or used goods to members of the public in an area other than a 'structure' as defined in this Bylaw. Goods sold at a 'flea market' include, but are not limited to, household items, antiques, rare items, decorations, used books and magazines, housewares, new and used clothing, furniture, and collector's items. Yard sales and garage sales on residential premises regulated by the Town of Bourne By-Laws, and occasional sales by non profit organizations obtaining a license from the Board of Selectmen, shall not be a 'flea market' under this definition.

Flexible Resource Development

A form of development authorized under Section 2700 in which allowable density is essentially the same as can be achieved under conventional development, but in which flexibility is allowed in sizing individual lots to facilitate fitting development to characteristics of the site and to protect natural and cultural resources.

Floor Area, Gross

The sum of the horizontal areas of the several floors of all buildings on the same lot, or where apt, the sum of such areas in a specified use. Gross floor area is measured from the exterior face of exterior walls (or from the centerline of a wall separating two buildings or portions of buildings), including elevator shafts and stairwells at each floor and interior balconies and mezzanines, but not including cellars/basement with walls more than 50% below grade, and areas having less than six foot six inch floor to ceiling height.

Floor Area, Leasable

The sum of the area on the several floors of a building which is or could be leased, including leasable basements.

Food Service

The preparation and sale of food and drink in individual portions ready for consumption without further processing, whether or not for consumption on the premises.

Fraternal or Social Organization Lodge *(applies only to the Downtown Bylaw-section 2800)*

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.

Golf Courses, Standard or Par Three

Course, including customary accessory buildings, where tee to hole distance averages not less than 80 yards.

Guest House

An accessory residential structure for occasional occupancy by non-paying guests, having not less than 400 sq. ft. gross floor area.

Guest Unit

A room or suite of rooms suitable for separate rental or occupancy in a hotel, motel, or similar establishment. Any room or suite of rooms containing a stove plus either or both a refrigerator and a kitchen sink shall be considered a dwelling unit.

Hazardous Material

Any material, waste, product, or substance, or combination thereof, which poses a present or potential threat to human health or safety or to the environment because of its quantity, concentration, or characteristics, either separately or in combination. A material is deemed hazardous if so deemed under Massachusetts Hazardous Waste Management Act, MGL c. 21C, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, MGL c. 21E, the Resource Conservation and Recovery Act (RCRA), 42 USC 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601 et seq., as these may be amended. Hazardous materials shall also include waste oils, crude or fuel oils, lube oil or sludge.

Home Occupation

A business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.

Hotel or Motel

A building or group of buildings containing more than three guest units providing transient sleeping accommodations to the general public for compensation, plus not more than a single accessory dwelling unit.

Impervious Surface

Any materials on or above the surface of the ground that do not allow the natural percolation of precipitation or moisture into the underlying soils, including but not limited to cement, concrete, macadam, pavement, and buildings.

Inspector of Buildings

Also the Chief Zoning Enforcement Officer charged with the authority to enforce the Town of Bourne Zoning Bylaws, the Commonwealth of Massachusetts State Building Code and the Massachusetts General Laws.

Junk Yard

Premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, packed, bought or sold, except where such activities are carried on entirely within an enclosed building or within an open area of less than 200 sq. ft.

Lot

A continuous parcel of land in single ownership, with legally definable boundaries.

Lot Area

The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least 90% of the area required to meet minimum lot area requirements must be upland as defined in this Bylaw.

Lot Coverage

Percentage of total lot area covered by structures or roofed.

Lot Frontage

That portion of a lot fronting upon and having access to a street. Measured continuously along one street line between side lot lines, or in the case of corner lots, between one side lot line and the mid-point of the corner radius. However, for lots on the outer side of a curved street, lot frontage may at the owner's option be measured as the straight-line distance between points on the side lot lines at the required front yard set back distance provided that 60% of the frontage requirement is met at the street line.

Marsh

Any essentially flat, frequently wet and occasionally flooded area adjoining open water along the shores of a pond, or the banks of a stream and lying between such open water and the adjacent natural or artificial upland.

Major Residential Development

The creation of five or more lots, excluding any restricted from residential use, by subdivision or otherwise within a five-year period on land in common ownership as of the effective date of this provision, unless the land committed to lots and open space meeting specifications of Section 2751 totals at least 50 percent more than that required in Section 2500 Intensity of Use Schedule for the number of dwelling units or lots proposed.

Massage Parlor

Premises principally used for the practice of massage by persons licensed by the Board of Health under Section 51 of Chapter 140, G.L.

Maximum Floor Area

The sum of all gross floor areas for all residential structures located on the same lot.

Maximum Gross Floor Area

The sum of all horizontal floor areas for all residential structures located on the same lot, including garages, (except one-story garages with a maximum of 480 square feet), barns, sheds, covered porches greater than 200 square feet, but not including decks, cellars/basements with walls more than 50% below grade, and attics having less than 6’-6” floor to ceiling, providing no roof penetrations (i.e. dormers, skylights) and not accessed by fixed stairs.

Maximum Lot Coverage

The sum of all horizontal areas of all structures whether roofed or not, including decks and swimming pools that have a capacity of 4000 gallons or more in volume.

Mobile Home

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

Mobile Home Park

Premises which have been planned and improved for the placement of mobile homes for non-transient use.

Motel

See "Hotel or Motel".

Motor Vehicle Service Station

Premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

Museums *(applies only to the Downtown Bylaw-section 2800)*

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.

Non-Conforming Lot

A parcel of land which does not conform to the presently applicable lot frontage and/or lot area requirements of the Zoning Bylaw.

Non-Conforming Use

A building, structure or use of land which does not conform to the presently applicable regulations of the Zoning Bylaw for the use district in which the building, structure, or land is located.

Open Space, Usable

Lot area not covered by any structure other than a swimming pool or deck not more than 30" above grade, not used for drives, parking or storage and if not part of a structure or paved, kept stabilized with vegetative cover, pine needles, bark or other organic materials.

Packaging and Delivery Services *(applies only to the Downtown Bylaw-section 2800)*

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 Area or Parking Lot

Two or more parking spaces together with internal islands, dividers, walks, and landscaping, plus vehicular drives which abut those elements, but not including other portions of entrance or exit drives.

Parking Facility *(applies only to the Downtown Bylaw-section 2800)*

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.

Parking Space

An area intended for parking of one automobile, van, or similar vehicle, provided that the area's dimensions and access meet standards adopted and from time to time amended by the Bourne Planning Board. Does not include spaces for storage or display of vehicles intended for sale, but where so provided in the Planning Board standards, may include spaces requiring attendant assistance for auto access.

Paving

As used throughout this Bylaw, shall be construed to mean bituminous concrete paving Type I1, Massachusetts Specifications for Highways, Bridges and Waterways, and per Subdivision Regulations of the Bourne Planning Board.

Performing Arts Facility *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Pond

Any body of open water, other than stream, a bay, or the ocean.

Principal Building or Use

A building or use not "accessory" as herein defined.

Professional Offices *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

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.

Rain Garden *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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

Repair Services *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Residential Social Service Facility

A dwelling where care and supervision which is licensed, contracted for, or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. Includes half-way houses but not nursing homes or foster homes.

Restaurant

A facility whose principal use is food service (see definition). Examples of 'restaurants' include taverns and bars, ice cream or other refreshment stands, and donut shops, but not employee cafeterias or food courts within shopping malls.

Restaurant, Drive-through *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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 *(applies only to the Downtown Bylaw-section 2800)*

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.

Sign

Any device designed to inform or attract the attention of persons not on the premises on which the device is located, including any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights. The following, however, shall not be considered signs within the context of this Bylaw:

a) flags and insignia of any government except when displayed in connection with commercial promotion;

b) legal notices, or informational signs erected or required by government bodies;

c) temporary signs erected for a charitable or religious cause;

d) temporary signs inside display windows, covering not more than 30% of window area, illuminated by building illumination only;

e) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;

f) integral decorative or architectural features of building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.

Sign Area

The surface area within a single continuous perimeter enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted.

Stream

Any natural watercourse, generally containing water, through and along which water may flow from a pond, swamp, or similar body of water to another, to another stream, or to the ocean.

Street

A way providing access to the premises in question if adequate access is provided and only if complying with the standards established in this definition. Ways providing access to the streets within a subdivision or providing access to lots said not to be within a subdivision shall normally be considered adequate only if there is assurance that prior to construction on any lots, access will be in compliance with the following:

	Development potentially served		
	10 or fewer dwelling units	11-49 dwelling units	More units or business
Min. right-of-way width	40 feet	50 feet	50 feet
Surface type	3" Bit Conc	3" Bit Conc	3" Bit Conc
Surface width	20 feet	24 feet	30 feet
Sight distance minimum	125 feet	225 feet	400 feet
Maximum grade	12%	10%	6%

Structure

Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something located on the ground, including all buildings, mobile homes, billboards, towers, swimming pools or tanks that have a capacity of 4,000 gallons or more, or the like, or part thereof; but not including paving, usual lawn accessories, fences or retaining walls six (6) feet in height or less.

Swamp

Any depressed area of poor drainage, subject to flooding by fresh water in which the water table is generally at or above the ground level, not caused or affected by salt water or action of the oceanic tide.

Technology Campus

Premises comprising not less than 50 contiguous acres committed to such uses as medical, biomedical, electronic, environmental and marine technology development and other compatible uses; educational institutions and associated support services and open space, allowable on special permit under Section 4300.

Tidal Marsh

Any marsh area in which action of the oceanic tide causes the surface to be flooded regularly by the spring tides in the course of the annual tidal cycle, but exclusive of storm tides, hurricane tides or tidal waves, and any marsh area developed and maintained by incursion of the oceanic salt water or by action of the oceanic tide, as indicated by the presence of the salt marsh grasses, Spartina alterniflora, Spartina patens, or Disticlis spicata, commonly known respectively as thatch or saltwater cord grass, salt meadow or high water cordgrass, or spike grass. Such area shall include all of the original contiguous area of tidal marsh from which salt water is excluded at present by artificial dikes, causeways or the like.

Tidal River

Any stream in which action of the oceanic tide causes the water to ebb and flow or the water level therein to rise and fall with some regularity, exclusive of storm tides, hurricane tides or tidal waves, irrespective of any actual incursion or admixing of oceanic salt water.

Tidewater Area

Any area flooded regularly by tidal action, inclusive of spring tides, but exclusive of storm tides, hurricane tides, or tidal waves.

Title V

Title V of the State Environmental Code, 310 CMR 15.00, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

Townhouse or Rowhouse *(applies only to the Downtown Bylaw-section 2800)*

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.

Transient Dwelling

Premises containing two or more dwelling units regularly made available for occupancy for terms shorter than four months, in any one calendar year, regardless of form of tenure.

Upland

Any land area which is not a wetland, as defined in this Bylaw.

Wetland

Any area defined as a wetland under MGL Chapter 131, Section 40 plus any land designated as being reserved for drainage on a land division plan or site plan submitted to the Town.

Workforce Housing *(applies only to the Downtown Bylaw-section 2800)*

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.

Yard

An open space, unoccupied and unobstructed by any structure or portion of a structure exceeding 75 sq. ft. floor area, except the following:

a) fences, walls, poles, posts, and other customary accessories, ornaments, and furniture.

b) in front yards only, eaves, steps, and non-covered porches.

Yard, Front

A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard, Side or Rear

A yard other than a front yard.

Zoning Bylaw Update
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