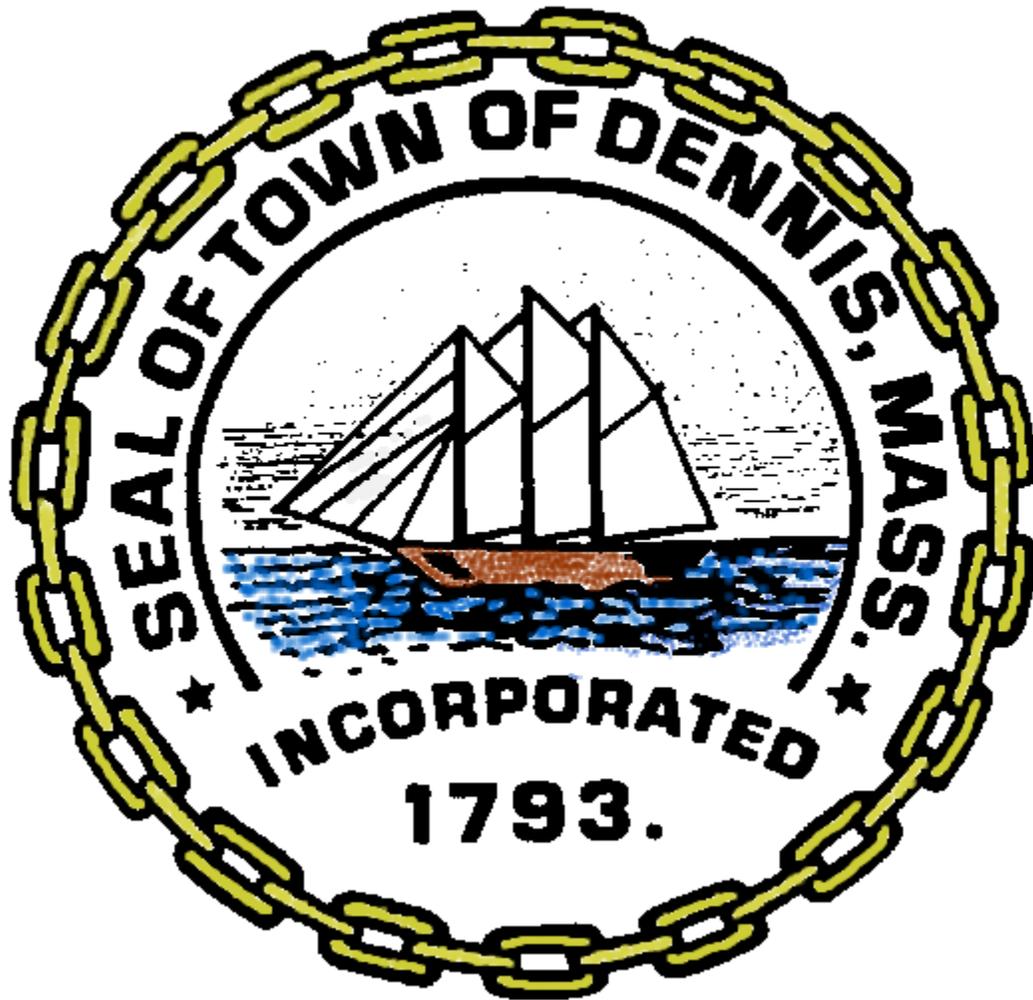


Town of Dennis

AMENDED THROUGH AND INCLUDING ATM MAY 6, 2025



ZONING BY-LAW

DENNIS ZONING BY-LAW

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AMENDED THROUGH AND INCLUDING ATM MAY 6, 2025

SECTION 1 - ADMINISTRATION & INTERPRETATION

1.1 **TITLE**

This By-Law shall be known as the Dennis Zoning By-Law.

1.2 **PURPOSE**

The purpose of this By-Law is to promote the health, safety, convenience, amenity, and general welfare of the inhabitants of the Town of Dennis, through encouraging the most appropriate use of the land as authorized by Chapter 808 of the Acts of 1975, with objectives as follows:

To lessen congestion in the ways; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to recognize the need for housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town, including consideration of the master plan, and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

1.3 **ADMINISTRATION**

1.3.1 **Enforcement**

The Building Commissioner shall administer and enforce the provisions of this By-Law. No permit shall be issued for construction or for the change of use of any land or premises unless the required submitted plans and specifications indicate that buildings, structures, premises and their use will conform in all respects to the provisions of this By-Law.

1.3.2 **Plans and Specifications**

Plans required under the Dennis Zoning By-Law shall show sufficient information to demonstrate compliance with parking, loading, and other applicable provisions of this By-Law.

1.3.3 **Refusal of Permit**

Whenever an application for a building permit is refused, the reasons for such refusal shall be clearly stated in writing by the Building Commissioner.

1.4 BOARD OF APPEALS

1.4.1 Establishment

There is hereby established a Board of Appeals which shall consist of five (5) members appointed to a term of five years and up to eight (8) associate members appointed to a term of 1 year who shall be appointed and act in all matters under this By-Law in the manner as authorized and prescribed by the Massachusetts General Law, as amended and the Massachusetts Constitution, as amended.

1.4.2 Powers

Except as provided in Sections 4.1.2 and 4.4, the Board of Appeals shall have and exercise all the powers granted to it by Massachusetts General Law, as amended and the Massachusetts Constitution, as amended. The Board's powers are as follows:

1.4.2.1 To hear and decide applications for special permits upon which the Board is empowered to act under this By-Law pursuant to M.G.L. ch. 40A. Special permits may be granted only upon a finding by the Board that the proposed use will not create nuisance, hazard or congestion, or other significant harm to the neighborhood, nor cause derogation from the general purpose and intent of the By-Law, the stated district intent or applicable use criteria. It shall be the responsibility of the applicant for any special permit to show, to the satisfaction of the Special Permit granting authority, that the following criteria are met:

- a. The use is allowed by special permit in the district in which proposed, pursuant to §2.2.2 - Use Regulations Schedule;
- b. Suitability of the site for the proposed use in light of the applicable district intent, as provided in §2.1.5;
- c. Adequacy of management of traffic flow within the site as well as in relation to adjoining streets and properties, so as to minimize unsafe or harmful impacts of the use;
- d. Compatibility of the proposed use with surrounding land uses, so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values;
- e. Adequacy of provision of utilities and other necessary or desirable public services;
- f. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and neighborhoods; and
- g. Adequacy of protection from degradation and alteration of the natural environment, including but not limited to slopes and other topographical features, vegetation, wetlands, groundwater and water bodies and wildlife habitat.

1.4.2.2 To hear and decide appeals or petitions for variances from the terms of this By-Law with respect to particular land or structures, including variances to allow a use other than provided for in Section 2.2.2. Such variance shall be granted only in cases where the Board of Appeals makes findings that are consistent with the criteria outlined in M.G.L. ch. 40 A, §10.

1.4.2.3 To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. ch. 40A, and as otherwise provided for by M.G.L. ch. 40A, §8.

1.4.3 Review and Reports

Upon receipt of any application to the Board of Appeals, the Board of Appeals shall file one copy with the Town Clerk, one copy each with the Planning Board, and such other boards as specified in Section 4, for their review and recommendation. The Planning Board, and said other Boards may submit reports to the Board of Appeals within 35 days of the receipt of the application from the Board of Appeals. Failure to report shall be deemed to be lack of opposition.

1.4.4 Public Hearing

A public hearing shall be held within sixty-five (65) days after the effective date of filing of an application, or such other time as provided for in M.G.L. ch.40A. Effective date of filing is the date the application is filed with the Town Clerk.

1.4.5 Expiration

If substantial use or construction has not commenced without good cause within one year from the date granted, the Special Permit shall lapse.

1.4.6 A Special Permit or a Building Permit issued before the publication of the first notice of a public hearing of a proposed amendment shall conform to any subsequent amendment of the By-Law unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable as determined by the Building Commissioner.

1.5 PENALTY

Any person violating any of the provisions of the By-Law shall be fined not more than \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense. The enforcement officer shall be the Building Commissioner. When Enforced in accordance with the provisions of M.G.L. ch. 40, §21D, the penalty shall be as follows: First offense - written warning; Second offense - \$100; and Third offense \$200.

1.6 ORDER OF PRECEDENCE

In the event that this By-Law conflicts with any other By-Law, regulation, or requirement of the Town, the most restrictive shall prevail.

1.7 SEPARABILITY

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

1.8 AMENDMENT

This By-Law may from time to time be changed by amendments, addition, or repeal by the Town Meeting in the manner provided in M.G.L. ch. 40A, and any amendment therein.

1.9 EFFECTIVE DATE

Upon its effective date, this By-Law shall amend and be substituted for the existing Zoning By-Law of the Town of Dennis, but shall not affect such rights or duties that have matured, penalties that were incurred, proceedings that were begun or appointments made before its effective date, pursuant to the previously effective Zoning By-Law, except as provided by M.G.L. ch. 40A of the General Laws.

1.10 PLANNING BOARD

The Planning Board, when acting as a special permit granting authority, shall consist of seven members and two associate members, who shall be appointed by the Board of Selectmen, and when designated by the chairman of the Planning Board, shall sit on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board. The Associate Member shall be appointed for a one-year term of office.

SECTION 2 – USE AND INTENSITY REGULATIONS

2.1 ZONING DISTRICTS

2.1.1 Establishment

The Town of Dennis is hereby divided into the following zoning districts:

<u>TITLE</u>	<u>SHORT NAME</u>
Rural Residential	R-60
Low Density Residential	R-40
Resort and Residential	RR
Limited Business	LB
Extensive Business	EB
General Commercial I	GC-I
General Commercial II	GC-II
General Commercial III	GC-III
Industrial	I
Quivet Neck/Crowe's Pasture Resource Protection District	QNCP RP
Dennis Port Village Center	DPVC
Residential/Commercial	R/C
Mixed Use Marine	MUM
Marine Open Space	MOS
Village Center Support	VCS
West Dennis Village Center	WDVC
Medium Wind Facility Overlay District	MWFOD
Large Wind Facility Overlay District	LWFOD
Hotel Resort District	HR
Seasonal Resort Community	SRC

2.1.2 Zoning Map

The boundaries of the districts are defined and bounded on the map entitled “Town of Dennis Zoning Map”, dated October 26, 2021 on file with the Town Clerk. That map and all explanatory matter thereon are hereby made a part of this By-law, together with any amendments adopted by vote of the Town Meeting.

2.1.3. District Boundaries

Boundaries of Zoning Districts indicated on the Zoning Map as approximately following or terminating at a town limit or lot line, or street, railroad or stream centerlines shall be construed to be actually at those lines. Boundaries indicated as at a numerically noted distance from a street line shall be construed to be actually parallel to, and located such distance in feet from such street line. When not locatable in any other way, boundaries shall be determined by scale from the map.

2.1.4 Divided Lots

Where the boundary of a zoning district divides a lot having any frontage on a street in a less restricted district, the provision of this By-law covering the less restricted portion of the lot shall extend only to the district boundary. Where the boundary of a district divides a lot having frontage only on a street in a more restricted district, the provisions of this By-law covering the more restricted portion of the lot shall extend to the entire lot. Refer to the table in Section 2.1.1. for listing of districts, Rural Residential being the most restrictive and industrial being the least restrictive as to the use and dimensional requirements. Except that the provisions of section 2.3.3.12.2 shall apply to any lot which includes land within the QNCPRPD.

2.1.5 District Intents

2.1.5.1 Rural Residential – To provide for residential sites while at the same time encouraging open space, preserving or enhancing scenic views, protecting the character of the historic environs, encouraging continuation of or re-establishment of agricultural activities while recognizing site and area limitations for on-site waste water disposal systems in terms of drainage, soil suitability, proximity to surface and sub-surface water resources and slope.

2.1.5.2 Low Density Residential – To provide sites for low density residential development, while respecting the existing character of the neighboring homes and properties, including compatible related home-oriented activities, and agricultural pursuits in a rural environment.

2.1.5.3 Resort and Residential – To provide sites for seasonal resource oriented resorts with special attention to preserving the value of land and enhancing the existing vegetation, visual landscape, and amenities with consideration of neighboring properties, and to conserve the value of existing structures and buildings with good period design, recognizing the value of recycling of old structures and buildings with good period design for future generations, thereby retaining the character of the area, the town and the quality of a rural seaside New England Village.

2.1.5.4 Limited Business – To provide for small-scale business development for local and transient services compatible with low density and rural residential development within park-like settings which through landscaping and design or through preservation, enhance the existing natural landscape and historic environs; at the same time protecting scenic vistas, minimizing the visibility of parked cars, avoiding the appearance of commercial strips as well as congestion in abutting ways, and retaining the character and the quality of life in the rural New England seaside village.

2.1.5.5 Extensive-Business – To provide sites for pre-planned business development within park-like settings which, through landscaping and design, creates amenities and avoids the appearance of commercial strips and adverse impacts on abutting roads and uses.

2.1.5.6 General Commercial I – To provide sites for commercial development, wholesale-retail warehousing and light manufacturing which create employment opportunities while recognizing site and area limitations for on-site wastewater disposal systems in terms of drainage, soil suitability, proximity to surface and subsurface water resources and slope and preserving or enhancing visual landscapes.

2.1.5.7 General Commercial II and III – To integrate the evolution of a commercial development pattern with an older mixed use area so that it is compatible with the major highway it is principally oriented to while recognizing site and area limitations for on-site waste water disposal systems in terms of drainage, soil suitability, proximity to surface and subsurface water resources and slope and preserving the value of land and enhancing the existing vegetation, visual landscapes, and amenities with consideration of neighboring properties, and to conserve the value of existing structures and buildings with good period

design recognizing the importance of recycling of old structures and buildings for future generations thereby retaining the character of the area, the town, and the quality of life in a rural seaside New England Village.

2.1.5.8 Industrial – To provide for development, which creates employment opportunities, principally in non-seasonal enterprises, which are compatible with and respect the environment of the town.

2.2 USE REGULATIONS

2.2.1 General: Buildings or structures shall be erected or used and premises shall be used only as set forth in the “Use Regulations Schedule”, except as exempted by Section 2.4 or by statute. Where an activity might be classified under more than one of the uses in the Use Regulations Schedule, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern. Any use not specifically enumerated in a district herein shall be deemed to be prohibited.

2.2.2 Use Regulations Schedule

Symbols employed shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

S - A use authorized under Special Permit as provided for in Section 1.4.2.1 herein.

SR – A use authorized after a Special Review.

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
1. AGRICULTURAL, FLORICULTURAL & HORTICULTURAL										
a. Agricultural Use ¹	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. RESIDENTIAL USES										
a. One or two dwelling unit	Y	Y	Y	Y	N	N	Y	N	Y	Y
c. Multi-dwelling unit (See §4.2)	S	N	S	S	S	S	S	N	S	S
d. Lodging House	N	N	S	S	S	N	S	N	N	N
e. Bed & Breakfast	S	N	S	Y	N	N	Y	N	S	S
f. Hotel	N	N	S	N	N	S	S	N	S	S
g. Motel/Motor Court	N	N	S	N	N	S	S	N	S	S
h. Open Space Village Development (See §4.4)	S	N	S	S	N	N	S	N	S	S
i. Security Apartment incidental to a commercial or industrial use ²	N	N	N	N	Y	Y	Y	Y	Y	Y
j. Cluster Development within the QNCPRPD (See §4.8)		<u>S</u>								
k. Accessory Dwelling Unit by Special Permit (§4.11)	S	<u>N</u>	S	S	N	N	S	N	S	S
L. Protected Accessory Dwelling Unit (§4.11.A)	Y	Y	Y	Y	Y	Y	Y	N	Y	Y

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
3. PUBLIC AND QUASI PUBLIC USES										
a. Non-Profit Educational	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
b. For Profit Educational	N	N	N	S	S	S	S	S	S	S
c. Child Care Facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
d. Religious	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
e. Cemetery	S	S	S	S	N	S	S	S	S	S
f. Nursing Home and/or Personal Care Facility	S	N	S	S	S	S	S	S	N	S
g. Assisted Living Facility	S	N	S	S	S	S	S	S	N	S
h. Community Residential Home	Y	Y	Y	Y	N	N	Y	N	Y	Y
i. Continuing Care Retirement Facility	S	N	S	S	S	S	S	S	N	S
j. Extended Care Facility	S	N	S	S	S	S	S	S	N	S
k. Family Day Care Facility	S	N	S	S	S	S	S	N	S	S
l. Service Organization	S	N	S	S	S	S	S	S	S	S
m. Other Philanthropic Use	N	N	N	S	S	S	S	S	S	S
n. Other Institutional Use	S	N	S	S	S	S	S	S	S	S
o. Municipal Use	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
p. Temporary Uses ³	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
4. RECREATIONAL USES										
a. Standard Golf, Par-3 Golf	S	N	S	S	S	S	S	S	N	S
b. Stable; Commercial or Riding School ⁴	N	N	S	N	S	N	S	Y	N	N
c. Recreation, outdoor use	N	N	S	S	S	S	S	S	N	S
d. Recreation, indoor Use	N	N	S	S	Y	Y	Y	Y	Y	Y
e. Private club, for members only	N	N	S	N	S	Y	Y	N	N	N
f. Amusement Arcade	N	N	N	N	N	N	N	Y	S	S
5. COMMERCIAL USES										
a. Auction Galleries, Gift Shops, Arts & Crafts, Antique Shop	N	N	S	Y	Y	Y	Y	Y	Y	Y
b. General Merchandise, Food Stores, Apparel & Accessories, Furniture & Home Furnishings, Other Retail Sales	N	N	N	S	Y	Y	Y	Y	Y	Y
c. Consumer Service	N	N	N	S	Y	Y	Y	Y	Y	Y
d. Restaurant	N	N	S	S	Y	Y	Y	Y	Y	Y
e. Fast Food, Take-out Restaurant	N	N	N	N	N	N	N	Y	Y	Y

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
f. Professional or Business Office	N	N	N	Y	Y	Y	Y	Y	Y	Y
g. Bank	N	N	N	S	S	S	Y	Y	Y	Y
h. Funeral Home	N	N	N	S	Y	Y	Y	Y	N	S
i. Animal Hospital	N	N	N	S	S	S	S	Y	N	S
j. Animal Kennel (see §2.3.3.10)	N	N	N	N	N	S	S	Y	N	N
k. Crematorium	N	N	N	N	N	N	N	S	N	N
l. Adult Entertainment Uses	N	N	N	N	N	N	N	S	N	N
m. Formula Based Retail	N	N	N	N	S	S	Y-GC III S-GC II	Y	S	S
n. Formula Based Food Service	N	N	N	N	N	N	Y-GC III S-GC II	Y	N	S
o. Hookah Lounge (Shisha Bar)	N	N	N	N	N	N	N	N	N	N
6. MOTOR VEHICLE - TRANSPORTATION USES										
a. Commercial Parking Lots and/or Garage	N	N	N	N	N	Y	Y	Y	N	N
b. Sales of Motor Vehicles	N	N	N	N	N	S ⁵	S ⁵	Y	N	N
c. Rental of Motor Vehicles	N	N	N	N	N	S ⁵	S ⁵	Y	N	N

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
d. Filling Station (See §4.1.2.3)	N	N	N	N	N	S	S	S	S	S
e. Automobile Service Station	N	N	N	N	S	S	S	Y	N	N
f. Car Wash	N	N	N	N	N	S	S	Y	N	N
g. Automotive Service and Repair Facility, Other (See §4.1.2.3)	N	N	N	N	N	S	S	Y	N	N
h. Bus Station	N	N	N	N	S	S	S	Y	N	N
i. Truck Terminal or Other Automotive Uses	N	N	N	N	N	N	N	Y	N	N
j. Water Dependent Uses	N	N	S	N	N	S	S	S	N	N
k. Marine Uses	N	N	N	N	N	Y	S	Y	N	N
l. Rail and Other Transportation Uses	N	N	N	N	N	N	S	Y	N	N
m. Airport, Heliport, All Air Support Facilities and Private Airstrips	N	N	N	N	N	N	N	S	N	N
7. INDUSTRIAL, UTILITY AND OTHER USES										
a. Light Industry (See §2.2.4)	N	N	N	N	N	Y	S	Y	N	N

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
b. Warehousing and Wholesale Trade (See §2.2.4)	N	N	N	N	N	Y	S	Y	N	N
c. Research Lab, Accessory uses for Scientific Research or Development or Related Production	S	N	S	S	S	S	S	S	S	S
d. Contractors Yard	N	N	N	N	N	Y	S	Y	N	N
e. Disposal Area	N	N	N	N	N	N	N	S	N	N
f. Public/private Facility/Utilities (See §2.2.4)	S	N	S	S	S	S	S	S	N	N
g. Outside Bulk Storage	N	N	N	N	N	N	N	Y	N	N
h. Communication Facility (See §7)	S 1	N	S 1	S 1	S 1	S 1	S 1	S 1	S	S
i. Commercial Scale Solar Energy Electrical Generator	N	N	N	N	N	S	S	Y	N	N
j. Modular Building Manufacturing	N	N	N	N	N	N	N	Y	N	N
1 New Communication Facility locations will require a Special Permit Approval by the Planning Board.										
8. ACCESSORY USES										
a. Home Occupation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Stable	Y	S (1 Horse per acre)	Y	Y	Y	Y	Y	Y	N	N

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
c. Temporary Construction Office	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
d. Commercially Registered Vehicles or Trailers	N ⁶	N	N ⁶	Y	Y	Y	Y	Y	N ⁶	N ⁶
e. Community Wells		S (by Planning Board) ⁷								
f. Non-Commercial Scale Solar Energy Electrical Generator	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
9. RENEWABLE ENERGY MANUFACTURING FACILITIES										
a. Biodiesel Blending Facility	N	N	N	N	N	N	N	Y	N	N
b. Fuel Cell Energy Manufacturing Facility	N	N	N	N	N	N	N	Y	N	N
c. Geothermal Energy System Manufacturing	N	N	N	N	N	N	N	Y	N	N
d. Photovoltaic Energy System Manufacturing Facility	N	N	N	N	N	N	N	Y	N	N
e. Solar Thermal Energy System Manufacturing Facility	N	N	N	N	N	N	N	Y	N	N

PRINCIPAL USES	DISTRICT									
	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
f. Wind Energy System Manufacturing Facility	N	N	N	N	N	N	N	Y	N	N

Footnotes for Use Regulations Schedule

¹Only if on premises of 5 acres or more, otherwise "S"

²There shall be no more than one security apartment per lot, containing no more than one bedroom.

³Temporary Uses are allowable under zoning, but they do require a permit from the Board of Selectmen. Such uses shall be allowable for no more than 11 days, from beginning of set-up to end of takedown.

⁴Parcels less than 5 acres.

⁵Where a Special Permit is required the Special Permit Granting Authority shall regulate the numbers of vehicles to be displayed and the area designated for such display.

⁶Except as allowed in §2.2.5.

⁷ Any development of a community drinking water well shall require the filing of an environmental impact review that shall be subject to review and comment by the Board of Health and Conservation Commission, under the provisions of this Zoning By-law prior to Permit Approval by the Planning Board.

⁸Lot Merger (*Pursuant to Section 10 of Chapter 150 of the Acts of 2024*): New houses proposed on previously non-conforming, non-buildable lots, must first provide a title attorneys opinion, to be confirmed by Town Counsel, that at the time of recording or endorsement, the lot conformed to then existing requirements of area, frontage, width, yard or depth and contain 10,000 square feet of lot area and 75 feet of frontage before the issuance of a Building Permit for a single-family dwelling. The new single-family residential structure constructed on said lot shall have a recorded notice that the structure shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental before issuance of a Certificate of Occupancy.

2.2.3 A home occupation shall include the services of the residents of the premises and no more than two non-resident employees. A home occupation shall not include repairs to motor vehicles as defined in the M.G.L. Chapter 90, Section 1, as amended, or the sale of articles produced in whole or substantially in part off premises, unless otherwise permitted by the Zoning By-law.

2.2.4 Outside bulk storage, contractor's yard, disposal area or open storage related to manufacturing, processing, warehousing, wholesale trade or a public utility facility shall be screened from an adjacent residential use, a residential district or street by a solid stockade fence six feet in height or densely planted trees or shrubs six feet or more in height, or be equivalently obscured by natural vegetation.

2.2.5 No commercially registered motor vehicle or trailer shall be principally garaged in any portion of a lot in a residential district unless said vehicle or trailer is suitable housed during the nighttime in a structure, which shall have a roof and shall be enclosed on all sides so that said vehicle or trailer is not visible. This restriction shall not apply to vans or pick-up trucks that have a capacity of one ton or less, to station wagons, or to pre-existing non-conforming uses.

2.2.6 Adult Entertainment

2.2.6.1 Authority

This By-Law is enacted pursuant to M.G.L. Chapter 40A and pursuant to the Town's authority under the Home Rule Amendment to The Massachusetts Constitution to serve the compelling Town interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment enterprises, as defined and designated herein, because of their deleterious effect in generating crime and blight.

2.2.6.2 Purpose

It is the purpose of the Adult Entertainment By-Law to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the Town, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the Town. All of said secondary impacts are adverse to the health, safety and general welfare of the Town of Dennis and its inhabitants.

The provisions of this By-Law have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials that are protected by the Constitutions of the United States of America or of the Commonwealth of Massachusetts, not to restrict or deny rights that distributors or exhibitor of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this By-Law to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

2.2.6.3 Definitions

Adult Entertainment Uses: shall include the following uses:

1. Adult Bookstore, as defined in M.G.L. c.40A, §9A;
2. Adult Motion Picture Theaters, as defined by M.G.L. c.40A, §9A;
3. Adult Paraphernalia Store, as defined by M.G.L. c.40A, §9A;
4. Adult Video Store, as defined by M.G.L. c.40A, §9A;
5. Establishment which displays live nudity for its patrons, as defined by M.G.L. c.40A, §9A.
6. Tattoo Establishment/Body Art Establishment – A location, place or business where the practices of body art are performed either for profit or not for profit and as further defined by the Dennis Board of Health Regulations.

2.2.6.4 Adult Entertainment Uses by Special Permit

Adult entertainment uses shall be prohibited in all zoning districts except in the Industrial Zone and may be permitted in the Industrial Zone only upon the grant of a special permit by the Zoning Board of Appeals notwithstanding the provisions of §§ 4.1.2.2 and 4.1.2.3. Such a special permit shall not be granted unless each of the following standards has been met.

1. The application for a special permit for an adult use shall provide the name and address of the legal owner of the establishment, the legal owner of the property, and the manager of the proposed establishment.
2. No adult use special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, §60 or M.G.L. Chapter 272, §28.
3. Adult uses shall not be located within:
 - a. 500 feet from the nearest residential zoning district or residential dwelling; or
 - b. 500 feet from the nearest church, school, park, playground, play field, youth center, Cape Cod Rail Trail or other location where groups of minors regularly congregate; or
 - c. 300 feet from the nearest adult entertainment use as defined herein; or
 - d. 300 feet from the nearest establishment under M.G.L. Chapter 138, §12.
4. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment from the exterior.

5. No adult use shall be allowed to display for advertisement or other purpose an signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Chapter 272, §31.
6. No adult use shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.
7. No adult use shall be allowed within a building containing other retail, consumer or residential uses.
8. No adult use shall be allowed within a shopping center, shopping plaza or mall.
9. The proposed adult entertainment use shall comply with the off-street parking requirements set forth in §3.1.
10. No adult entertainment use shall have any flashing lights visible from outside the establishment.
11. No adult entertainment use shall be established prior to the submission and approval of a site plan by the Planning Board as set forth in Section 4.1.2, excluding sections 4.1.2.2 and 4.1.2.3. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. The site plan shall show the distance between the proposed adult entertainment use and the boundary of the nearest residential zoning district and the property line of each of the uses set forth in §2.2.6.4.3.
12. Tattoo Establishments and Body Art Establishments shall provide, as part of the special permit review, proof of Board of Health Review and Certification that the facility complies with all Board of Health regulations. Failure to provide such evidence shall be considered grounds for denial of the Special Permit. The revocation of the Board of Health Certification shall be deemed grounds for revocation of the Special Permit.

2.2.6.5 Conditions

The special permit granting authority may impose reasonable conditions, safeguards and limitations on time or use of any special permit granted and shall require that any such special permit granted shall be personal to the applicant, shall not run with the land and shall expire upon sale or transfer of the subject property.

2.2.6.6 Expiration

A special permit to conduct an adult entertainment use shall expire after a period of three calendar years from its date of issuance and shall be automatically renewable for successive three-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration, that there are no existing zoning violations and that no objection to said renewal is made and sustained by the special permit granting authority based upon the public safety factors applied at the time that the original special permit was granted.

2.2.6.7 Retroactive application

Each adult use in existence upon the effective date of this section shall apply for an adult use special permit within 90 days of the adoption of this By-Law.

2.2.6.8 Severability

The provisions of this section are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

2.2.7 On parcels less than 5 acres, the sale of produce accessory to a residential use in an R-60, R-40, or RR District shall be restricted to the sale of such produce grown on the premises by the resident of the premises and fish caught by a resident of the premises.

2.2.8 Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development, or related production, may be permitted upon the issuance of a special permit provided the Board of Appeals finds that the proposed accessory uses do not substantially derogate from the public good.

2.2.9 Uses customarily accessory to a residence shall include the occasional sale of used household goods, a motor vehicle, or a boat of a resident.

2.3 INTENSITY REGULATIONS

2.3.1 General

Buildings or structures shall be erected or used and premises shall be used only as set forth in the *Section* 2.3 Intensity Regulations, except as exempted by Section 2.4 or by statute.

2.3.2 Intensity of Use Schedule

	MINIMUM LOT REQUIREMENTS			MINIMUM YARD SETBACKS			MAXIMUM	
	AREA Sq.Ft.	FRONTAGE ft.	WIDTH ft.	FRONT ft. ^{1,3}	SIDE ft.	REAR ft.	TOTAL SITE COVERAGE % OF LOT	HEIGHT STORIES/ FEET
DWELLING UNIT								
In an R-60 District	60,000	50	200	75	30	30	15 ⁴	2½
In Other Districts	40,000	50	100	25	15	25	15 ⁴	2½
In the QNCP RP	See Section 2.3.3.12	100	200	75	50	60	15 ^{5,6}	35 feet above natural grade ⁶
DWELLING UNIT-TWO								
In an R-60 District	120,000	50	200	75	30	30	15 ⁴	2½
In Other Districts	80,000	50	150	50	25	25	15 ⁴	2½
In the QNCP RP	See Section 2.3.3.12	100	200	75	50	60	15 ^{5,6}	35 feet above natural grade ⁶
DWELLING UNIT-MULTI								
In an R-60 District	180,000 +60,000 s.f per unit over 3	100	200	75	50	50	25	2 exclusive of roof
In Other Districts	120,000 +40,000 s.f. per unit over 3	100	150	50	50	50	25	2 exclusive of roof
In the QNCP RP	Not allowed							
HOTEL/MOTEL OR MOTOR COURT								
In RR & GC Districts	40,000 +2000 per guest room or unit	150	150	75	35	50	70	2 exclusive of roof
OTHER PERMITTED PRINCIPAL STRUCTURES								
In an LB District	40,000	150	150	75	35	50	70	2 exclusive of roof
In an EB District	40,000	200	200	100	50	50	40	“
In a GC-I District	40,000	150	150	50	25	25 ²	70	“
In a GC-II District	40,000	150	150	50	25	25	70	“
In a GC-III District	40,000	150	150	60	25	25	70	“
In the DPVC Districts A & B	See Section 8	100	100	See Section 8	See Section 8	See Section 8	NA	See Section 8
In Other Districts	40,000	150	150	50	25	25 ²	70	“
In R-60 District	60,000	200	200	75	30	30	70	“
In the QNCP RP	See Section 2.3.3.12	100	200	75	50	60	15 ^{5,6}	35 feet above natural grade ⁶
ACCESSORY STRUCTURES								
IN ALL DISTRICTS WITH LESS THAN 6:12 SLOPE								18’
IN ALL DISTRICTS WITH 6:12 – 12:12 SLOPE								25’

Footnotes for 2.3.2:

¹Any structure having frontage on more than one street (i.e. corner lot, etc.) shall be set back from all streets a distance equal to the front yard setback requirement for the district.

²Where the rear lot line of a lot in a GC-I or Industrial District abuts a residentially zoned district, the rear yard setback shall be fifty (50) feet and shall conform to the standards set forth in Section 2.2.4.

³Where a lot is abutted at its street frontage by two (2) lots, each with existing buildings, the front yard setback requirement shall be determined by computing the numerical average of the existing front yard setbacks of those two abutting lots.

Where a lot is abutted at its street frontage by two (2) lots, one (1) of which has an existing building, and one (1) of which is a vacant lot, the front yard setback requirement shall be determined by computing the numerical average of the existing front yard setback on the built-upon lot and the required front yard setback for the zoning district. In no case shall the setback requirement be greater than the front setback for the Zoning District.

⁴Building Coverage Only – the percentage of the lot area, exclusive of wetland area, covered by the area of a building or building(s), refer to §5.B for definition of building.

⁵ Maximum total site coverage in the QNCP RP District shall be calculated by adding the square footage of the footprint of all structures, pools, patios, decks, parking, driveways (including gravel dirt or seashell) pavement, including street access drive, and “hardscape” including retaining walls and landscaping walls, but excluding walks, and dividing the total square feet thereby obtained by the total lot area in square feet.

⁶ Except as modified in Section 4.6.6.1.3.3 relative to land in the Quivet Neck/Crowe’s Pasture Scenic Vista Overlay District.

2.3.3 Supplementary Requirements

2.3.3.1 (Reserved)

2.3.3.2 Dwelling unit – two shall contain not less than twelve hundred (1200) square feet gross floor area.

2.3.3.3 No building shall exceed thirty-five (35) feet in height, except that spires, water tanks, chimneys, flag poles, and other structures normally built above the ridge and not devoted to human occupancy may be erected to such heights that are necessary to accomplish the purpose they are normally intended to serve.

2.3.3.4 No fence, wall, hedge, shrubbery, or other obstruction shall block vision of a public or private way two and one-half (2½) feet above street grade on a corner lot within a triangular area formed by the intersecting street lines and a straight line which joins points on such street lines twenty (20) feet from their intersection.

2.3.3.5 No structure other than a ramp, roadway, drive, walk, stairway, seawall, dock or boathouse shall be located within fifty (50) feet of the top of the bank of any river or stream having a year-round running flow of water, of any lake or pond containing one thousand (1000) square feet or more of water eleven (11) months of the year, coastal bank, or mean high water.

2.3.3.6 Accessory Structures

- a. A single accessory building with a footprint of 200 square feet or less, and a building height of no more than 15 feet:

- i. Shall not be located forward of the front face of the principal structure whose front face is seventy-five (75) feet or less from the street line. For corner lots the front face shall be determined by the street from which the property gains its street address;
 - ii. Shall not be placed less than seventy-five (75) feet from the street line when the front face of the principal structure is more than 75 feet from the street line.
 - iii. May be located within other setback areas in accordance with Section 2.3.2 provided no portion of the accessory building is located within two (2) feet of any lot line, and subject to appropriate screening requirements as determined by the Building Commissioner;
 - iv. Shall not be included in calculating: (a) maximum total site coverage under Section 2.3.2 (Intensity of Use Schedule); and (b) floor space under Section 2.4.1.2.D (Non-Conforming Conditions); and
 - v. Shall not be erected without a Zoning Compliance Certificate from the Building Department and is subject to all fees in accordance with the Building Department Fee Schedule.
- b. All other accessory structures:
- i. Shall be located in conformance with the required setbacks as found in Section 2.3.2 of this by-law;
 - ii. Shall be included in calculating (a) maximum total site coverage under Section 2.3.2 (Intensity of Use Schedule); and (b) floor space under Section 2.4.1.2.D (Non-Conforming Conditions);
 - iii. Shall not be placed forward of any face of the principal structure which is seventy-five (75) feet or less from the street line; and
 - iv. Shall not be placed less than seventy-five (75) feet from the street line when the principal structure is more than 75 feet from the street line.
- c. All Accessory Structures
- i. Height: The top of the ridge of the roof of an accessory structure may not be greater than Eighteen (18) feet above the top of the lowest floor elevation, except that a maximum height of twenty-five (25) feet shall be allowed for a structure with a roof pitch between 6:12 and 12:12.

2.3.3.7 In order to comply with the minimum square foot requirement, a lot must be a closed plot of land having a definite area and perimeter and having a shape number not exceeding the numerical value of 22, except that a lot may have a shape number larger than 22 provided that the site intended for building, is contained within a portion of said lot, which said portion meets the zoning requirements of the area in which it is located and has a shape number not exceeding 22. Ninety (90) percent of the required zoning area of such lot shall be contiguous upland.

2.3.3.8 Any panhandle lot shall have at least fifty (50) feet of frontage on a street or way. The panhandle portion of the lot shall be no less than thirty-five (35) feet in width, except such a width of 20 feet if shown on a plan endorsed by the Planning Board, prior to May 4, 1999 shall be exempt from this provision. Panhandle lots shall only be allowed for residential uses.

2.3.3.9 No more than two (2) panhandle portions of any two lots governed by Section 2.3.3.8 may be contiguous at the street line. Any panhandle lot existing prior to the adoption of this amendment, May 4, 1999, shall be exempt from this provision.

2.3.3.10 An animal kennel shall not be located within 100 feet of a lot line. The 100-foot setback shall apply to the kennel's principal building(s), accessory building(s), runs and exercise yards.

2.3.3.11 No construction or site preparation work shall be done on any land including the removal of living trees of greater than four (4) inch caliper, measured six (6) inches above grade or the removal of greater than ten percent (10%) of existing vegetation until all necessary permits and approvals have been obtained.

This section shall not prohibit site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval. If after obtaining all necessary permits and approvals, such work is commenced and then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated in a manner sufficient to avoid erosion.

Section 2.3.3.12 Within the QNCPRPD lot size shall be determined in the following manner:

2.3.3.12.1 The Quivet Neck/Crowe's Pasture Resource Protection District is defined as containing three water quality protection areas. Within each of these areas, the level of protection is further refined based upon a study conducted for the town by the Pilgrim Resource Conservation and Development Area Council. The study identified a variety of soil limitations for development. These soil limitations include depth to groundwater, permeability and erodibility of soils. These soil limitations and the water quality areas are incorporated into the Dennis Zoning By-law as illustrated on Quivet Neck/Crowe's Pasture Zoning Map Inset 1 Soil Limitations and the Quivet Neck/Crowe's Pasture Zoning Inset Map 2 Water Recharge Areas.

2.3.3.12.2 Lots Within Multiple Resource Areas or Zoning Districts: Whenever a lot contains portions of multiple resource protection areas or zoning districts, the lot shall be governed by the provisions of the stricter protection area or zoning district unless the lot meets all of the following requirements:

- * 51% of the lot land area is within a less restricted zone and
- * The building, septic system, site access and all other site alterations are located within the less restricted area or zoning district and
- * The land within the more restricted area or zoning district shall only be used to meet the site requirements for land area left in its natural state (Section 4.7.1 herein).

2.3.3.12.3 Land to be Excluded from Lot Size Determination: Ninety (90) percent of the required minimum lot size shall be contiguous upland. For the purposes of this section contiguous upland area shall be delineated as a contiguous tract of land other than land classified under the Dennis Wetlands Bylaw (and accompanying regulations) and the Wetlands Protection Act (MGL CH 131s40 and 310CMR10:00). Prior to subdivision of any tract of land the delineation of the wetland areas shall be reviewed and subject to approval by the Dennis Conservation Commission as required in the Dennis Subdivision Rules and Regulations Section 3.C.2.A.i.3.

2.3.3.12.4 Minimum lot requirements for the QNCPRPD. These minimum lot requirements recognize surface water recharge areas (Zoning Map Inset 2 Water Recharge Areas), soils characteristics and depth to groundwater (Zoning Map Inset 1 Soil Limitations). Protecting surface water quality will serve to protect and maintain the health and sustainability of the QNCPRPD natural resources. Three surface water recharge areas are recognized within the QNCPRPD. The Coles Pond Recharge Area is the most sensitive, the Quivett Creek recharge area is highly sensitive, with the Cape Cod Bay recharge area being less sensitive to landform alterations. Controlling factors that impact surface water quality are soils characteristics and depth to groundwater. Upland areas within the QNCPRPD are dominated by sandy and/or sandy

loam soils types. The distinguishing characteristic within each of the three water recharge areas is the depth to groundwater.

Surface Water Recharge	Minimum Lot Size	Minimum Lot Size Adjusted for 5 feet or less Depth to Groundwater
Quivet Creek Recharge Protection Area	100,000 sf	120,000 sf
Coles Pond and Little Coles Pond	120,000 sf	160,000 sf
Cape Cod Bay	80,000 sf	100,000 sf

2.3.4 Special Cases

2.3.4.1 General for all Zoning Districts

2.3.4.1a. Where no street line has been established or can be readily determined, such line shall be assumed to be twenty-five (25) feet from the center of the traveled roadway for the purpose of applying these regulations.

2.3.4.1.b An area not less than ten (10) feet in width measured from and perpendicular to the lot line around the perimeter of the lot shall be landscaped with grass, trees, shrubs or other plants. Portions of this area may be paved for pedestrian and vehicular access but at no time shall the pedestrian and/or vehicular access be located within 10 feet of the side property lines. However in Commercial Zones, a driveway for vehicle and pedestrian access may be provided from one lot to another. Incidental accessories such as signs, lighting and irrigation systems may be installed as needed. The requirements of this Section shall not apply to the panhandle portion of valid panhandle lots, recorded or shown on a plan endorsed by the Planning Board, in existence prior to May 4, 1999.

2.3.4.2

- a. In R60, R40, RR, LB GCII and GCIII Zoning Districts: Two (2) or more principal residential structures may be erected on the same lot, provided the minimum lot area, width and frontage shall be the sum of the requirements for each principal residential structure for the district in which the lot is located and provided further that the minimum distance between said buildings shall be thirty (30) feet, all the requirements of §2.3.2, Intensity and Use Schedule, are met, and site plan review is obtained pursuant to Section 4.1.1.
- b. In LB, GC II and GCIII, I and EB Districts: Two (2) or more non-residential structures may be erected on the same lot provided that the minimum distance between said structures shall be thirty (30) feet, all the requirements of §2.3.2, Intensity of Use Schedule, are met, and site plan review is obtained pursuant to Section 4.1.1.

2.4 NON-CONFORMING CONDITIONS

2.4.1 General

The Use or location of building or structure or use of land, lawfully existing at the time of enactment or subsequent amendment of this By-law, may be continued, although such building, structure or

use does not conform with the provisions of this By-law subject to the following conditions and exceptions:

2.4.1.1 Abandonment:

(1) A nonconforming structure which has been (i) abandoned, or (ii) discontinued for a period of two (2) years or more, shall not be rebuilt.

(2) A nonconforming use which has been (i) abandoned, or (ii) discontinued for a period of two (2) years or more, shall not be reestablished, and any future use shall conform with this By-law.

2.4.1.2 Change, Extension or Alteration: Buildings or structures that are nonconforming by dimension are likely if they are changed, extended or altered, to cause overcrowding and congestion in the neighborhoods and are contrary to the purposes of this by-law. Buildings or structures that are nonconforming by dimension inhibit present and future development of nearby properties. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this by-law.

Pre-existing nonconforming structures or uses may be changed, extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood, except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. This section shall not apply to establishments which display live nudity for their patrons, as defined in section nine A, adult bookstores, adult motion picture theaters, adult paraphernalia shops, or adult video stores subject to the provisions of MGL Chapter 40A Section 9A.

A. Building Department

In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to a single or two family residential structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted as of right by the building commissioner without the need for further zoning relief from the Zoning Board of Appeals:

1. Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient area where the alteration will also comply with all of said current requirements except lot area;
2. Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements except frontage;
3. Alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, lot coverage and building height requirements, notwithstanding non-compliance with current area and frontage requirements; and
4. Alteration to a non-conforming structure, which will not increase the footprint of the existing structure provided that the alteration of the structure will comply with all setback and building height restrictions.

5. The voluntary demolition and reconstruction of a single or two-family residential structure that is reconstructed within the same footprint, building height, and the same volume or less as the building voluntarily demolished.
6. The relocation or movement of a non-conforming single or two-family structure such that the resulting non-conforming portion of the footprint is completely located within the prior, lawfully pre-existing non-conforming portion of the existing footprint.
7. Accessory Dwelling Units (“ADUs”) By-right Pursuant to G.L. c. 40A, § 3, ¶ 11 and 760 CMR 71.00.

B. Board of Appeals Findings That May Not Be Substantially More Detrimental

In the following circumstances, alteration, reconstruction, extension or structural change (collectively “alteration”) to a single- or two-family residential structure shall be considered to increase the intensity of an existing non-conformity and require a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. Increase in the footprint of a structure that does not comply with one or more required setbacks where the alteration will extend lot coverage or building height where a structure does not conform to current setback requirements;
2. Increase in the lot coverage of a structure where the structure currently exceeds lot coverage;
3. Increase in building height for any structure with a non-conformity subject to item B1 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item B2 above; and

C. Special Provisions for the Relocation or Reconstruction of Single and Two-Family Structures Not Located Within the Existing Footprint

In the following circumstances, alteration, reconstruction, extension or structural change (collectively “alteration”) to a single- or two-family residential structure shall be considered to increase the intensity of an existing non-conformity and require a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. The relocation or movement of a building or structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located outside of the existing non-conforming footprint unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located, or the non-conforming nature of the new proposed location is found to be substantially less non-conforming by the Board of Appeals.
2. The voluntary demolition and reconstruction of a building or structure which is non-conforming by dimension on any other location on the lot in which it is located outside of the existing non-conforming footprint unless it conforms with the dimensional regulations of the zone in which it is located or the non-conforming nature of the new proposed structure is found to be substantially less non-conforming by the Board of Appeals.

D. Actions Requiring a Finding of Substantially More Detrimental

In the following circumstances, alteration, reconstruction, extension or structural change (collectively “alteration”) to a single- or two-family residential structure shall be considered to

create additional non-conformities and shall be considered to be substantially more detrimental than the existing nonconformity to the neighborhood:

1. The creation of any new non-conformity where no non-conformity currently exists;
2. The increase in that portion of the floor space that is non-conforming by more than forty percent (40%) within any ten-year time period. (for the purposes of this section non-conforming floor space shall mean the total area of finished living space on all floors, storage space, including basements and non-conforming sheds, or uncovered porch/deck located within a required setback area)
3. The addition of floor space to a lawfully pre-existing non-conforming structure on a site that exceeds the fifteen percent (15%) lot coverage restrictions, if said addition would exceed a floor space to lot area of thirty percent (30%) excluding basements and uncovered porch/deck.
4. The increase in the intensity of a setback non-conformity by further encroaching into a setback area than currently exists.

E. Special Permit Required For Structures Other Than Single and Two Family Structures With Setback Non-Conformities

For other structures with setback nonconformities, an addition within the nonconforming setback area (including an increase in building height) shall be deemed to increase the nonconforming nature of the structure. Such pre-existing nonconforming structures may be extended, altered or changed by Special Permit, provided the Zoning Board of Appeals issues a special permit and finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood subject to the following provisions.

In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to structures other than single- or two-family residential structures shall be considered to increase the intensity of an existing non-conformity and require a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient area where the alteration will also comply with all of said current requirements except lot area;
2. Alteration to a structure which complies with all current setbacks, lot coverage and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements except frontage;
3. Alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, lot coverage and building height requirements, notwithstanding non-compliance with current area and frontage requirements;
4. Alteration to a non-conforming structure, which will not increase the footprint of the existing structure provided that the alteration of the structure will comply with all setback and building height restrictions.
5. Increase in the footprint of a structure that does not comply with one or more required setbacks where the alteration will extend lot coverage or building height where a structure does not conform to current setback requirements;
6. Increase in the lot coverage of a structure where the structure currently exceeds lot coverage;
7. Increase in building height for any structure with a non-conformity subject to item E5 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item E6 above;

8. Intensification of a conforming use within a building or structure which is nonconforming by dimension may be allowed, provided that such intensification is in conformance with all non-dimensional requirements of this by-law, for the zone in which it is located.
9. Modifications to pre-existing non-conforming educational, library or religious uses that are non-conforming due to a dimensional requirement.

F. Activities Requiring a Finding of Substantially More Detrimental for Structures Other Than Single- and Two-Family Structures with Setback Non-Conformities

In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to structures other than single- or two-family residential structures shall be considered to increase the intensity of an existing non-conformity and shall be considered to create additional non-conformities and shall be considered to be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. The creation of any new non-conformity where no non-conformity currently exists;
2. The relocation or movement of a building or structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located.
3. The relocation or movement of a building or structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located outside of the existing non-conforming footprint unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located, or the non-conforming nature of the new proposed location is found to be substantially less non-conforming by the Board of Appeals.
4. The voluntary demolition and reconstruction of a building or structure nonconforming by dimension unless it conforms with the dimensional regulations of the zone in which it is located or the non-conforming nature of the new proposed structure is found to be substantially less non-conforming by the Board of Appeals.

G. Provisions Related to Non-Conforming Uses

A pre-existing nonconforming use may be altered or extended provided that the alteration or extension is non-structural in nature and the Zoning Board of Appeals finds that such alteration or extension shall not be substantially more detrimental to the neighborhood. Such alteration or extension shall not change the existing nonconforming use except to include a permitted use. In no case shall a nonconforming use be changed to another nonconforming use except to a less detrimental non-conforming use.

H. Severability

In the event that any particular provision of this by-law is ruled invalid the remaining provisions shall remain in full force and effect.

2.4.1.3 Restoration: Any lawful nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstruction is begun within eighteen (18) months of such destruction and completed within thirty (30) months of the date of the catastrophe, or such reconstruction must comply with the By-law.

2.4.2 Lots

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

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

2.4.2.2. The land shown on a definitive subdivision plan, or a preliminary subdivision plan which is followed within seven (7) months by a definitive plan, shall be governed by the zoning in effect when the plan is first submitted in accordance with Section 6 of Chapter 40A for a period of eight (8) years from the date of endorsement. The use of land shown on an Approval Not Required plan shall be governed by the zoning in effect when the plan is first submitted in accordance with Section 6 of Chapter 40A for a period of three (3) years from the date of endorsement.

2.4.2.3 Notwithstanding section 2.3.2, a valid pre-existing lot for commercial use in any General Commercial District may thereafter be built upon for commercial use if, on May 8, 1984 such lot was held in ownership separate from that of adjoining land in the same district.

Provided:

- (i) the plan for such lot was recorded or endorsed prior to May 8, 1984;
- (ii) such lot conformed to all application provisions of the Dennis Zoning By-law immediately prior to said date.

2.4.2.4 No such lot may be changed in size or shape so that a non-conformity with the provisions of this by-law is increased in degree or extent, or a violation created, except by a public taking of a portion of the lot.

2.4.3 Change, Extension, Alteration or Restoration of Other Nonconforming Uses or Structures

Any lawfully existing use of a structure or land that does not conform to the provisions of this By-law may continue. Any change of such use shall be governed by the following:

2.4.3.1 A pre-existing non-conforming cottage colony may be converted to year-round dwelling unit use only under the following conditions:

- (1) There is established for each cottage a separate lot which meets the minimum district land area requirement for a dwelling unit within the zoning district, or:
- (2) The cottage colony meets the minimum requirements for an Open Space Village Development.

2.4.3.2 Motor courts, motels or hotels may be converted to year-round dwelling unit use or multi-dwelling unit use provided the site upon which the motor court, motel or hotel is situated contains a land area equal to the number of dwelling units multiplied by the minimum lot size requirement for any dwelling unit in the zoning district, and it complies with the following conditions:

- A. Obtains a Special Permit from the Board of Appeals of the Town of Dennis in compliance with this By-law and General Laws Chapter 40A, or any amendments thereto and;
- B. Obtains approval from the Dennis Board of Health for a septic system.

2.4.3.3 Notwithstanding any provision of the Zoning By-law to the contrary, excluding the provisions of Section 4.1.2.3 requiring site plan approval nonconforming structures lawfully existing as of May 4, 1993 may, as a matter of right, be changed to any use(s) permitted as a matter of right under Section 2.2.2 Use Regulations within the area designated as the Dennis Enterprise Overlay Zone (DEOZ), defined on the Official Zoning Map as the area shown as General Commercial II (GCII). Provided that the following conditions are complied with:

- A. That all other conditions of this Zoning By-law excluding the nonconformity provision related to lots or structures are complied with.
- B. That a site plan, drawn to scale, showing the existing area and dimensions of the site, existing buildings, area of building dedicated to the commercial use, curb cut and parking, be submitted to the town Planner for a Certificate of Acceptability Compliance, and;
- C. That the necessary Change of Use Permit and/or Building Permit be obtained from the building Commissioner's Office.

SECTION 3 - GENERAL REGULATIONS

3.1 OFF STREET PARKING AND LOADING REQUIREMENTS

3.1.1 Objective - It is the intent of this section that adequate off-street parking and loading shall be provided to serve all parking demand created by new construction whether through new structures or additions to existing ones, or through change of use which creates the need for higher parking demands.

3.1.2 Applicability - Existing buildings, structures and land uses are not subject to these off street parking and loading requirements and may be rebuilt, altered or repaired, but not enlarged, altered or subject to a change in use so as to increase demand, without becoming subject to these requirements.

3.1.3 Off Street Parking Schedule

3.1.3.1 In determining the number of spaces required, only actual or delineated spaces shall be calculated.

3.1.3.2. These standards are the minimum requirement. The Planning Board, under Special Condition Review, may vary the required number of spaces if the nature and scale of a proposed use warrants such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated.

USE	PARKING SPACES
RESIDENTIAL USES	
One, Two, Multi-Family or Apartment Incidental to a Commercial or Industrial Use	2 per unit
Home Occupation	1 per employee or 1 per 400 s.f. of space dedicated to home occupation
Lodging House, Hotel, Cottage Colony, Motel/Motor Court	1.25 per guest room or suite
PUBLIC AND QUASI PUBLIC USES	
School, Municipal Building, Library, Charitable Institution or similar use	1 per employee, plus 1 per 3 seats in area of public assembly
Church, Assembly Hall, Club or Similar Place of Public or Semi-Public Amusement of Assembly	1 per 3 seats
Nursing Home and/or Personal Care Facilities	1 per 3 beds, plus 1 per 2 employees max. shift
Accessory Dwelling Unit	2 for primary residence + 1 per bedroom in accessory dwelling unit
RECREATIONAL USES	
Standard Golf, Par-3, and Other Outdoor Recreational Uses including, but not limited to playing fields, amusement parks and other similar attractions	1 per employee max. shift, plus 1 per 3 patrons at max. capacity of facility as determined by the Building Commissioner

Miniature Golf Course	1 per employee max. shift, plus 1 per 3 patrons at max. capacity of facility as determined by the Building Commissioner
Stable; Commercial or Riding School	1 per stall, plus 1 per employee max. shift
Indoor Recreational Uses, including, but not limited to, Tennis Clubs, Theaters	1 per employee max. shift, plus 2 per court or playing area, plus 1 per 3 seats
COMMERCIAL USES	
Auction Galleries, Gift Shops, Arts & Crafts, Antique Shops, General Merchandise, Apparel & Accessories, Other Retail Sales and Customer Service	1 per 150 s.f of floor area dedicated to customer use or display, but not less than 70% of the total area
Food Stores and Supermarkets	1 per 100 s.f.
Furniture and Home Furnishings, Large Appliances, Lumber, Showroom or Other Retail Display of Large Items	1 per 700 s.f.
Restaurant, Lunchroom, Bar, Tavern or Other Similar Use	1 per 4 seats, plus 1 per employee max. shift
Establishments offering entertainment including public & private clubs and restaurant areas dedicated to entertainment	1 per 2 patrons max. capacity of facility as determined by the Building Commissioner, plus 1 per employee on max. shift
Medical Office	1 per employee max. shift, plus 1 per 2 seats in waiting room, plus, 1 per examination room or work station
Professional or Administrative Office, Bank or other Financial Institutions and General Business Office	1 per employee max. shift, plus 1 per 250 square feet of floor area
Funeral Home	1 per 2 seats maximum capacity of facility as determined by the Building Commissioner
Animal Hospital and Animal Kennel	1 per employee max. shift, plus a minimum of 6 spaces for customer use
MOTOR VEHICLE – TRANSPORTATION USES	
Sales or Rental of Motor Vehicles	1 per 700 s.f. of floor area, plus 1 per employee max. shift
Filling Station	1 per employee max. shift, plus 2 per service bay, plus 1 per 150 s.f. service waiting area
Car Wash	1 per employee maximum shift
Automotive Service and Repair Facility Automobile Service Station	1 per employee max shift, plus 2 per service bay, including spray paint booth, plus 1 per 150 s.f. service waiting area, plus 1 per car stored overnight
Other Transportation Uses	1 per employee max. shift, plus as determined by Site Plan Approval
Marina Use	1 per employee max. shift, plus 1 per 2 slips

INDUSTRIAL, UTILITY AND OTHER USES	
Light Industry and Manufacturing	1 per employee max. shift, plus 1 per 1,000 s.f. of floor area
Warehousing and Wholesale Trade	1 per employee max. shift, plus 1 per 2,500 s.f. floor area
Other Industrial and Utility Uses	1.3 per employee max. shift, plus 1 per 200 s.f. Office Space

Note: In areas allowing outside storage, such parking may be used for boat storage during the off season.

3.1.4 Loading Requirements - Every building herein after erected, altered, enlarged, or occupied for business, industrial or institutional purposes which has over five-thousand (5,000) square feet of gross building area shall provide a minimum of one (1) area for the loading and unloading of service vehicles. Loading and unloading areas shall be provided in addition to off-street parking spaces and shall not be considered as supplying required parking spaces. One additional area shall be provided for every additional twenty thousand (20,000) square feet of gross floor area in the building. Loading and unloading areas shall be located in the rear of the building.

3.1.5 Location Requirements

3.1.5.1 Parking and loading areas and garages shall be provided on the same lot as the use they are required to serve, except as provided in Section 3.1.7.1.

3.1.5.2 No parking or loading area shall be located within twenty (20) feet of a street line and ten (10) feet from a side or rear property line. No parking area containing more than four (4) spaces or a loading area shall be located within fifty feet of a street line in an EB District, not within a required front yard in an R-60, R-40 or RR District. No parking area or garage containing more than (2) spaces or loading area shall be located in a front yard in an LB District.

3.1.5.3 No parking area serving a multi- family dwelling shall be located in any required yard setback.

3.1.5.4 No parking area/space shall be used for disposal containers (dumpsters). An additional area, outside, but adjacent to the parking area shall be required for each disposal container.

3.1.6 Design Requirements

3.1.6.1 A parking area or loading area shall be designed to provide for adequate backing and turning movements and to eliminate the need to back a vehicle out onto any public or private street or way, excluding single family dwellings.

3.1.6.2 Parking and loading areas shall be graded, surfaced with a non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust or erosion. The parking lot shall be designed such that no surface water is allowed to flow onto streets or adjoining property. Access drives serving unpaved parking areas shall be constructed with an apron paved with asphalt or concrete meeting the minimum construction requirements described below. Said apron shall extend from the paved road edge to the greater of ten (10) feet or the edge of the right-of-way. Paved or unpaved parking areas containing more than five (5) spaces shall conform to construction requirements as follows:

Paved Parking Standards

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the sub-base plus two inches (2") of processed stone. Pavement - A minimum dept of asphalt composed of one and one-half inch (1½") binder course plus one inch (1") top course after rolling or compacting. For all parking areas of five (5) or more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the Town of Dennis Stormwater Management By-Law.

Non-Paved Parking Standards

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the sub-base plus two inches (2") of processed stone. Surface - Minimum 3” thickness aggregate material, with 0% fines (no material passing a # 200 seive). All material to be contained with perimeter edging consisting of either asphalt, concrete curbing, treated landscape timbers, or masonry. Maintenance: The property owner is responsible for properly maintaining the non-paved surface. All material must be contained within the parking/driveway area and immediately removed from the sidewalk or public street areas. The surface must be kept free of weeds and other vegetation. The surface grade shall be maintained as installed; ruts and potholes must be repaired immediately. Add material as necessary to maintain grading and drainage. For all parking areas of five (5) or more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the Town of Dennis Stormwater Management By-Law

3.1.6.3 Parking areas shall typically be laid out to meet the following design criteria:

ANGLE	SPACE WIDTH (in feet)	SPACE LENGTH (Perpendicular to aisle)	AISLE WIDTH (in feet)	TOTAL WIDTH (in feet)
45°	9	17.5	15	50
60°	9	19	18	56
90°	9	20	24	64

The above chart is for parking areas with double-loaded aisles. For single loaded aisles, subtract the space length from the total width. Aisle with for 45° and 60° are for one way directional flow patterns.

The Board, at its discretion, may allow the use of a maximum 2-foot overhang strip as part of the space length. This strip shall be solely designated for the purpose of vehicular parking and shall not be part of any walkway, planting area or front or side yard indicated in 3.1.5.2.

3.1.6.4 No street access drive for parking areas containing six (6) or more spaces or a loading area shall exceed thirty (30) feet in width at the street line. The radius of the access drive at the road shall be twenty-five (25) feet. The radius of any access road shall not extend beyond the property line of the property which it serves. The minimum distance between the sidelines of such drives and the sidelines of any intersection street and any other street access drive, measured between where such street and driveway sidelines intersect the adjacent street line shall be a follows:

TYPES OF DRIVE	FROM INTERSECTING STREETS	FROM OTHER DRIVES
Drives serving a dwelling	50	20
Drives serving a hotel, motel or motor court	50	60
Drives serving other permitted principal structures in an:		
LB-I & LB-II District	50	50
EB District	50	150
GC-I District	50	50
GC-II District	50	50
Other Districts	50	60

3.1.6.5 Vehicles exiting from drives serving more than forty (40) parking spaces shall have a minimum of two hundred (200) feet visibility in each travel direction.

3.1.6.6 Parking areas containing more than five (5) spaces shall include or be bordered within five (5) feet of the spaces by at least one (1) tree of three inch (3") caliper, measured six inches (6") off the ground for each five (5) spaces. Trees within parking area shall be in curb or berm protected plots of at least ninety (90) square feet per tree. No such protective plot shall be paved with any impervious material.

3.1.6.7 All commercial site plans shall show all proposed lighting on said site for exits and entrances and said lighting shall be erected and maintained by the owner. Said lighting shall include entrance and exit lighting unless otherwise determined by the Planning Board. Type(s) and characteristics of lights to be defined on the Site Plan.

3.1.7 Special Cases

3.1.7.1 Parking space may be provided on lots separate from a non-residential use they are to serve, and be credited to such use in meeting the requirements of this By-Law, provided they are legally available and are within three hundred (300) feet of the principal structure, measured within street rights of way. Proof of legal availability shall be required and failure to retain the availability of such parking spaces for the need they are required to serve shall be sufficient cause to deny or revoke a Use Permit until such spaces are restored or replaced. When such parking spaces are part of town-owned and town-operated parking lots, the Planning Board shall determine availability and the applicant shall not be required to furnish proof of such availability.

3.1.7.2 The number of parking spaces required for a multiple dwelling may, by Special Permit, be reduced to not less than one (1) per family for the duration of any special occupancy upon Board of Appeals determination that the family size or age characteristics of the occupants will reduce the need for the number of spaces otherwise required; and that sufficient area is available and will be retained to provide such otherwise required spaces.

3.1.7.3 No structure subject to site plan approval may be elevated to allow parking in the structure or open parking beneath the structure unless for each parking space so provided the site coverage is reduced by a minimum of three hundred twenty-five (325) square feet.

3.1.7.4 In certain cases the Planning Board may allow the applicant to delineate a number of parking spaces as a reserve area that is available to be constructed in the future as specified by the Planning Board. It is the responsibility of the applicant to provide documentation showing that the proposed use of the property does not require the number of spaces listed under Section 3.1.3. Plans shall incorporate and detail all design aspects of the reserve parking area.

As it is the intent of this special delineation to preserve as much of the site's natural state as possible, the proposed reserve area shall be dedicated for parking only. In any case in which the Board permits an applicant to create a reserve parking area, in lieu of development of the required parking area, then the Board shall require, as a condition of approval, that the resulting site plan special permit shall be reviewed on a periodic basis in order to monitor the adequacy of the constructed parking and the need to construct all or a portion of the reserve area. After such review, if appropriate, the Board may require that all or a portion of the reserve area be actually constructed.

SECTION 4 - SPECIAL REGULATIONS

4.1 GENERAL

4.1.1 Procedures Requiring Plans

Applicants for Special Permits shall submit five (5) copies each of an application and a required plan to those authorities specified under Sections 1.4.2, 4.1.2, or 4.4 whichever is applicable. The applicant shall file one (1) copy of an application with the Town Clerk. Prior to formal application, applicants for Special Permit are encouraged to submit preliminary material to the applicable authority to promote better communication.

4.1.2 Site Plan Approval

4.1.2.1 Purpose

The purpose of this section is to protect the safety, public health, convenience and general welfare of the inhabitants of the Town of Dennis by providing detailed review of the design and layout of certain developments which have a substantial impact upon the character of the Town and upon traffic, utilities and services therein.

4.1.2.2 Powers

The Planning Board is hereby designated the special permit granting authority for site plan approval regarding activities which are set forth in Section 4.1.2.3. In addition, the Planning Board is hereby designated the special permit granting authority regarding those activities set forth in Section 4.1.2.3 for which the use requires a special permit under other provisions of this Zoning By-law.

4.1.2.3 Applicability

Section 4.1.2 applies to the construction of new buildings and changes of use or expansions of existing buildings which create a demand for a total of five or more parking spaces pursuant to Section 3.1 of this bylaw over the parking demand for the existing floor space and/or said use of the existing floor space, regardless of the number of parking spaces actually physically provided on the site for the following activities:

- a. Multi-family dwellings
- b. Hotels, motels, motor courts, cottage colonies, lodging houses or similar tourist housing accommodations
- c. All other uses not designated as Agricultural, Residential, Public, Sectarian or Denominational School (non-profit), Religious or Accessory in Section 2.2.2.

Notwithstanding the above, Section 4.1.2 shall apply to the construction of new buildings and changes of use or expansions of existing buildings for the following activities:

- a. Filling Stations
- b. Other auto service and repair facilities
- c. Automobile Service Station

4.1.2.4 Procedure

All formal applications for site plan approval shall be submitted to the Planning Board in accordance with Section 4.1.1. The Planning Board shall consider all applications at a public hearing according to the procedure set forth in General Laws Chapter 40A.

Any application for site plan approval filed with the Planning Board shall be approved under a special permit procedure, and a special permit shall be issued, if the application conforms to the standards established herein and to the rules and regulations of the Planning Board made in conformity with this Section 4.1.2.

If any application does not so conform, the Planning Board shall approve said application with conditions or safeguards to ensure compliance with said standards and rules and regulations. Approval of the site plan shall be contingent upon the use of the site being allowed either as a permitted use under this Zoning By-law or by the grant of a special permit or variance. This paragraph shall not apply to a special permit for use, which shall be governed by Chapter 40A of the Massachusetts General Laws and by other applicable provisions of this Zoning By-law.

To aid the Planning Board in making its findings, the applicant shall submit site plans of a scale no greater than 1" = 30' bearing the stamp of a registered professional land surveyor, registered engineer, registered architect or a registered landscape architect, composed of the following information:

- a. Existing Conditions: A plan showing the area and dimensions of the site, existing buildings, structures, parking, drives, walks lighting, service areas, utilities, drainage easements and other appurtenances. The plan shall also show existing contours based on two (2) foot intervals, general location of trees, maximum ground water elevations for lands within five-hundred (500) year flood plans based on Cape Cod Planning and Economic Development data and relating to USGS datum, wetlands, surface water and other significant natural features. In addition, photographs may be submitted showing the site and its relationship to adjoining properties and streets.
- b. Proposed Conditions: A plan showing proposed buildings, structures, parking, drives, walks, lighting, service areas, utilities, waste disposal facilities, surface-water drainage, type of surface material, adjoining properties and streets within twenty-five (25) feet of the site. The plan shall also show two (2) foot contour elevations, trees, surface water, screening, other landscape features and arrangement of open space.
- c. Architectural Elevation: For proposed buildings and additions, elevations showing front and rear facades and side facades where there is no adjoining building including color and texture of surface materials. Applications for changes of use need only submit photographs of the site and the building's facades. (Not applicable in local and regional historic districts).

4.1.2.5 Design Objectives

The following design objectives, in addition to any standards prescribed elsewhere in this Zoning By-Law, shall be utilized by the Planning Board in considering all site plans. These objectives are intended to provide specific guidelines for the applicant in the development of site plans.

- a. Landscape - Every effort shall be made to minimize removal of existing vegetation and to integrate existing mature trees and vegetation into the landscape plan. Natural buffers between the site and the natural areas or abutting properties shall be maintained whenever possible. Landscaping shall include masses of trees and vegetation around and near buildings to reduce their perceived scale and set them into the landscape.
- b. Circulation - With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives, parking and loading areas, special attention shall be given to location and

number of access points to the public streets (especially in relation to intersections and other access drives) width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, delineation of parking stalls and loading zones, surface material, access to community facilities, accommodations for the handicapped, and arrangement of parking areas that are safe for vehicular pedestrian use.

- c. Surface Water Drainage - The removal of surface water shall not affect adjoining properties, streets or storm drainage systems nor obstruct circulation of vehicles and pedestrians. For parking areas serving new buildings or expansions to existing parking areas, the performance of surface drainage shall be based on standards set forth in the Dennis Subdivision Rules and Regulations for a 25-year storm frequency.
- d. Building Location - Proposed building and structures shall be integrated as much as possible within the existing landscape and terrain.
- e. Building Design - The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roofline, arrangement of openings, color, exterior materials, proportions and scale of existing buildings in the vicinity. (Not applicable in local and regional historic districts).
- f. Special Features - Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets. On-site lighting shall not glare onto adjoining properties or streets.
- g. Safety - All open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment.

4.1.2.6 Compliance

- a. No building permit shall be issued by the Building Commissioner for any building subject to this Section 4.1.2 and no construction or site preparation shall be started, until a decision of the Planning Board approving a site plan has been filed with the Town Clerk and a Special Permit has been issued by the Planning Board.
- b. An as-built plan, certified by a registered professional land surveyor or engineer shall be submitted to the Building Commissioner before the issuance of a permanent occupancy permit. The as-built plan shall attest to a development's conformity to its approved site plan, by indicating landscaping, buildings, drainage flow, number of parking stalls, and limits of parking areas and drives.
- c. No permanent occupancy permit shall be issued for any building subject to this Section 4.1.2 unless such building and all its related facilities have been completed according to the approved site plan. No permanent occupancy permit shall be issued for more than eighty percent (80%) of the structures or units within a multiple unit development unless the development has been completed according to the approved site plan. No activity subject to site plan approval shall be conducted on the site unless, in the opinion of the Building Commissioner, the development or approved phase thereof has been substantially completed according to the approved site plan, and unless the proposed activity was reviewed by the Planning Board pursuant to the site plan approval procedure.
- d. Any changes in the approved site plan, or in the activity to be conducted on the site shall be submitted to the Planning Board for review.

4.1.2.7 Appeals

Any person aggrieved by a decision of the Planning Board under this Section 4.1.2 may appeal to the Superior Court, the Land Court or the District Court pursuant to Chapter 40A of the Massachusetts General Laws. Any person aggrieved by a decision of the Building Commissioner under this Section 4.1.2 may appeal to the Board of Appeals pursuant to Section 1.4.2 of this Zoning By-Law.

4.2 MULTIPLE DWELLINGS

4.2.1 Procedures

4.2.1.1 Application and Plans - Applicants for a Special Permit for Multi-Family Dwellings shall submit applications and plans as required by Section 4.1.1 and 4.1.2.

4.2.1.2. Review and Reports - The Board of Appeal shall transmit one (1) copy of the application and required plans to the Board of Health, who shall submit a report consistent with Section 1.4.3.

4.2.1.3. Criteria - Approval of multi-family dwellings in residentially zoned areas shall be granted upon the Board of Appeals determination that the plan complies with the requirements of this By-Law and that due regard has been given to the disposal of sewage and surface waters, movements of vehicular traffic and accessibility to emergency vehicles and that the use is in harmony with the general purpose and intent of this By-Law.

4.2.1.4. Approval of multi-family dwellings in non-residentially zoned areas shall be granted upon Board of Appeals determination that the public good would be served and that such non-residentially zoned areas would not be adversely affected by the multi-dwelling use and that the permitted uses in the district are not noxious to the multi-family use, and that the use is in harmony with the general purpose and intent of this By-Law and complies with the requirements of this By-Law.

4.2.2 Requirements

4.2.2.1 Each building shall contain not more than sixteen (16) families and shall not exceed one hundred and forty (140) feet in any dimension.

4.2.2.2 The site plan shall be so designed that parking areas are screened from streets by building location, grading, or screening; lighting on parking areas avoids glare on adjoining properties; major topographic changes or removal of existing trees are avoided whenever possible; and water, wetlands, or other scenic views from streets are preserved.

4.2.2.3 Not less than seventy-five percent (75%) of the lot area shall be retained as unoccupied space free of all buildings, structures, parking, pavement, including without limitation street access drives but excluding walks, and kept stabilized with vegetation.

4.2.2.4 The allowable density shall not exceed the permitted single-family residential density for the district in which the units are to be constructed.

4.3. MARINE USES

4.3.1. Procedures

4.3.1.1. Application and Plans - Applicants for a Special Permit for a Marine Use shall submit applications and plans as required by Section 4.1.1 and 4.1.2.

4.3.1.2. Review and Reports - The Board of Appeals shall transmit one (1) copy of the application and plans to the Conservation Commission, who shall submit a report consistent with Section 1.4.3.

4.3.1.3. Criteria - Approval of a marine use shall be granted upon the Board of Appeals determination that the plan complies with the requirements of Section 4.3.2. and that the use will not be detrimental

to the established character of the neighborhood and the use will be in harmony with the general purpose and intent of this By-Law.

4.3.2. Requirements

4.3.2.1 Setbacks - No marine use shall be located within thirty (30) feet, and no structure shall be located within fifty (50) feet of a lot line.

4.4 OPEN SPACE VILLAGE DEVELOPMENT

4.4.1 Objective

The objective of Open Space Village Development 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 provisions of public service.

4.4.2 Procedures

4.4.2.1 Powers - The Planning Board is hereby designated that special permit granting authority for all open space village development and shall have the power to hear and decide applications for special permits as provided by this section. The Planning Board shall have the power to issue rules and regulations for carrying out its duties under this Section 4.4.

4.4.2.2 Application and Plans - Applicants for a special permit for Open Space Village Development shall submit applications and plans as required by Section 4.1.1 and 4.1.2. The plan shall indicate the location of common open space as well as other items enumerated in Section 4.1.2. 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 easement to be imposed upon the use of land and structure, and a development schedule. 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. A conventional subdivision plan, or grid plan, shall also be submitted for review.

4.4.2.3 Review and Reports - The Planning Board shall transmit copies of the application and plans to the Board of Health and Conservation Commission, who shall submit reports consistent with Section 1.4.3.

4.4.2.4 Criteria - Approval of an Open Space Village Development shall be granted upon Planning Board determination that the plan complies with the requirements of Section 4.4.3, 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 provisions of streets, utilities, and other public services; and at least equal to a conventional plan in other respects and that the use will be in harmony with the general purpose and intent of this by-law.

4.4.3 Requirements

4.4.3.1 Minimum Area - An Open Space Village Development shall encompass at least 5 acres of upland which is contiguous, though not necessarily in one ownership.

4.4.3.2 Number of Dwelling Units

- a) The maximum number of families in one- and two-family dwellings allowed in an Open Space Village Development shall equal the "Applicable Land Area", minus all roadways, driveways and parking areas which serve more than three (3) units; minus land designated on the plan for multi-family dwellings, divided by the minimum lot area requirement for one-family dwelling in that district, multiplied by the following incentive factors, then rounded to the nearest whole number:

<u>Applicable Land Area</u>	<u>Incentive Factor</u>
Less than 20 acres	1.00
20 - 50 acres	1.10
50 - 75 acres	1.20
75 plus acres	1.30

- b) The maximum number of families and bedrooms in multi-family dwellings allowed in an Open Space Village Development shall equal the "Applicable Land Area", minus land designated on the plan for one- and two-family dwellings, and the allowable density shall not exceed the permitted density for the district in which the units are to be constructed.
- c) "Applicable Land Area" shall be determined by a registered land surveyor, and equals the total area encompassed by the Development Plan minus land subject to either inland or coastal wetland regulations (Section 40 and 40A, Ch. 131, G.L.); minus land otherwise prohibited from development by local by-law or regulation; and minus land designated on the plan for uses not primarily servicing residents of the development.
- d) Where the development includes more than one (1) ownership, and/or lies in more than one (1) district, the number of families 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.

4.4.3.3. Allowable Uses - Uses allowed at any location shall be only those allowed in the district in which the location lies. Multi-family dwellings shall be so located that primary access via minor streets servicing one-family homes within the development is avoided, and shall comply with the requirements of Section 4.2.2.

4.4.3.4 Intensity Regulations - In an Open Space Village Development, the requirements of Section 2.3 shall be applicable only to minimum lot frontage and maximum lot coverage and height. Other intensity regulations applicable to an Open Space Village Development shall be the following:

Minimum Lot Area	10,000 Square Feet
Minimum Lot Width	100 feet
Minimum Front and Rear Yard	25 feet *
Minimum Side Yard	10 feet *

* Except that side yards of multi-family dwellings in the Development shall not be less than twenty-five (25) feet, and all yards in the Development abutting other property shall not be less than the requirements of Section 2.3.

4.4.3.5 Improvements - Internal access, drainage, utilities, and grading shall be functionally equivalent to that required for separate lots in the Planning Board's adopted Subdivision Regulations. Prior to the issuance of building permits within an Open Space Village Development, the Building Inspector shall determine that a detailed site plan has been submitted to the Planning Board which meets those standards, and before use permits for any structure are issued, the Building Inspector shall determine that improvements to meet such standards have either been completed to serve such structure or security for their completion has been received. The Building Inspector shall request an advisory

report from the Planning Board that a detailed site plan has been submitted which meets the standards and that improvements to meeting the standards have been completed.

4.4.3.6 Open Space - All land not designated for roads, dwellings, or other development within Open Space Village Development shall be held for common use of the residents of the development. Common open space shall be preserved for recreation or conservation, and shall comprise not less than thirty percent (30%) of the "Applicable Land Area" within the Development Plan. Ownership of common open space areas shall be arranged, and maintenance permanently assured through an incorporated home owners' association, condominium deeds, or other recorded land agreements through which each lot owner in the development is automatically a member and each lot is subject to a change for a share of the maintenance expenses, or through comparable arrangement satisfactory to the Planning Board. Preservation shall be guaranteed through dedication, by covenant, or comparable legal instrument, to the community use and enjoyment of residents of the development tract, for recreational purposes serving those residents and their non-paying guests only, or for conservation. In addition, the town shall be granted an easement over such land sufficient to ensure it perpetual maintenance as conservation or recreation land. Building coverage shall not exceed five percent (5%) in such conservation or recreation areas.

4.4.3.7 Long-Term, Compliance - Subsequent to approval of such Open Space Village Development, no land therein shall be sold and no lot line or structure altered from that shown on the Development Plan so as to increase the degree or extent of non-conformity with the intensity regulations of this By-Law contained in Section 2.3. Prior to sale of any lot within an Open Space Village Development, or issuance of a building permit for construction thereon, 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 4.3.3.6. Unless the Planning Board has specifically approved staged development, such plan shall show all lots to be included in the development.

4.5 NURSING AND/OR CONVALESCENT HOMES, ASSISTED LIVING FACILITY, COMMUNITY CARE RETIREMENT FACILITY, CONTINUING CARE RETIREMENT FACILITY OR EXTENDED CARE FACILITY

4.5.1 Procedures

4.5.1.1 Application and Plans - Applicants for Special Permit for Nursing and/or Convalescent Homes, Assisted Living Facility, Community Care Retirement Facility, Continuing Care Retirement Facility or Extended Care Facility shall submit applications and plans as required by Section 4.1.1 and 4.1.2.

4.5.1.2 The provisions of Section 1.4.3 shall govern all applications for a special permit hereunder. In addition, the Board of Appeals shall file one copy each of the applications for a special permit and required plans with the Board of Health for review and examination. The Board of Health shall submit a report to the Board of Appeals within thirty (30) days of receipt of the application and required plans from the Board of Appeals. Failure to submit a report within this time shall be deemed to be lack of opposition to the application.

4.5.2 Requirements

4.5.2.1 The maximum density requirements shall be as follows:

In an R-60 District	6 beds per 40,000 sq. ft.
In Other Districts	8 beds per 40,000 sq. ft.

4.5.2.2 The density calculations shall be based on the number of acres of contiguous upland.

4.5.2.3 The use shall specifically exclude hospitals, sanitarium, or detached infirmaries or clinics.

Section 4.6 GENERAL PROVISIONS RELATED TO THE QUIVET NECK/CROWE'S PASTURE RESOURCE PROTECTION DISTRICT

4.6.1. Purpose: The regulations of the QNCPRPD, are intended to guide the uses of those areas or tracts of land for residential purposes relative to their capabilities and limitations and to:

- A. To protect shellfish and finfish, and the water quality of all surface and groundwater resources.
- B. To protect aquaculture resources both in Cape Cod Bay and Quivet Creek.
- C. To protect State listed and Federally designated species including vernal pool habitat by protecting large viable tracts of undisturbed habitat in open space areas.
- D. To provide protection to historic and archeological resources by providing the opportunity for such resources to be located within protected open space area.
- E. To protect personal property from the impacts of flooding and erosion.
- F. To protect the Cape Cod Bay Coastline area which provides a series of sandy beaches and rocky promenades from alteration.
- G. Discourage uses which would contribute to pollution of aquifers, surface and ground water, and their recharge through the introduction of sewage or other contaminants.
- H. Discourage uses which would cause the negative impacts to sensitive lands within the community.
- I. Discourage uses which would give cause for unnecessary or excessive expenses to the Town to provide and/or maintain essential services and utilities which arise from inharmonious use of such lands.
- J. Promote the conservation of the natural environment, and the development of QNCPRPD area in harmony with the natural features and habitats of the land.
- K. Encourage a less sprawling and more efficient form of development that consumes less open land and protects the interests of the QNCPRPD.
- L. Minimize the total amount of disturbance on the tract of land.
- M. Preserve and enhance the community character.
- N. Protect the value of real property both within and surrounding the QNCPRPD.
- O. Protect the aesthetic values of the Quivet Neck/Crowe's Pasture environs.

4.6.2 Soils limitation districts are based on soil characteristics. A baseline study was conducted for the town by the Pilgrim Resource Conservation and Development Area Council. The study identified a variety of soil limitations for development. These soil limitations include depth to groundwater, permeability and erodibility of soils. These soil limitations are incorporated into the Dennis Zoning By-law as illustrated on Quivet Neck/Crowe's Pasture Zoning Map Inset 1 Soil Limitations.

4.6.3 Protection of Cole's Pond and Lesser Ponds in the QNCPRPD: In order to protect the ponds the following are prohibited activities on and adjacent to Cole's Pond:

4.6.3.1 Any disturbance or removal of existing vegetation except for invasive species, with the exception of a single path not to exceed three feet in width to provide access from a single point at the edge of the buffer zone to the shoreline of Cole's Pond (and the smaller ponds as well).

4.6.3.2 Appropriate erosion controls, such as, but not limited to, terracing of the path should be incorporated into the design. The layout of said path must be reviewed and approved by the Conservation Commission.

4.6.3.3 Due to the extreme shallowness no internal combustion motors shall be allowed to power vessels on the ponds.

4.6.3.4 Construction of new docks shall be prohibited on the ponds.

4.6.4 Water Quality On-Site Sewage Disposal Issues:

4.6.4.1 The Implementing Regulations for this Section shall be the Dennis Board of Health Regulations Section 16.D.

4.6.4.2 No Building Permit shall be issued in the QNCPRPD until the Board of Health and Conservation Commission permit approvals have been obtained.

4.6.5 Erosion Control and Stormwater Management Provisions: The following erosion control and stormwater management provisions shall be applied:

4.6.5.1 Erosion Control Provisions

4.6.5.1.1 Erosion Control Critical Land Areas are identified as all areas where 10,000 contiguous square feet of land area exceed a 15% slope, and the adjacent land area within twenty-five (25) feet of such areas (top of slope, to the sides of the sloping areas and toe of slope).

4.6.5.1.2 Development Limitations

4.6.5.1.2.1 The land area within the Erosion Control Critical Land Areas may be used for calculating the density of development across the parcel proposed to be developed per Section 2.3.3.12, however the land within the Erosion Control Critical Land Areas, due to the erosive nature of the soils and slopes as determined by the Pilgrim Resource Conservation and Development Area Council, shall not be altered except as spelled out below.

4.6.5.1.2.2 The following are prohibited within the Erosion Control Critical Land Areas:

- Artificial groundcover such as lawn;
- Landscape irrigation systems;
- Septic Systems;
- Stormwater detention basins;
- Accessory structures including but not limited to swimming pools, patios, pool houses, detached garages, boathouses, storage sheds.
- Land clearing, grading or filling beyond work that may be specifically permitted below;
- Landscaping activities on slopes steeper than 15%, unless specifically approved as set-forth in this section and then only with an appropriate stabilization and mitigation plan;
- Landscaping that contains plant species that are not indigenous to the Quivet Neck/Crowe's Pasture area.

4.6.5.1.2.3 Land clearing, grading, filling, and foundation work are not permitted on lots within the Erosion Control Critical Land Areas. The Building Commissioner with input from the town engineer, Planning Board and Conservation Commission may grant a waiver to this development limitation if the Building Commissioner determines that all of the following conditions are met:

4.6.5.1.2.3.1 The lot was in existence as of August 25, 2001 and was located entirely within the Erosion Control Critical Land Areas.

4.6.5.1.2.3.2 If the lot was in existence as of August 25, 2001 and contains land that is outside the Erosion Control Critical Land Areas that said land would not comply with other site development restrictions such as front, side or rear setback requirements or wetland setbacks.

4.6.5.1.2.3.3 The Erosion Control Critical Land Areas will not be adversely impacted by the proposed construction work and the applicant demonstrates compelling justification by a geotechnical and landscaping evaluation of the site and the proposed construction activities by qualified professionals. The Building Commissioner may require geotechnical evaluation of the site, hydrology, soils and storm water retention studies, erosion control measures, restoration plans, and/or an indemnification/release agreement. If the Building Commissioner, after consultation with the Planning Board, Conservation Commission and town engineer or their agents, is not satisfied that the geotechnical report or other reports support granting the waiver, the Building Commissioner may require peer review of the geotechnical and landscaping report by a second qualified professional not associated with the original submittal to verify the

adequacy for the information and analysis, and the completeness of the original evaluation. The applicant will bear the cost of the peer review.

4.6.5.1.2.3.4 The clearing of vegetation shall be limited to no more than 7,500 sf of exposed, non-revegetated land at a time.

4.6.5.1.2.3.5 Criteria/Performance Standards. Development within the Erosion Control Critical Land Areas may occur if the following conditions can be demonstrated by the applicant:

4.6.5.1.2.3.5.1 A site restoration plan shall be submitted prior to permit approval consistent with the geotechnical and landscape report regarding the stability of the site and adjacent properties, and demonstrating no increase in surface water discharge or sedimentation to adjacent properties; and

4.6.5.1.2.3.5.2 The development has been designed so that the risk to the site and adjacent property is eliminated or mitigated such that the site is determined to best protect people and the environment; or

4.6.5.1.2.3.5.3 Development practices are proposed for the structure that would render the development as most protective to historical and archeological resources, people and the environment as if it were not located in an Erosion Control Critical Land Areas; or

4.6.5.1.2.3.5.4 The alteration is so minor as not to pose a threat to the environment and public health, safety, and welfare.

4.6.5.1.2.4 Within Erosion Control Critical Land Areas, land alteration and clearing are allowed only to the minimum extent practical in order to avoid unnecessary site disturbance, and shall conform to the specific recommendations in the geotechnical and landscaping report as noted in section 4.6.5.1.2.3.

4.6.5.1.2.5 Alterations shall not be allowed within the areas identified as Erosion Control Critical Land Areas except as noted in section 4.6.5.1.2.3 above unless specifically permitted by the Planning Board during subdivision review for site access roadways and driveways. The Planning Board may require geotechnical and landscaping evaluation by qualified professionals of the site, hydrology, soils and storm water retention studies, erosion control measures, restoration plans, and/or an indemnification/release agreement prior to permitting any work. If the Planning Board, in consultation with the Dennis Engineering Department, Conservation Commission and Board of Health, is not satisfied that the geotechnical and landscaping report or other reports support granting the waiver, the Planning Board may require peer review of the geotechnical report by a second qualified professional not associated with the original submittal to verify the adequacy for the information and analysis, and the completeness of the original evaluation. The applicant will bear the cost of the peer review.

4.6.5.1.2.6 No development or alterations are allowed within the Erosion Control Critical Land Areas unless the applicant can demonstrate to the satisfaction of the Planning Board that they cannot avoid locating in such area and they demonstrate that archeological and historic resources, environmental and public health, safety and welfare will not be compromised.

4.6.5.1.2.7 All structures and other development shall be located away from the Erosion Control Critical Land Areas and shall be set into the natural topography of the site in order that conditions within these erosion areas are not aggravated.

4.6.5.2 Stormwater Management

4.6.5.2.1 A one-hundred (100) foot undisturbed buffer shall be maintained adjacent to all wetland areas. In such areas, alterations may be allowed for the construction of driveways and roadways subject to adequate erosion protection and re-landscaping and re-vegetation to the satisfaction of the Planning Board and Conservation Commission;

4.6.5.2.2 All stormwater structures shall be prohibited within 100 feet of the top of a coastal bank, 100 feet of a coastal dune, 100 feet of a vegetated wetland, 200 feet of a vernal pool habitat, and 300 feet upgradient of Coles Pond.

4.6.5.2.3 The clearing of vegetation shall be limited to no more than 7,500 sf (except that road and driveway construction shall not be subject to this limitation unless located within a buffer area as described in section 4.6.5.2.1 above) of exposed, non-revegetated land at a time. Activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Planning Board in accordance with this by-law for approval and shall include, where applicable, provisions for:

- A . Stabilization of disturbed soil
- B. Temporary runoff control features such as straw bales, silt fencing, netting or diversion ditches.
- C. Permanent stabilization such as retaining walls or rip rap.

4.6.5.2.4 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes (15% or greater) shall be avoided, and natural contours shall be followed as closely as possible.

4.6.5.2.5 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, or other effective measures. In all cases permanent stabilization shall occur within the same growing season of the initial date of exposure. In addition:

- A. Anchoring with netting, peg and twine or other suitable method may be required to maintain the vegetative cover.
- B. Additional measures shall be taken where necessary in order to avoid transport of sediment into water or off of the site. Such measures may include the use of staked straw bales, netting and/or silt fences.

4.6.5.2.6 Natural and artificial drainage ways and drainage outlets shall be protected from erosion.

4.6.5.2.7 There shall be no increase in the rate or volume of stormwater running off of the site in post construction conditions when compared to the pre-construction condition.

4.6.5.2.8 All stormwater shall be directed to vegetated swales. Design of these vegetated swales shall include Best Management Practices (BMP's) to maximize treatment of stormwater dependent on its source (landscaping runoff, runoff from impervious surfaces exclusive of roof run-off, etc). Cattails shall not be planted within constructed drainage swales due to linkage to favored habitat for mosquito's carrying the West Nile virus.

4.6.5.2.9 All drainage swales serving two or more homes shall provide for overflow to subsurface detention/infiltration systems unless specifically exempted from this requirement by the approval of an equivalent system which does not involve ponding water or discharge of run-off to adjacent properties.

4.6.5.2.10 Stormwater shall be minimized by encouraging shared accessways, limitations on impervious surfaces, and limitation on grading changes and/or disturbance of existing vegetation.

4.6.5.2.11 Direct discharge to wetland areas is prohibited.

4.6.5.2.12 Maintenance:

4.6.5.2.12.1 Stormwater Management Systems shall be inspected annually or more often, if necessary, based upon the “Best Management Practice” recommendations for the system selected, and cleared of debris, sediment and vegetation.

4.6.5.2.12.2 Vegetated swales are to be inspected monthly and mowed or replanted as necessary. Clippings are to be removed from the vegetated swale.

4.6.5.2.12.3 Each stormwater system shall have a design life of a minimum of 20 years, as documented in a peer review publication, third party testing, or other independent authority.

4.6.5.2.12.4 The applicant shall establish a method to ensure the maintenance, inspection and repair of the stormwater management system. Said method shall include the formation of a Homeowner’s Association charged with the responsibility for the maintenance, inspection and repair of the stormwater system. The formation of a Homeowner’s Association shall be waived when the Stormwater Management System services a single lot.

4.6.5.2.12.5 The results of all inspections shall be provided to the Dennis Planning Board. The failure to provide a required report within 45 days of its due date shall constitute a default on the requirements of this section, and shall authorize the Town of Dennis to contract with a qualified person to conduct such inspection and order any necessary repairs at the expense of the Homeowner’s Association, or otherwise specified legal entity.

4.6.5.2.12.6 The applicant shall grant an easement to the Town allowing it to enter on the property as necessary to maintain, inspect or repair the stormwater system in the event the property owner fails to maintain the system as called for in this by-law.

4.6.6 Scenic Vista Protections and View Easements

4.6.6.1 Scenic Vista Protection (Reference Map Insert 3)

4.6.6.1.1 Purpose Within the Quivet Neck/Crowe’s Pasture Area there are many significant landforms and natural features that distinguish the area from other portions of Dennis and are reflective of Cape Cod’s natural environment. The landforms and natural features accordingly constitute a unique public natural resource meriting protection and preservation. Construction of structures in locations on these landforms which are visible from the Old King’s Highway, Paine’s Creek Road, beaches and Cape Cod Bay degrades this natural heritage. The regulations adopted in this section place restrictions on the siting of structures in visually significant areas and provide mitigation of the visual impact of such development. Visually significant areas within the QNCPRPD are shown as areas A and B on Inset Map 3, Scenic Vista’s Overlay District Overlay. Scenic Vista’s include among other areas, the shoreline around the town’s rivers, streams, lakes, ponds, marshes; coastline; and the skyline and ridge face in our hilly areas.

Area A is defined as shown on Inset Map 3 and characterized by skyline and ridge face areas. The skyline is the interface between the land and the sky. The ridge face is the face of slopes visible from roads and other public areas. A structure crosses the skyline if it interrupts the interface between the land and the sky. A structure that does not cross the skyline, may still be visible along the ridge face. Due to available resources (i.e. USGS elevation maps, supplemented as available from individual site elevation surveys) only visual blocks from terrain were considered in developing the “skyline” and “ridge face” areas. Given the ability for the tree-line to change either due to natural or manmade causes, such a limitation is appropriate to matching the allowed structural heights to the more permanent aspects of the area.

Area B is defined as the area illustrated on the Zoning inset Map 3 and represents the north face of the slope which if altered or cleared of vegetation would be visible from public viewing areas.

4.6.6.1.2 Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Map. The Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Map dated March 31, 2003 is adopted as an amendment to the Dennis Zoning Map.

4.6.6.1.3 Building Restrictions and Visual Impact Mitigation

4.6.6.1.3.1 Structures Prohibited – Within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B, no primary or accessory structure shall be constructed except as noted below. To ensure the appropriate placement of structures with regard to the Overlay District, the required studies, and to provide notice of such restrictions, building envelopes shall be designated on the applicable subdivision plans.

4.6.6.1.3.2 Restrictions on Height – Within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B no primary or accessory structure with a building height greater than 30-feet shall be constructed. On lots located entirely within the Overlay District, and on lots where conditions such as setbacks requirements require structures to be located within the Overlay District, no primary or accessory structure shall exceed 30-feet building height. No building shall be constructed such that its elevation at the top of foundation is at or above the elevation of fifty (50) feet above mean sea level and no maximum structural height shall exceed elevation seventy (70) feet above mean sea level at the highest point of the ridge line.

4.6.6.1.3.3 Restrictions on Mass

4.6.6.1.3.3.1 Primary Structures - Within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B no primary structure shall exceed a footprint of:

- a. On lawfully pre-existing lots of less than 10,000 sf - 15% of lot size, not to exceed 1,250 sf.
- b. On lawfully pre-existing lots of between 10,001 and 20,000 – 12.5% of lot size, not to exceed 2,000 sf.
- c. On lawfully pre-existing lots of between 20,001 sf and 39,999 sf - 10% of lot size, not to exceed 2,500 sf.
- d. On all other lots, 6.25% of the lot area, not to exceed 3,500 sf for a two-story building and 4,500 square feet for a one and one-half story building.

4.6.6.1.3.3.2 Accessory Structures - Within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B no accessory structure shall exceed 30% of the footprint of the principal structure, except that:

- a. On lawfully pre-existing lots of less than 10,000 sf – the total area of the primary and all accessory structures shall not exceed 15% of lot size.
- b. On lawfully pre-existing lots of between 10,001 and 20,000 – the total area of the primary and all accessory structures shall not exceed 15% of lot size.
- c. On lawfully pre-existing lots of between 20,001 sf and 39,999 sf - the total area of the primary and all accessory structures shall not exceed 10% of lot size.
- d. On all other lots, the total area of the primary and all accessory structures shall not exceed 10% of lot size.
- e. Where a principal structure is less than 2,000 sf one accessory structure not to exceed 600 sf is allowed if the property can continue to conform with the lot coverages set forth in this section.

4.6.6.1.3.3.3 On lawfully pre-existing non-conforming lots created before August 25, 2001 located entirely within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B no primary or accessory structure shall exceed these lot coverage restrictions.

4.6.6.1.3.3.4 Maximum Total Site Coverage - Within the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District Areas A and B the maximum total site coverage shall not exceed:

- a. On lawfully pre-existing lots of less than 10,000 sf - 20% of lot size.
- b. On lawfully pre-existing lots of between 10,001 and 20,000 – 17.5% of lot size.
- c. On lawfully pre-existing lots of between 20,001 sf and 39,999 - sf 15% of lot size.
- d. On all other lots, 12.5% of lot size.

Maximum total site coverage within the Scenic Vista’s Overlay District shall be calculated by adding the square footage of the footprint of all structures; decks; parking; driveways (including gravel, dirt or seashell); pavement, including street access drives and walks; and in-ground pools, patios and “hardscape” including retaining walls and landscaping walls, and dividing the total square feet thereby obtained by the total lot area in square feet.

4.6.6.1.3.4 Restrictions on Spacing of Structures - Within the Quivet Neck/Crowe’s Pasture Scenic Vista’s Overlay District Areas A and B primary and accessory structures shall be located such that there is minimum of thirty (30) feet between said structures

4.6.6.1.3.5 Restrictions on clearing of vegetation - Within the Quivet Neck/Crowe’s Pasture Scenic Vista’s Overlay District Areas A and B no construction or site preparation work shall be done on any land including the removal of vegetation until all necessary permits and approvals have been obtained except to the minimum necessary for site percolation tests for septic and survey work. Prior to site disturbance and as part of the as-built submittal photographs shall be provided to document compliance with Section 4.6.12.7.

4.6.6.1.3.6 Mitigation of Impacts

4.6.6.1.3.6.1 On lots within the Quivet Neck/Crowe’s Pasture Scenic Vista’s Overlay District within Area A, all primary and accessory structures shall comply with the following measures designated to mitigate the visual impacts of the structure prior to occupancy.

4.6.6.1.3.6.1.1 Colors - All primary and accessory structures shall be constructed and maintained so that the predominant exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials repeat the colors found most commonly in the land and vegetation around the building (earth tones). Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominant colors on any wall or roof surface.

4.6.6.1.3.6.1.2 Vegetation – The area around each primary and accessory building shall include the planting of at least one tree of a species with a potential mature height of at least 35-feet planted for every 20 linear feet of the exterior perimeter of the buildings. These trees shall be planted at least every twenty (20) feet on the sides of the building facing the designated viewing areas and shall be located within 25-feet of the primary and accessory buildings. All trees installed to meet the requirements of this subsection shall be of indigenous species and shall contain a mix of coniferous and deciduous varieties, shall be a minimum of eight-feet tall when planted and shall be planted before a certificate of occupancy is issued for the primary building. To the maximum extent possible, during site work and grading, all existing vegetation with a height of more than five-feet, other than invasive species shall be preserved (except that in areas 30 feet or more from all structures, all natural vegetation shall be preserved) No trees measuring four (4) inches or greater diameter measured at five (5) feet above existing grade shall be cut or removed unless specifically authorized by the Planning Board in consultation with and concurrence of the Conservation Commission.. Any existing trees with a four (4) inch diameter left in place within 30 feet of the principal or accessory buildings are counted towards satisfaction of the tree requirements.

4.6.6.1.3.6.1.3 Exterior Lighting – The following lighting standards shall be applicable to residential properties:

- (a) Floodlights shall not be used to light all or any portion of any primary or accessory structure façade.
- (b) Outdoor lighting shall be 12 ft. or less in height unless it meets one or more of the following criteria:
 - Fully shielded with a non-adjustable mounting; or
 - Lighting on above grade decks or balconies which shall be fully shielded.
 - Lighting meets the restrictions to be considered a security light.
- (c) Incandescent light sources including halogen shall not exceed 60 watts.
- (d) All light sources that are not fully shielded shall use other than a clear lens material, as the primary lens material, to enclose the light bulb to minimize glare from a point source.
- (e) Landscape lighting is limited to 35 watts per fixture per 150 sq. ft. of landscaped area (as measured in a horizontal plane).
- (f) Security lights shall be restricted as follows:
 - The point light source shall not be visible from adjoining lots or streets.
 - Flood lights must be motion sensor activated, with an automatic shut-off, only by motion within owners' property.
 - Lights may be located a height of 20 feet or less above grade.
 - Lights may be switch activated for emergency security purposes.
- (g) Photo-cell lights shall be allowed under the following circumstances:
 - At primary points of entrance (e.g. front entries) or in critical common areas;
 - Where the light sources are fully-shielded by opaque material (i.e. the fixture illuminates the area but is not itself visibly bright).
- (h) Lights must be fully shielded, down directed or screened from adjacent properties in a manner that limits light trespass to 1 foot candle as measured at the property line.
- (i) Holiday light displays and lights illuminating flagpoles, shall be exempt from this section of the Zoning By-law.
- (j) Sight lighting shall be designed to limit the impacts of such lights on the site natural areas such that sight lighting at the bounds of the landscaped areas shall not exceed one foot candle.

4.6.6.1.3.6.1.4 Exposed foundations – On the side of each primary and accessory structure facing the nearest viewing platform, no foundation wall shall be exposed for more than one-half of its height, unless a vegetated berm at least three feet in height is constructed between such foundation and the property line closest to the viewing platform.

4.6.6.1.3.6.1.5 View Easements: With approval of the Planning Board in consultation with the Conservation Commission, vegetation may be trimmed outside of the building envelope to allow for "line-of-site" view easements. Such view easements shall provide for protection of the "root mass" in order to protect against erosion. When considering such "line-of-site" view easements, the Planning Board shall consider both the value of the view provided to the private property owner, as well as to protecting the aesthetics of the resource area, especially to the users of the Trail to Crowe's Pasture and the views from the public viewing platforms described above. When established the view easement shall be marked on the property to allow for inspection as the work proceeds.

Vista pruning shall comply with the following standards: selective thinning of framework limbs or specific areas of the crown to allow a specific view of an object from a predetermined point in accordance with the American National Standards Institute (ANSI) A-300 Pruning Standards, and

completed by or under the direct supervision of a Massachusetts Certified Arborist. Topping or raising shall not be utilized to accomplish vista pruning. The applicant shall notify the Dennis Conservation Commission or its agent at least fourteen (14) days prior to commencement of vista pruning and any trees to be pruned shall be identified with colored tape prior to a site visit by the Dennis Conservation Commission or its agent. No vista alterations are allowed within wetlands or wetland buffer zones.

The removal of the shrub layer and dead wood or snags is prohibited unless specifically permitted by the Planning Board during the review of the request to create the view easement.

Vista Pruning shall only be approved after the preparation of a visual simulations of the property as viewed from the public viewing areas illustrating the magnitude of visual intrusion of the proposed pruning. In no case shall more than ten percent (10%) of a structure be visible from any one viewing platform.

4.6.6.1.3.6.2 On lots within Area B of the Quivet Neck/Crowe's Pasture Scenic Vista's Overlay District, all primary and accessory structures shall comply with the following measures designated to mitigate the visual impacts of the structure prior to occupancy.

4.6.6.1.3.6.2.1 Colors - All primary and accessory structures shall be constructed and maintained so that the predominant exterior wall colors (including the colors of basement walls on the downhill side of the structure) and roof surfacing materials repeat the colors found most commonly in the land and vegetation around the building (earth tones). Reflective materials and bright colors that contrast dramatically with the colors of the land and vegetation around them shall not be used as predominant colors on any wall or roof surface.

4.6.6.1.3.6.2.2 Exterior Lighting – The following lighting standards shall be applicable to residential properties:

(a) Floodlights shall not be used to light all or any portion of any primary or accessory structure façade.

(b) Outdoor lighting shall be 12 ft. or less in height unless it meets one or more of the following criteria:

- Fully shielded with a non-adjustable mounting; or
- Lighting on above grade decks or balconies which shall be fully shielded.
- Lighting meets the restrictions to be considered a security light.

(c) Incandescent light sources including halogen shall not exceed 60 watts.

(d) All light sources that are not fully shielded shall use other than a clear lens material, as the primary lens material, to enclose the light bulb to minimize glare from a point source.

(e) Landscape lighting is limited to 35 watts per fixture per 150 sq. ft. of landscaped area (as measured in a horizontal plane).

(f) Security lights shall be restricted as follows:

- The point light source shall not be visible from adjoining lots or streets.
- Flood lights must be motion sensor activated, with an automatic shut-off, only by motion within owners property.
- Lights may be located a height of 20 feet or less above grade.

(g) Photo-cell lights shall be allowed under the following circumstances:

- At primary points of entrance (e.g. front entries) or in critical common areas;
- Where the light sources are fully-shielded by opaque material (i.e. the fixture illuminates the area but is not itself visibly bright).

(h) Lights must be fully shielded, down directed or screened from adjacent properties in a manner that limits light trespass to 1 foot candle as measured at the property line.

(i) Holiday light displays and lights illuminating flagpoles, shall be exempt from this section of

the Zoning By-law.

(j) Sight lighting shall be designed to limit the impacts of such lights on the site natural areas such that sight lighting at the bounds of the landscaped areas shall not exceed one foot candle.

4.6.6.1.3.6.2.3 Exposed foundations – No foundation wall located outside of a wetland resource area as defined by MGL C 131 Section 40 and the Town of Dennis Wetlands By-law shall be exposed for more than one half of its height, unless a vegetated berm at least three feet in height is constructed between such foundation and the northerly property line Foundations constructed within a wetland resource area as defined by MGL C 131 Section 40 and the Town of Dennis Wetlands By-law shall be constructed as an open foundation with minimal disturbance to naturally occurring ground elevations.

4.6.7 Shoreline Conservation: Based upon data from the National Oceanic and Atmospheric Administration (NOAA), and the Office of Ocean and Coastal Resource Management (OCRM), the Quivet Neck/Crowe's Pasture coastline along Cape Cod Bay has eroded at a rate of between 0.49 and 5.87 feet per year in the study area. As such, in order to protect property value and public safety no construction or alteration of the natural environment, except for roadways and driveways, shall be allowed within, and within 100 feet of, existing FEMA A and V Zones.

4.6.8 Accessory Structure: Accessory structures are not allowed within a required front yard. An accessory structure is allowed within a required side or rear yard provided it is set back thirty (30) feet from the side property line except where greater distances are required by Section 4.6.11. An accessory structure with a footprint of one-hundred twenty (120) square feet or less may be located a minimum of ten (10) feet from any side or rear lot line except where greater distances are required by Section 4.6.11. Accessory structures shall be subordinate in height to the principal structure on the site. Buildings should be broken up into smaller masses rather than in single large monolithic structures. The siting of the lower buildings (story and a half) should be located near the front of the site, with any higher buildings sited behind them. Buildings should relate to each other architecturally from the point of view of massing, siting and the treatment of roof lines. Accessory Structures shall not occupy more than thirty (30%) percent of the maximum total site coverage area, nor shall any single accessory structure be larger than thirty (30%) percent of the footprint of the principal structure, except that this shall not restrict a residential garage to a footprint of less than 600 square feet. Except that properties regulated by 4.6.6 shall be governed by the provisions of 4.6.6.1.3.3.2.

4.6.9 Trail to Crowe's Pasture Buffer Area A buffer area of at least fifty (50') feet of dense natural vegetation and/or landscaping shall be provided between the "Trail to the Crowe's Pasture Conservation Area" and any disturbed areas excluding any previously permitted projects. The buffer area shall provide for enough high shrubs (existing natural vegetation supplemented as necessary) to form a screen 6 feet high and 95 percent opaque year-round. A tree canopy over the landscaped area should also be maintained. All shrubs that are added to the natural vegetation must be of indigenous species, and of sufficient size and number to meet the required standards within 3 years of planting.

4.6.10 Quivet Neck/Crowe's Pasture DCPC Historic and Archeological Resource Protection and Implementing Regulations

4.6.10.1 Goals: Historic and archeological resources are fragile features that embody the significant prehistoric and historic cultural heritage of the Town of Dennis; they provide a material record to understand and explain our past, and enhance and enrich the Town's quality of life. The purpose of this by-law is to protect the significant historic and archaeological resources of the town and provide a means for review of activities that may affect these non-renewable resources.

4.6.10.2 Purpose: The purpose of this section is to ensure the proper protection is afforded historical, archeological and cultural resources in the QNCPRPD. As such the information required by this section shall allow for the identification and avoidance or preservation of these resources. In particular, stone walls shall not be removed as part of site development, and shall only be altered to the minimum extent necessary to provide for access through the wall; all stones removed from the wall for permitted access shall be used within remaining sections of that wall; and archeological and historical resources shall be mapped so as to focus site preservation requirements to the areas where such resources may exist.

4.6.10.3 Relationship to other relevant regulations: The provisions of this by-law do not waive applicable Federal and State laws regarding the discovery of unmarked human burial or skeletal remains (which require development activity to cease immediately) or the inadvertent or unexpected discovery of significant historical and archeological resources.

4.6.10.4 Applicability: Upon receipt of an application for a building permit, an earth removal permit, a subdivision permit, percolation tests, well drilling, utility trenching, demolition, road construction, clearing, excavation, use of heavy machinery that may destroy or disturb historic and archeological resources, or a cluster residential zoning permit for property located within the QNCPRPD and within an area designated as a highly sensitive area for historic or archeological resources in Zoning Inset Map 5 High Sensitivity Historic/Archeological Areas, the permit granting authority shall direct the applicant to meet the requirements of this by-law by submitting the necessary information to the Dennis Site Plan Review Committee. These requirements are based upon the extent of the historic and archeological resource mapped as of high sensitivity in Figures 6-4 and 6-5 of the Reconnaissance Archeological Survey, Quivet Neck/Crowe's Pasture District of Critical Planning Concern Technical Report prepared by PAL, dated January 2003, for the Town of Dennis. The existing developed portion of the Quivet Neck Cemetery, delineated by the portion of the cemetery cleared as of the date of this Zoning By-law, August 25, 2001, shall be exempt from the requirement to conduct an historic/archeological study.

4.6.10.5 Town of Dennis Site Plan Review Committee: The Town of Dennis Site Plan Review Committee consists of representatives from the Building, Health, Natural Resources, and Planning and Appeals Offices, as well as the Fire Department, Police Department and Engineering Office (if needed). The Site Plan Review Committee shall consult with the Massachusetts Historic Commission, The Town of Dennis Historic Commission, and such local agencies and Native American Tribes (e.g. Aquinnah Wampanoag, Mashpee Wampanoag) as it deems necessary for guidance.

4.6.10.6 Determination of Presence of Significant Archeological or Historic Resources: Prior to any development in the QNCPRPD, it must be determined if there are significant historic and archeological resources at the site. Significant historic and archeological resources are those that meet the criteria for evaluation for listing in the National Register of Historic Places (36 Code of Federal Regulations, Part 60) or the State Register of Historic Places.

The requirements of this section apply to both developed and undeveloped lots and includes any activity, such as percolation tests, well drilling, utility trenching, demolition, road construction, clearing, excavation, or use of heavy machinery that may destroy or disturb historic and archeological resources.

Prior to the start of any work or activity the following shall occur

1. The owner/agent must submit a Project Notification Form (950 CMR 71) and the required maps and plans (a complete list is available at the town hall) to the Site Plan Review Committee.
2. This information shall be provided at least fourteen days before the regular Semi-monthly Meeting of the Site Plan Review Committee.

3. On the regular meeting of the Site Plan Review Committee that follows 14 days after the submittal of materials the Site Plan Review Committee shall meet with the applicant to review the material, discuss issues with the applicant, seek additional material that may be necessary for the Site Plan Review Committee to make its recommendations, and make recommendations regarding the submittal. This meeting may be continued to subsequent Site Plan Review Committee meetings as necessary for the applicant to provide added material or plan revisions.
4. The Site Plan Review Committee shall, within 30 days of the close of its discussions with the applicant, make a recommendation as to whether additional study is needed or not. This recommendation shall be in a written form which can be included in future submittals.
5. The owner/agent, upon the conclusion of the Site Plan Review Committee's review of the Project Notification Form, shall submit a Project Notification Form (950 CMR 71) and the required maps and plans to the Massachusetts Historical Commission along with the written recommendations of the Site Plan Review Committee with a copy of said submittal made to the Site Plan Review Committee.
6. The Massachusetts Historical Commission shall review this submittal according to its normal protocol, taking into consideration the recommendations of the Dennis Site Plan Review Committee.
7. The MHC shall make its own independent determination as to the need for additional study. Should the MHC determine additional study is necessary, the applicant shall provide the Dennis Site Plan Review Committee with updates on the MHC review and how said review addresses the issues identified by the Site Plan Review Committee.
8. At the close of the MHC review, either through a determination that no additional analysis is required, or upon completion of any additional analysis that MHC may require, the applicant shall return to the Site Plan Review Committee to highlight how the MHC review addressed the concerns of the Site Plan Review Committee if any. If the MHC has determined that no additional study was necessary, in instances where the Site Plan Review Committee felt a need for additional efforts, the Site Plan Review Committee will weigh the findings of the MHC to determine whether the local concerns would still require analysis despite the MHC determinations.
9. If a survey is not required by the Site Plan Review Committee, due to development scenarios that would not, in the judgment of the Site Plan Review Committee impact historic or archeological resources, the development may proceed through the normal permitting process.
10. All surveys shall be completed in accordance with the Massachusetts Historical Commission (MHC) survey (950 CMR 70) requirements.
11. If the survey identifies areas of the site that are known or are likely to contain significant historic or archeological resources, and the owner/agent agrees that these areas will not be affected or disturbed by the proposed development, the Site Plan Review Committee will make recommendations to the permit granting authority as to the conditions under which the proposed development may proceed through the normal permitting process.
12. If the survey identifies areas of the site that are known or are likely to contain significant historic or archeological resources that will be affected or disturbed by the proposed development, a more extensive survey shall be conducted, by the owner/applicant, to locate, identify, and evaluate said resources.
13. If significant historic or archeological resources are found, the survey shall also develop plans to avoid the adverse effects of development. The results of this final survey shall be presented to the MHC and the Site Plan Review Committee.
14. The Site Plan Review Committee shall then hold a meeting to determine what actions should be taken to avoid any potential damage or impairment to any historic and

archeological resources and will make recommendations to the permit granting authority as to the conditions under which the proposed development may proceed through the normal permitting process.

15. The Site Plan Review Committee shall, issue written recommendations within 30 days of the close of its discussions with an applicant.

Should an intensive archeological survey be necessary, such survey shall cover the land allowed for alteration unless otherwise restricted or limited by the permitting entity or land owner and not be limited to proposed structural footprints or infrastructure layouts but shall be limited to only the land areas falling within the land areas identified as of high sensitivity in Zoning Inset Map 5 High Sensitivity Historic/Archeological Areas.

The existing developed portion of the Quivet Neck Cemetery, delineated by the portion of the cemetery cleared as of the date of this Zoning By-law, August 25, 2001, shall be exempt from the requirement to conduct an historic/archeological study.

4.6.10.7 The Site Plan Review Committee may require peer review of the survey by a qualified professional not associated with the original submittal to verify the adequacy for the information and analysis, and the completeness of the original evaluation. The applicant will bear the cost of the peer review.

4.6.11 Natural Resources Inventory and Environmental Assessment and Management Plan

4.6.11.1 Within the QNCPRPD all subdivision of land, application to construct more than one principal structure on a lot, or the application for a building permit for a tract of land larger than 5 acres in single or common ownership as of August 25, 2001 located within the Habitat Overlay District in Zoning Inset Map 4 shall be required to provide a Natural Resources Inventory and Environmental Assessment and Management Plan. Said inventory shall include:

1. An assessment of the ecological value of the development tract as determined by the biological and physical components of the environmental system;
2. An assessment of whether the area contains State listed or Federally designated plant or animal species or vernal pool habitat;
3. An assessment of whether the area contains plant and animal communities whose loss, decline or increase would negatively affect the biodiversity of the area;
4. An assessment as to whether the development tract falls within the Habitat Overlay District as illustrated in Inset Map 4 of the Dennis Zoning Map.

4.6.11.2 Upon the completion of the environmental assessment, the applicant shall develop a management plan to address measures to protect sensitive resources on the site. Said management plan should include:

1. the use of scaled buffer areas to protect identified sensitive resources;
2. implementing recommendations to protect State listed and Federally designated plants and animals, and vernal pool habitat, that include protection of the immediate location of the plants, animals or vernal pools and an undisturbed buffer to any and all State listed or Federally designated plants and animals and vernal pool habitat that include protection of the immediate location of plants or animals and vernal pool habitat;
3. requiring the use of indigenous (indigenous to the Quivet Neck/Crowe's Pasture area) plant species, requiring the physical connection of forested and contiguous meadow habitat, and invasive species management as appropriate; and
4. prior to the issuance of a development permit for any area the issuing authority shall receive written sign off from the Conservation Commission that no adverse impact to the habitat will

result from the construction and use of the proposed development or that any and all adverse impacts to habitat have been/will be mitigated.

The permitting entity shall not issue a permit without consultation with the Planning Board and Conservation Commission or their agent relative to the accuracy and completeness of the Natural Resource Inventory and Environmental Assessment. The permitting entity may require peer review of the Natural Resource Inventory and Environmental Assessment by a qualified environmental engineer or scientist not associated with the original submittal to verify the adequacy for the information and analysis, and the completeness of the original evaluation. The applicant shall bear the cost of the peer review.

The permitting entity shall require the applicant to implement recommendations proposed.

4.6.12 Landscaping Requirements

4.6.12.1 The maximum portion of a lot that can be cleared or altered for landscaping shall be 12.5% of the lot including all lawn, foundation plantings, walkways and other landscaping features.

4.6.12.2 Landscaping treatments shall maximize the use of natural and/or indigenous to the DCPC area plant buffers.

4.6.12.3 The use of in-ground irrigation systems in areas where they have not been prohibited shall be timed and governed to regulate flow rate and duration.

4.6.12.4 Any alteration to the existing site vegetation must be designed to enhance wildlife habitat and biodiversity.

4.6.12.5 Any alteration to the existing site vegetation, exclusive of foundation plantings and lawn, shall be mitigated with indigenous plant materials.

4.6.12.6 Landscaping treatments on slopes of greater than 15% is prohibited except as necessary for mitigation to installation of driveways and other allowed disturbances in Section 4.6.5.1 Erosion Control Provisions above.

4.6.12.7 No trees with a four inch (4") or greater diameter measured at 5 feet above existing grade, shall be cut or removed without prior authorization by the Planning Board after consultation with and concurrence of the Conservation Commission, after a site inspection has been conducted.

4.6.13 Containment of Authority to Current Law – Notwithstanding the wording, this by-law shall not be construed to extend any additional regulatory authority to the Dennis Conservation Commission, Dennis Board of Health, Dennis Planning Board, or Dennis Building Commissioner to any areas that are not otherwise provided for by applicable Massachusetts General Law. In the event of conflicting requirements between regulating authorities as to the installation of septic systems, the more stringent shall apply unless to do so would result in an applicant being unable to site a septic system, in which case the next less stringent requirement shall be applied.

4.6.14 Severability

In the event that any particular provision of this by-law is ruled invalid the remaining provisions shall remain in full force and effect.

Section 4.6.15 – DEFINITIONS - These definitions shall apply to Sections 4.6, 4.7 and 4.8 of the Dennis Zoning By-law

Accessory Structure - A detached structure located on the same lot with the principal structure to which it is accessory, and not used for habitable space.

Accessory Use - A use customarily incidental to and located on the same lot with the use to which it is accessory except that a use accessory to scientific research or related production does not have to be on the same parcel as the use to which it is accessory.

Active Recreation - Any activity that required developed facilities including but not limited to tennis, swimming competitively or in man-made facilities, basketball, baseball, horse barns and corrals, or golf on developed facilities.

Actively Shifting Sands - These areas shall include coastal beaches, coastal dunes, barrier beaches, and coastal banks.

Building Envelope - For development shall include but not be limited to, principal and accessory structures, pools, driveways, utilities, landscapes areas and sewage disposal areas.

Building Height - The vertical distance between the average natural grade of the ground under the footprint of a building and the highest point of the roof, parapet, or other attached structure. A chimney, cupola (four feet or less in height), flagpole, or residential television antenna shall be exempt from the above requirements. Average Natural Grade shall be derived from the average elevation of the natural grade along the exterior of the building facing the front lot line and the average elevation of the natural grade along the exterior of the building facing the rear lot line or, for a through lot, the other front lot line.

Coastline - the mean high-water line.

Coastline Area - The areas where land and sea interact with its landward boundary defined by the upper limits of the coastal beach as defined by the Town of Dennis Wetlands By-law and MGL C. 131 S. 40.

DCPC - The Quivet Neck/Crowe's Pasture District of Critical Planning Concern

Depth to Groundwater (groundwater elevations) - Shall be determined by

- 1) direct observation of highest groundwater elevation (including seasonal and perched groundwater) in a test pit excavation;
- 2) direct observation of mottling (redoximorphic features) in a test pit excavation; and
- 3) by calculation using the USGS Frimpter high groundwater adjustment method.

The actual recorded depth to groundwater shall be the highest groundwater elevation determined by a, b, and c (based on an NGVD datum) as subtracted from the existing ground elevation at the test pit excavation.

Disturbed Area - The total land area allowed on a lot to be disturbed including but not limited to area altered for all buildings, driveways, pools, patios, landscaping, retaining walls, septic systems.

Foot candle: A measure of light falling on a surface. One foot candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away (Lux is the metric equivalent of footcandles, and both can be measured by a light meter). The Illuminating Engineering Society of North America (IESNA) provides lighting standards for typical applications.

Habitable Space - Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

Habitat - An environment providing the food and shelter (including nesting) required for a plant or animal to make its home.

NGVD - National Geodetic Vertical Datum

Opaque - The blocking of light.

Overlay Districts - A district with supplementary regulations which is superimposed upon existing use districts.

Passive Recreation - Any activity that can be casually performed with minimum disturbance of an area's natural condition. For example, but not limited to, hiking, picnicking, canoeing, ice-skating, cross-country skiing, casual swimming in a natural water body or informal sports activities on an open field are considered passive activities.

Private Access Drives - Any private access way serving more than two homes shall be named and registered with the town. House numbers shall be designated as per the Town of Dennis and NENA (National Emergency Number Association) standards.

QNCPRPD - The Quivet Neck/Crowe's Pasture Resource Protection District.

Residential Garage - A structure that is accessory to a residential structure and that is used solely for parking and storage by residents thereof.

Ridge-face Area - An area delineated on the Dennis Zoning Map as Scenic Vistas in which all or part of a permanent structure constructed thereon would be visible from one or more points on a viewing platform but would not be visible along the skyline when viewed from the same point because of higher landforms located behind the ridge.

Roofline Structures - Any normal structure usually associated with being above the roofline such as chimneys, television antennas, cupolas, flagpoles, widow walks, etc, whether subject to building height limits or not.

Scenic Vista - Publicly accessible views from Route 6A, Paine's Creek Road, path to Crowe's Pasture and beaches within Dennis, Brewster and Cape Cod Bay that make the community's environment, history or archeology special.

Shoreline - the annual flood level of rivers, streams, lakes, ponds, marshes and including tidally influenced rivers and streams.

Skyline - The horizon between land and sky.

Skyline Area - An area as delineated on the Dennis Zoning Map as Scenic Vistas in which all or part of a permanent structure constructed thereon would be visible along the skyline – for example it would extend higher than the highest landform located either in front of or behind the structure when viewed from one or more points on a viewing platform.

State listed/Federally designated species:

Rare - species of vertebrate and invertebrate animals and of native plants that are officially listed as endangered, threatened or of special concern in Massachusetts.

Special concern - Native species which have been documented by biological research or inventory to have suffered a decline that could threaten the species if allowed to continue unchecked, or which occur in such small numbers or with such restricted distribution or specialized habitat requirements that they could easily become threatened within Massachusetts.

Threatened - Native species which are likely to become endangered in the foreseeable future, or which are declining or rare as determined by biological research and inventory.

Endangered – Native species which are in danger of extinction throughout all or part of their range, or which are in danger of extirpation from Massachusetts, as documented by biological research and inventory.

Toe of Slope - the location defined by the intersection of the embankment (in this case with a slope of 15% or greater) with the surface existing at a lower elevation (in this case with a slope of less than 15%); also known as toe.

Top of Slope - the location defined by the intersection of the embankment (in this case with a slope of 15% or greater) with the surface existing at the upper elevation (in this case with a slope of less than 15%).

Top of Foundation – The physical location of the highest point of the foundation above mean sea level (NGVD). The top of foundation is not the location from which building height is to be measured.

Viewing Platform – Those portions of Route 6A, Paine’s Creek Road, path to Crowe’s Pasture and beaches within Dennis, Brewster and Cape Cod Bay from which field observations, architectural renderings and other necessary technical information are used to assess the visual significance of development on prominent landforms.

Vernal Pools and Pool Habitat - Unique wetlands that support diverse wildlife habitat including many State listed species. Vernal pools come in a diversity of forms as defined in 310CMR10:00.

Water Recharge – an area in which water infiltrates and reaches the zone of saturation.

Section 4.7 PROVISIONS SPECIFIC TO GRID SUBDIVISION DEVELOPMENT OF LAND WITHIN THE QUIVET NECK/CROWE’S PASTURE RESOURCE PROTECTION DISTRICT

4.7.1 Natural Resource Protection Provisions: In order to protect the natural resources in the area, in particular the areas of endangered plant and animal habitat, other significant habitat areas, marine water recharge, sensitive slope areas and wetland environment, at least 50% of the buildable portion of any lot shall remain in its natural state.

4.7.2 Common Driveways: Common driveways may be used to access no more than two adjacent lots to service a maximum of two residences. In such cases the overall lot coverage for the lots shall not exceed the provisions of Section 4.6.6.1.3.3.4 or 15% of the total combined lot area. In situations where the location of the common driveway favors one lot more than the others, lot coverage shall be calculated based upon the area consumed by the common portion of the driveway and shall be split proportionately between the two adjacent lots based upon the overall lot size of each. No common driveway may be longer than 200 feet in length. Common driveway width shall be a minimum of eighteen (18) feet for the traveled way. An agreement shall be provided, providing access over the common drive to all lots and making all lots served by the common driveway jointly and severally responsible for its maintenance and repair, including snow plowing. This document shall be recorded. Evidence of the shall be given to the Building Commissioner prior to the issuance of a building permit on any lot served by a common driveway.

Section 4.8 CLUSTER DEVELOPMENT PROVISIONS FOR THE QUIVET NECK/CROWE’S PASTURE RESOURCE PROTECTION DISTRICT

Single family and two-family development in a Cluster Subdivision shall be exempt from the provisions of 2.3.2 Intensity of Use Schedule and Section 2.3.3.12.4 Minimum Lot Requirements for the QNCPRPD and Section 4.7 Provisions Specific to Grid Subdivision Development of Land Within the QNCPRPD, but subject to the following conditions:

4.8.1 The purpose of the Cluster Subdivision Development, and to which purposes any such development must adhere, are the following:

- A. To protect shellfish and finfish and the water quality of all surface and groundwater sources.
- B. To protect aquaculture resources both in Cape Cod Bay and Quivet Creek.
- C. To protect State listed and Federally designated species by protecting large viable tracts of undisturbed habitat in open space areas.
- D. To provide protection to historic and archeological resources by providing the opportunity for such resources to be located within protected open space area.
- E. To protect personal property from the impacts of flooding and erosion.
- F. To protect the Cape Cod Bay Coastline area which provides a series of sandy beaches and rocky promenades from alteration.
- G. To promote the conservation of the natural environment, and the development of QNCPRPD area in harmony with the natural features and habitats of the land.
- H. To encourage new approaches to land and natural resource protection.
- I. To encourage a less sprawling and more efficient form of development that consumes less open land and protects the interests of the QNCPRPD better than conventional or grid subdivision.

- J. To minimize the total amount of disturbance on the tract of land.
- K. To preserve and enhance the community character.
- L. To protect the value of real property both within and surrounding the QNCPRPD.
- M. To protect the aesthetic values of the Quivet Neck/Crowe's Pasture environs.

4.8.2 Powers - The Planning Board is hereby designated as the special permit granting authority for all Cluster Residential Development in the QNCPRPD and shall have the power to hear and decide applications for special permits as provided by this section. The Planning Board shall have the power to issue rules and regulations for carrying out its duties under this Section.

4.8.3 Application and Plans - Applicants for a special permit for cluster Residential Development in the QNCPRPD shall submit applications and plans as required by Section 4.1.1, 4.1.2 and 4.6 of the Dennis Zoning By-law. The plan shall indicate the location of common open space as well as other items enumerated in Section 4.1.2, 4.6 and elsewhere in this section of the Dennis Zoning By-law. 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 easement to be imposed upon the use of land and structure, and a development schedule. 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.

4.8.4 Review and Reports - The Planning Board shall transmit copies of the application and plans to the Board of Health and Conservation Commission, who shall submit reports consistent with Section 1.4.3.

4.8.5 Criteria - Approval of a Cluster Residential Development in the QNCPRPD shall be granted upon Planning Board determination that the plan complies with the requirements of this Section, is consistent with the protection of the resources identified in the Quivet Neck/Crowe's Pasture District of Critical Planning Concern, and that the plan is superior to a conventional one in preserving open space for conservation or passive recreation, in utilizing natural features of the land; in allowing more efficient provisions of streets, utilities, and other public services; and at least equal to a conventional plan in other respects and that the use will be in harmony with the general purpose and intent of this by-law.

4.8.6 Requirements

4.8.6.1 Minimum Area – Any tract of land that could accommodate two or more primary structures are eligible for consideration for a cluster form of development.

4.8.6.2 Number of Dwelling Units

1. The maximum number of dwelling units permitted in any Cluster Development shall be determined by utilizing the applicable Minimum Lot Sizes as determined in Section 2.3.3.12.4. For the purpose of this section, the build able land area to be used in determining the maximum number of dwelling units permitted shall exclude all lands identified in Section 2.3.3.12.3.

2. Density/Number of Dwelling Units Calculation: The total number of dwelling units shall be determined by the following formula:

[Total area of land subject to the application by lot size categorization] - [Excluded Lands] = Applicable Land Area by lot size categorization

[[Applicable Land Area by lot size categorization] x [.90(Road and Utility Factor)]]
 Divided by [[Appropriate lot size in Section 2.3.3.12.4]x[.9 (Upland Factor)]] = Total number of traditional development dwelling units by lot size categorization.

If no septic leaching facilities shall be located within the soils with a depth to groundwater of less than five feet: [Total Number of Traditional Development Dwelling Units summed for all lot size categories]x[1.2 (incentive factor)]=Cluster Units If septic leaching facilities are to be located

within the soils with a depth to groundwater of less than five feet: [Total Number of Traditional Development Dwelling Units summed for all lot size categories]x[1.1 (incentive factor)]=Cluster Units Should these factors lead to a one half (½ or 0.5) unit or greater the number shall be rounded to the next higher figure.

4.8.6.3 Intensity Regulations - In the QNCPRPD, the requirements of Section 2.3 of this by-law shall not be applicable. The following requirements will apply:

Minimum Lot Area	20,000 sf (40,000 sf for two-family uses – <i>shall be comprised entirely of contiguous upland area</i>)
Minimum Lot Width	100 feet
Minimum Lot Frontage	50 feet or as defined below in Subsection 4.8.6.5
Minimum Front and Rear Yard	25 feet
Minimum Side Yard	10 feet
Maximum Total Site Coverage % of Lot	20% (Except that the requirements of Section 4.6.6.1.3.3 shall apply to lots subject to regulation under Section 4.6.6.1.3.6.1 Scenic Vistas and lots subject to regulation under Section 4.6.6.1.3.6.2 shall not be used for a single-family building exceeding a footprint of 4,000 sf or for a two-family building exceeding a footprint of 8,000 sf)
Height Above Natural Grade	35 feet (Except that structures located within the Quivet Neck/Crowe’s Pasture Scenic Vista Overlay District shall not exceed 30 feet in height)

4.8.6.4 Frontage/Roadway Requirements: A cluster subdivision may provide by special permit for multiple residential lots within an open space subdivision to be served by a common frontage provided that the lots are completely surrounded by the dedicated “common area parcel” which provides for frontage, and a private access road, which road shall meet at least the minimum requirements set forth for Private Access Drives in Section 4.8.6.5 of this Bylaw, subject to the following provisions:

4.8.6.4.1 Tract Frontage: Such shared common frontage may be permitted on a tract of land held in common ownership, which has a minimum of one hundred (100) continuous feet of frontage on a public way or a private way, provided that any such private way has been approved and constructed in accordance with the Planning Board's Subdivision Rules and Regulations.

4.8.6.4.2 Access: Each building lot in such a tract shall have adequate and legally enforceable rights of access to a public street via a private access drive which shall meet the minimum requirements for a Private Access Drive as set forth in Section 4.8.6.5 of this Bylaw. Each building lot must actually access over said private access drive. The town shall be provided the ability to force the repairs of said private access drives against the Home Owners Association to ensure that the private access drives are maintained for public safety. Except that common driveway, other than those meeting the requirements of “private access drives” in Section 4.8.6.5 may be used to access no more than two adjacent lots to service a maximum of two residences. In such cases the overall lot coverage for the lots shall not exceed the provisions of Section 4.6.6.1.3.3.4 or 15% of the total combined lot area. In situations where the location of the common driveway favors one lot more than the others, lot coverage shall be calculated based

upon the area consumed by the common portion of the driveway and shall be split proportionately between the adjacent lots based upon the overall lot size of each. Common driveway width shall be a minimum of eighteen (18) feet for the traveled way. An agreement shall be provided, providing access over the common drive to all lots and making all lots served by the common driveway jointly and severally responsible for its maintenance and repair, including snow plowing. This document shall be recorded. Evidence of the shall be given to the Building Commissioner prior to the issuance of a building permit on any lot served by a common driveway. No common driveway may be longer than 200 feet in length.

4.8.6.4.3. Other Restrictions

Any plan approved under this subsection shall contain statements indicating the following:

4.8.6.4.3.1 That the land lies within a tract approved for shared common frontage;

4.8.6.4.3.2 That development of the land is permitted only in accordance with the land uses indicated thereon;

4.8.6.4.3.3 That the Town will not be required to accept or maintain the private access drive, drainage, open space or any other improvement within said tract.

Further, all deed restrictions with respect to ownership, use and maintenance of the Private Access Drive shall be referenced on, and recorded with, the plan.

4.8.6.5 Private Access Drives: The following provisions will allow for the use of a Private Access Drive in Cluster Residential Developments in the QNCRPD.

4.8.6.5.1 A Private Access Drive shall access over approved frontage or over shared common frontage.

4.8.6.5.2 A Private Access Drive shall have a minimum paved width of eighteen (18) feet when serving up to three (3) lots and a minimum paved width of twenty (20) feet when serving more than three (3) lots. All Private Access Drives shall be named and all houses on said dries shall be numbered. The requirement for paving may be waived provided that, after consultation with other Town departments, the Planning Board determines that there are overriding environmental, aesthetic, or other advantages but not including monetary or financial hardship of the applicant.

4.8.6.5.3 The Planning Board shall, in those instances where a Private Access Drive accesses over approved shared frontage, require, as a condition of approval, that a homeowners association be established, in conjunction with the issuance of a Special Permit under this section, to provide for proper notice and allocation of future lot owners' rights and obligations regarding ownership, maintenance and improvements of said Private Access Drive and any and all common utilities, easement or other property interests.

4.8.6.5.4 The plan shall be sent to the Dennis Fire Department for its review and approval as to the adequacy of access and egress for the response of emergency vehicles and as to the adequacy of the water distribution system if serviced by a community well in order to provide for fire protection.

4.8.6.5.5 Construction of the Private Access Drive shall be supervised by a Registered Professional Engineer who shall certify in writing to the Planning Board at completion that the roadway and associated facilities were constructed in accordance with the approved plans. This certification shall be accompanied by an as-built plan, signed and stamped by a Registered Professional Land Surveyor and the supervising Engineer. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the Private Access Drive, installation of necessary utilities and proper site restoration is in full compliance with the approved plans and the Special Permit".

4.8.6.6 Improvements - Internal access, drainage, utilities, and grading shall be functionally equivalent to that required for separate lots in the Planning Board's adopted Subdivision Regulations and as noted within Section 4.6 and elsewhere in this section of the Dennis Zoning By-law. Prior to the issuance of building permits within the QNCPRPD, the Building Inspector shall determine that a detailed site plan has been submitted to the Planning Board which meets those standards, and before use permits for any structure are issued, the Building Inspector shall determine that improvements to meet such standards have either been completed to serve such structure or security for their completion has been received. The Building Inspector shall request an advisory report from the Planning Board that a detailed site plan has been submitted which meets the standards and that improvements to meeting the standards have been completed.

4.8.6.7 Open Space - All land not designated for roads, structures, dwellings, or other development in an open space development located in the QNCPRPD shall be held for common use of the residents of the development. These common open space areas are to be permanently protected through a conservation restriction (consistent with MGL Ch. 184, section 31-33 inclusive) or donation for conservation purposes to the town or other conservation interests. Common open space shall be preserved for limited active and passive recreation or conservation. It shall comprise not less than fifty percent (50%) of the total build able area within the Development Plan if site restrictions are provided so as to permanently protect no less than twenty percent (20%) of the land placed into private ownership or sixty percent (60%) of the total build able area within the Development Plan should no such site restrictions are provided.

The open space requirements of this bylaw may be met through the acquisition and dedication of additional tracts of land for conservation purposes, within the QNCPRPD. Such acquisition and dedication of additional tracts of land for conservation purposes shall be of land similar in nature to the land included in the open space subdivision as a whole and shall include lands with "development capability." Such land acquired for conservation purposes must be acceptable to the Planning Board after input is received from other relevant town boards.

Ownership of common open space areas shall be arranged, and maintenance permanently assured through an incorporated home owners' association, condominium deeds, or other recorded land agreements through which each lot owner in the development is automatically a member and each lot is subject to a charge for a share of the maintenance expenses, or through comparable arrangement satisfactory to the Planning Board. Preservation shall be guaranteed through dedication, by covenant, or comparable legal instrument, to the community use and enjoyment of residents of the development tract, for passive recreational purposes serving those residents and their non-paying guests only, or for conservation. In addition, the town or other restriction holder, shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land.

Up to the lesser of 10% or four (4) acres of the common open space area may be used for Active Recreation Use and/or an onsite sewage disposal facility to serve the cluster subdivision. Active

Recreation Use of the open space shall be allowed only by a special permit from the Planning Board during the review and approval of the Cluster Subdivision Development plan.

4.8.6.8 Long-Term, Compliance – All cluster subdivisions shall be governed by the requirements of Section 4.4.3.7 of this Zoning By-law regarding Long Term Compliance.

4.8.6.9 Buffer Area: A cluster development shall have a natural buffer to be determined by the required studies to be filed as a part of the development review process and approved by the Planning Board. This buffer shall provide for enough high shrubs (existing natural vegetation supplemented as necessary with indigenous species) to form a screen 6 feet high and 95 percent opaque year around. A tree canopy over the landscaped area should also be maintained. All shrubs that are added to the natural vegetation must be of indigenous species and of sufficient size and number to meet the required standards within 3 years of planting. All plantings must be consistent with the requirements of Section 4.6 of the Dennis Zoning By-law. The natural buffer of a minimum of ten feet shall be maintained.

4.8.6.10 Emergency Vehicle Access: Emergency vehicle access shall be provided to all structures within the Cluster Subdivision.

4.8.6.11 Amendments to an approved plan. The owner, his agent or his successors or assigns will make no alterations or additions to or deletions from the approved Cluster Subdivision Development Plan except as approved in advance by the Planning Board. All requests for changes to the approved plan shall be made in writing to the Board and shall be accompanied by such documents as required in Section 4.8.3 of this by-law and as the Planning Board shall deem necessary to explain the requested change. The Board shall determine if the requested change is minor or major in nature after consultation and concurrence with the Engineering Department, Board of Health and Conservation Commission.

4.8.6.11.1 Minor Change: A minor change shall be one which respects the approved plan's basic land allocations in terms of use and intensity, the type and variety of facilities and dwelling units being provided, and/or the timing for providing these facilities, but shall not include any increase in the overall density of the development. The Board may hold a public hearing on the proposed change with proper notification to all abutters, including those of the original proposed development as well as any additional ones which may have been created by development activity within the development itself. The Board shall then act to approve or disapprove with written notification to the owner of its action. Any approved changes involving changes in any lot boundaries shall be recorded as a subdivision change in the Registry of Deeds.

4.8.6.11.2 Major Change: Any requested change which the Board determines does not qualify as minor change shall be required to be submitted as a separate cluster development plan in accordance with these regulations and procedures.

4.9 PROVISIONS TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING IN DENNIS

4.9.1. Purpose And Authority.

The purpose of Section 4.9 is to further the goal of encouraging various lot sizes and housing types for persons of various age and income levels in accordance with Massachusetts General Laws, Chapter 40A, Section 9 which allows municipalities to adopt "incentive" ordinances for the creation of affordable year-round housing, and for the purpose of:

- a.) helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price and,
- b.) maintaining a stable economy by preventing out-migration of residents who provide essential services.

The Planning Board is hereby designated the special permit granting authority for all Affordable Housing Development and Affordable Housing Apartment applications under this by-law, and shall have the power to hear and decide applications for special permits as provided by this section. The Planning Board may adopt regulations for carrying out its duties under this By-law. At least 25% of all housing units created under Section 4.9 shall be restricted as provided for under 4.9.4. At least 25% of the total number of bedrooms within any Affordable Housing Development shall be within said restricted housing units.

4.9.1.1 Project Approval Requirements. The Planning Board shall consider the following factors in determining whether to approve or deny a special permit under this By-law:

- (a) whether the applicant has conformed to the design standards of this By-law and will deliver the needed affordable units;
- (b) whether the proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character complementary and integral with the site's natural features; and
- (c) whether the development, density increase or relaxation of zoning standards has a material, detrimental effect on the character of the neighborhood or Town and is consistent with the performance standards of the Dennis Zoning By-law.

4.9.1.2 Definitions

Affordable Housing Development - A tract of land of more than 2 1/2 acres containing units of residential housing, of which at least 25% are encumbered by affordable housing deed restrictions.

Affordable Housing Apartment - A housing unit created under the provisions of Sections 4.9.3, 4.9.4 or 4.9.5, which is subject to an affordable housing restriction pursuant to Section 4.9.4.

Apartment - An apartment is a self-contained housing unit that occupies only part of a building. Apartments may be owner occupied or rented.

Principal Residential Structure - The structure on any given lot in which the primary activity is residential use, which use is the principal use of the lot.

Dwelling Unit - A housing unit that contains kitchen facilities including a stove or oven, refrigerator, and sink, and a bathroom including a bath or shower.

4.9.2 Affordable Housing Developments

4.9.2.1 Density increases shall be allowed by special permit for Affordable Housing Developments as governed by Section 4.9.2, and any density increases shall be addressed in compliance with Sections 4.9.2.2.1 - 4.9.2.2.2 of the by-law.

4.9.2.2 Intensity of Use

4.9.2.2.1 The Planning Board shall have discretion to reduce or suspend the minimum requirements otherwise applicable under Section 2.3 , 3.1 and 4.2 for an Affordable Housing Development, provided that the Planning Board finds that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood, and meet the intended goals of providing affordable housing; and provided however that there must be:

4.9.2.2.1.1 at least 10,000 square feet for each bedroom created in an Affordable Housing Development;

4.9.2.2.1.2 a maximum height of 35 feet and ~~or~~ two stories;

4.9.2.2.1.3 a maximum building coverage of 15%;

4.9.2.2.1.4 a maximum total site coverage of 50%; and

4.9.2.2.1.5 a minimum building separation of twenty feet.

4.9.2.2.2 The Planning Board shall have the discretion to permit a density of greater than one bedroom for every 10,000 square feet based upon the recommendation of the Dennis Board of Health that the waste water system recommended for the site meets all state and local environmental standards for the protection of public health and water quality.

4.9.2.3 Special Permit Requirements:

4.9.2.3.1 A minimum tract of two and one-half (2 1/2) acres shall be required, subject to the provisions of Section 2.3.3.7 regarding minimum upland areas.

4.9.2.3.2 A maximum of sixteen (16) dwelling units shall be allowed in any one building.

4.9.2.3.3 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1 where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the Affordable Housing Development.

4.9.2.3.4 The tract of land to be developed shall provide for front, rear and side setbacks of 20 feet, which shall constitute vegetated buffers, except for where crossed by site driveways;

4.9.2.3.5 Where an applicant proposed to divide the tract of land that is the locus of a proposed Affordable Housing Development, the minimum lot size shall be ten-thousand (10,000) square feet. The Planning Board may, in its sole discretion, reduce the internal front and rear yard setback requirements of Section 2.3.2, provided however, that said setbacks shall be no less than ten (10) feet. The

Affordable Housing Development must still comply with the setback requirements of Section 4.9.2.3.4 as if the tract of land was not subdivided.

4.9.2.3.6 The Affordable Housing Development must conform to all other requirements of the Zoning By-law. In the event that a provision of Section 4.9.2 conflicts with another provision of the By-law, the provisions of Section 4.9.2 shall control.

4.9.2.3.7 For multi-family buildings a properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers. Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.

4.9.2.3.8 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.2.4 MUNICIPALLY SPONSORED HOUSING PROJECTS

4.9.2.4.1 GENERAL OBJECTIVES

This section is intended to allow the Dennis Board of Selectmen to act as a sponsor for public or public/private joint venture affordable housing projects which:

- a. encourages practical residential development in the reuse of existing structures;
- b. promotes in-fill (development of vacant lots in an otherwise built-up area) residential development opportunities;
- c. is compatible with the adjacent neighborhood;
- d. encourages development of economically priced housing and a variety of types of housing; and
- e. fosters flexibility and creativity in the creation of affordable housing.

Based upon these provisions, a project for Special Permit submittal to the Dennis Planning Board may be made upon a positive vote of the Dennis Board of Selectmen.

4.9.2.4.2 MODIFIED PROCEDURES

A municipally sponsored housing project may be allowed upon issuance of a special permit provided that the Planning Board finds that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood, and meet the intended goals of providing affordable housing, and further meets the following requirements :

- a. the minimum requirements of Sections 2.3, 3.1 and 4.2 shall not apply provided however that there must be:
 - a. a maximum height of 35 feet and two stories;
 - b. a maximum building coverage of 15%;
 - c. a maximum total site coverage of 50%;
 - d. a minimum building separation of twenty feet; and
 - e. a determination that the parking will be adequate in number and size to serve the proposed use of the site.

- b. Minimum Area of the Tract to be Developed under Section 4.9.2.3.1 may be less than 2 ½ acres;
- c. the maximum density of the Tract to be Developed may be greater than one bedroom per 10,000 sf of land area based upon a recommendation of the Dennis Board of Health that the waste water system recommended for the site meets all state and local environmental standards for the protection of public health and water quality;
- d. The tract of land to be developed shall provide for front, rear and side setbacks of 20 feet, which shall constitute vegetated buffers, except for where crossed by site driveways; and
- e. the minimum parking requirement may be less than 2 parking spaces per residential unit. The Planning Board shall have the discretion to reduce all other off-street parking requirements as otherwise applicable under Section 3.1 based upon a finding that the parking is sufficient to meet the needs of the proposed use of the property.

4.9.2.4.3 SPGA

The Planning Board shall be the Special Permit Granting Authority.

4.9.2.4.4 All units created shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4 of this by-law unless otherwise noted in conformity with the following requirements. In no case shall less than fifty percent of the units be affordable to households earning less than 80% of the median income. Twenty-five percent of the units shall be affordable for people earning no more than 120% of the area’s median income. All units created shall be for year-round housing.

4.9.3 Affordable Housing Apartment

4.9.3.1 The Planning Board may by special permit allow the creation of Affordable Housing Apartments in residential and commercial zoning districts. Affordable Housing Apartments created under this bylaw shall be accessory to either an existing residential use or commercial use.

4.9.3.2 An Affordable Housing Apartment must have the following minimum areas:

studio	250 square feet
one-bedroom units	700 square feet
two-bedroom units	900 square feet
three-bedroom units	1,200 square feet
four-bedroom units	1,400 square feet

4.9.3.3 Special Permit Requirements

4.9.3.3.1 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1~~3.2~~ where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the proposed uses on the site.

4.9.3.3.2 A properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers. Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.

4.9.3.3.3 Only those basements with at-grade walk-out capabilities may be converted into living space and garage parking stalls may be converted into living space only if the applicant can demonstrate an efficient and cost-effective method for providing heat and other utilities to the unit to be created.

4.9.3.3.4 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.3.4 **DELETED**

4.9.3.5 Affordable Housing Apartments Accessory to Commercial Uses

An Affordable Housing Apartment may be created by converting an existing accessory structure, or space within a Principal Commercial Structure, to a dwelling unit. The following additional standards and conditions shall govern special permits issued under this sub-section:

4.9.3.5.1 No accessory residential uses shall be allowed within the Industrial District.

4.9.3.5.2 Commercial structures may be expanded by increasing the footprint or the addition of a second story, where none exists, for the purposes of creating affordable housing apartments. A structure proposed to include an affordable housing apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing.

4.9.3.6 Conversion of Hotels and Motels to Affordable Housing Apartments

4.9.3.6.1 Affordable Housing Apartments may be created by converting an existing accessory structure, or space within a hotel or motel, into dwelling units. The following additional standards and conditions shall govern special permits issued under this section:

4.9.3.6.1.1 Units created through conversions shall not be less than 250 square feet not including areas not intended for human habitation such as areas of the basement, attic or garage. In order to promote the mixture of housing units, the following standards shall apply:

* No less than 25% of the units created must meet the requirement found in Section 4.9.3.2 for a one bedroom unit with a minimum floor area of 700 sf.

* No more than 25% of the units created may have a minimum floor area of less than 400 sf.

Planning Board may require up to 10% of the units in a Hotel/Motel conversion be two-bedroom units, i.e. units with a minimum floor area of 900 sf.

4.9.3.6.2 Hotel or motel structures may be expanded by increasing the footprint or the addition of a second story, where none exists, for the purposes of creating affordable housing apartments. A hotel or motel structure proposed to include an Affordable Housing Apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing.

4.9.4 Affordable Housing Restrictions

- 4.9.4.1 As a condition to any special permit issued under Section 4.9, the applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to the Planning Board. The special permit shall not be exercised until the applicant records the Restriction in the Registry of Deeds and an attested copy of the recording is delivered to the Planning Board.
- 4.9.4.2 At least 25% of the housing units created under Section 4.9.2, Affordable Housing Development, shall be subject to a Restriction and a Regulatory Agreement between the developer and the Town. The Restriction shall provide that units made available for ownership shall be made available at a cost including mortgage interest, principal, taxes, insurance and common charges not exceeding 30% of annual income for a household at or below 80% of Barnstable County median income, and shall be sold to households earning at or below 80% of the Barnstable County median income. The Restriction shall limit the re-sale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with Massachusetts Department of Housing and Community Development’s (“DHCD”) regulations and guidelines under Chapter 40B of the Massachusetts General Laws. For qualification of housing units towards a Town’s subsidized housing inventory. The restriction shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.
- 4.9.4.3 An Affordable Housing Apartment created under subsection 4.9.3 shall be subject to a Restriction, which shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.
- 4.9.4.4 Notwithstanding subsection 4.9.4.2 and 4.9.4.3, maximum rents and sale price shall be governed by DHCD’s regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town’s subsidized housing inventory.
- 4.9.4.5 In addition to requirements of Section 4.9.4, it shall be a condition upon every special permit issued under this By-law that the applicant shall comply with any Massachusetts Department of Housing and Community Development (“DHCD”) regulations and guidelines for qualification of the housing units created under this By-law towards the Town’s subsidized housing inventory, including but not limited to the form of the affordable housing restriction and regulations concerning tenant selection and marketing, unit design standards, and income eligibility standards. The Restriction shall further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted housing unit towards the Town’s subsidized housing inventory.
- 4.9.4.6 In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the owner shall give written notice to the Dennis Housing Authority.
- 4.9.4.7 Current employees of the town of Dennis and residents of the town of Dennis shall have preference over non-residents in the selection of tenants and buyers of housing units subject to a restriction to the extent permitted by DHCD regulations and state or federal laws.

4.9.5 “AFFORDABLE” LOTS”

4.9.5.1 Lots of record as of the June 17, 2003 which do not satisfy minimum lot size requirements and which are not protected as nonconforming lots by law because they are in common ownership with adjoining lots may nevertheless be built upon by Special Permit from the Planning Board under the following conditions:

4.9.5.1.1 Each lot contains at least 10,000 square feet of land area and satisfies other applicable Board of Health requirements. Except that no lot located within a Zone II Water Recharge Area shall be built upon.

4.9.5.1.2 Each lot has safe and adequate access to a public or private way.

4.9.5.1.3 Each lot is similar in nature, i.e. size and shape to the lots immediately adjacent to and across the street from the lot to be separated.

4.9.5.1.4 Each lot may not be used for a structure larger than three bedrooms, and there must be a minimum of 5,000 square feet of land area for each bedroom.

4.9.5.1.5 The applicable front, side and rear setbacks shall be determined by establishing an average setback based upon the principal structures on the lots immediately adjacent to and across the street from the lot to be built upon as a separate lot.

4.9.5.1.6 Where two lots are held in common ownership, one of the two lots shall be deed restricted as permanently affordable, per the applicable standards in Section 4.9.4 of the Dennis Zoning Bylaw.

4.9.5.1.7 Where more than two lots are held in common ownership, the second, third and fifty percent of the remaining lots to be built upon under the special permit shall be deed restricted as permanently affordable (i.e. the fourth lot may be market rate, fifth shall be affordable, sixth market rate etc), per the applicable standards in Section 4.9.4 of the Dennis Zoning By-Law.

4.9.5.1.8 This section shall not prevent a lot owner from building a house on such lot and from transferring the lot to an income eligible immediate family member (sibling, parent or child) by gift or inheritance, provided that the restriction required by this subsection is properly recorded prior to issuance of a building permit provided that the lot owner (or immediate family member) owned the lot as of October 18, 2005.

Section 4.10 Special Permit Review for Formula Based Businesses

- (1) Statement of purpose. The purpose and intent of the Formula Based Business regulation is to address the adverse impact of nationwide, standardized businesses on Dennis villages, historic and residential areas as well as gateways to the town. The proliferation of formula-based businesses will have a negative impact on the town’s economy, historical relevance, unique character and economic vitality. These uses are therefore restricted in order to maintain unique retail and dining experiences in the designated areas. Formula based businesses frustrate this goal by detracting from the overall historic village experience and threatening its tourist economy. Establishments or franchises which are one (1) of ten (10) or more other businesses or establishments worldwide may alter their features in order to remove themselves from the Formula Based Business Definition.
- (2) In areas where Formula Based Businesses are allowed by Special Permit, the Planning Board shall review the application and determine whether the plan meets the following objectives:

- a. Approval of the formula-based business establishment will not alter the character of the Zone in a way which detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings;
- b. Approval of the formula-based business establishment will contribute to a diverse and appropriate blend of businesses in the Zone;
- c. Approval of the formula-based business establishment will complement those businesses already in the Zone and help promote and foster the local economic base as a whole.
- d. The formula-based business establishment will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites.
- e. There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the Planning Board, the applicant may be required to submit a traffic study, prepared by a Registered Professional Engineer, approved by the board.
- f. There shall not be any adverse impacts to the roadway or abutting properties from the loading area.
- g. The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there are not any substantial adverse impacts to abutting properties.
- h. No drive thru windows shall be permitted.
- i. Maximize pedestrian and vehicular safety both on the site and accessing and egressing from it;
- j. Minimize obstruction of scenic views from publicly accessible locations;
- k. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- l. Minimize glare from headlights and lighting intrusion;
- m. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

4.11 Regulations Specific to Accessory Dwelling Units (ADU)

§4.11. A (Protected ADU);

§ 4.11.A: Accessory Dwelling Units (“ADUs”) By-right Pursuant to G.L. c. 40A, § 3, ¶ 11 and 760 CMR 71.00, one Protected Use ADU is allowed on a lot in the following Zoning Districts: R-40, R-60, Quivet Neck/Crowe ’s Pasture Resource Protection District, RR, LL, GC-II, GC-III, DPVC Area A, and DPVC Area BA. Protected Use ADU is defined as a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller and is proposed to be located on a Lot in a Single-Family Residential Zoning District and no other Accessory Dwelling Unit is located on said Lot. For purposes of this section, Gross Floor Area (GFA). The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls

or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

- a) Any Protected Use ADU created shall be prohibited from serving as a Short-Term Rental defined in General Laws Chapter 64G, Section 1. The minimum leasing term for the Accessory Dwelling Unit or the Principal Dwelling Unit shall be for a term greater than thirty-one (31) days.
- b) Any Protected Use ADU shall be subject to all state and local laws, rules and regulations promulgated, enforced, or otherwise within the jurisdiction of the Building Code, Board of Health Regulations and Conservation Commission and shall be subject to all Lot Coverage, Setback and Dimensional requirements and thresholds in the Dennis zoning bylaws.
- c) Any Protected Use ADU shall be housed in a structure subject to Building and Health Codes.
- d) Any Protected Use ADU may only be created on lots on which there already exists a Principal Dwelling.
- e) A Protected Use ADU shall be considered an “accessory use” to the principal use on the lot and shall be restricted so that the ADU is never divided by ownership from the principal structure.
- f) A Protected Use ADU shall be designed so that the appearance of the ADU will be consistent with the character and design of the principal dwelling as much as feasibly possible, as determined by the Building Inspector. To ascertain this, architectural or design plans must be submitted at the time of application for a Building Permit.
- g) For ADU’s not allowed by right, such as more than one (1) ADU 900 square foot or less in a single-family residential zoning district, or an ADU larger than 900 square feet in a single-family residential zoning district, or an ADU in an any district other than a single-family residential zoning district, there shall be a Special Permit for the use of land or structures for an accessory dwelling unit per § 4.11 of the Dennis Zoning Bylaws.

4.11.1 Any ADU not protected pursuant to M.G.L. c. 40A, § 3, ¶ 11 and 760 CMR 71.00 as described above in § 4.11.A, shall require a Special Permit, for which the following Special Permit requirements apply. Any special permit issued for an ADU shall be subject to all state and local laws, rules and regulations promulgated, enforced, or otherwise within the jurisdiction of the Board of Health of the Town of Dennis. An applicant must follow all statutes, by-laws and regulations.

4.11.2 An Accessory Dwelling Unit (ADU) **by Special Permit** may be created by converting space within an existing dwelling. An ADU may also be created by building or by creating new space attached by new or existing Conditioned Space (as defined in the Massachusetts Building

Code 780 CMR 202) to a Principal Residential Structure. The following additional standards and conditions shall govern special permits issued under this subsection:

4.11.3 An ADU **by Special Permit** may only be created on lots on which there already exists a Principal Residential Structure, and may only be created within an existing dwelling or by creating new space attached by new or existing Conditioned Space to such Principal Residential Structure.

4.11.4 An ADU **by Special Permit** shall be subject to the following additional restrictions.

4.11.4.1 Lot must be a minimum of 15,000 sf.

4.11.4.2 There shall not be more than one ADU on a lot.

4.11.4.3 Lots that exceed maximum lot coverage, i.e. pre-existing non-conforming lots shall not be permitted an ADU.

4.11.4.4 Lots that are below 15% maximum lot coverage may be permitted to construct an addition up to the maximum lot coverage to accommodate an Accessory Dwelling Unit.

4.11.4.5 Parking:

4.11.4.5.1 Shall be on-site.

4.11.4.5.2 Shall be incorporated to blend in with the existing residential parking on-site (i.e. garage and/or within the driveway or expanded driveway area)

4.11.4.5.3 Shall not encroach on the 10 foot side line green area required under Section 2.3.4.1.b.

4.11.4.6 An ADU **by Special Permit** shall not be located in a designated AE or V flood zone as regulated by the Dennis Flood Maps adopted on May 6, 2014.

4.11.5 An ADU **by Special Permit** shall be considered an “accessory use” to the principal use on the lot and shall be restricted so that the ADU is never divided by ownership from the principal structure.

4.11.6 Any lot containing an ADU **by Special Permit** shall be subject to a recorded restriction that shall restrict the lot owner’s ability to convey interest in the ADU separate from the owner of the Principal Residential Structure.

4.11.7 A dwelling proposed to include an ADU **by Special Permit**:

4.11.7.1 Shall be subject to the granting of a Special Permit by the Dennis Planning Board;

4.11.7.2 May be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to

support the proposed use, protect the surrounding neighborhood and be consistent with all other restrictions found in this by-law.

4.11.8 For the purposes of 4.11, ADU **by Special Permit** one unit shall be owner occupied on a year-round basis, except for bona fide temporary absences during which the owner-occupied unit is not rented.

4.11.9 The principal dwelling or the ADU will be used as the principal residence of the owner and the remaining dwelling will be leased for a minimum of twelve (12) consecutive months, with no subletting or assigning to occur and is prohibited from any use as rental units on a monthly, weekly or daily basis including, but not limited to, seasonal rental and rental through vacation rental services and websites. An ADU shall not be used for boarding, transient lodging, or other commercial use.

4.11.10 Contextual Design

4.11.10.1 If the primary entrance of an ADU **by Special Permit** is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

4.11.10.2 An ADU **by Special Permit** shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained, considering the following: building architectural details, roof design, building spacing and orientation, building screening, door and window location, and building materials.

4.11.11 Maximum Permits for ADUs **by Special Permit**,

(a) shall not exceed 9 in any calendar year.

(b) Any unused permits in any one calendar year shall not roll over to any subsequent calendar year.

(c) This provision will allow the Planning Board and other committees to study the impact of ADUs on the Town of Dennis and recommend future actions if needed. This provision 4.11.11 shall expire automatically on December 31, 2027 without further Town Meeting Action.

4.11.12 Enforcement

4.11.12.1 Real property containing an ADU **by Special Permit**, as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, or Occupancy Permit does not exist, may apply to the Building Department for an Occupancy Permit to continue use as an accessory dwelling unit provided the provisions of Section 4.11 and 3.1.2 are complied with.

4.11.12.2 To qualify under this Section, the unpermitted ADU must be a single accessory dwelling unit that is accessory to a single-family dwelling and must have been in existence prior to the date of adoption of this bylaw. It shall be the burden of the

applicant to prove to the Building Department that the unlawful apartment was in existence before that date.

4.11.13 Monitoring and Other Provisions, for an ADU **by Special Permit**

4.11.13.1 Prior to the issuance of a building permit or Special Permit, a copy of the deed shall be provided illustrating the continued ownership and an affidavit verifying continued occupancy of the property by the applicant for a minimum of the most recent six months.

4.11.13.2 Prior to the issuance of a building permit or a Special Permit, a certificate in the form of a notarized affidavit to verify that the owner is and shall be in residence in one of the units shall be submitted to the Building Commissioner and to the Special Permit Granting Authority.

4.11.13.3 The unit to be leased shall maintain a rental permit with the Dennis Board of Health.

4.11.13.4 The property owner shall be required to annually file, on or before January 31st, with the Building Commissioner:

4.11.13.4.1 A copy of the Dennis Board of Health Rental Permit;

4.11.13.4.2 An affidavit stating that either the principal dwelling or the accessory dwelling unit will be used as the principal residence of the owner; and

4.11.13.4.3 A lease stating that the leased premises will be leased for a minimum of twelve (12) consecutive months, with no subletting or assigning to occur.

SECTION 5 – DEFINITIONS

5.A Interpretation of Language

The definitions contained in this section are intended for use within the By-Law. Their meaning may differ from generally accepted use and meanings unless the context requires otherwise, the following definitions, shall be used in the interpretation and construction of the By-Law, and the following shall apply to all definitions; the words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word building shall include the word structure; the word used shall include arranged, designed, constructed, altered, converted, rented leased, or intended to be used, the word shall is mandatory and not directory and the word may is directory and not mandatory.

5.B - Definitions

ABOVE GROUND LEVEL (AGL): A measurement of height from the natural grade of a site to the highest point of a structure.

ACCESSORY DWELLING UNITS (“ADUs”) By-right: Pursuant to G.L. c. 40A, § 3, ¶ 11 and 760 CMR 71.00, one Protected Use ADU is allowed on a lot in the following Zoning Districts: R-40, R-60, Quivet Neck/Crowe ’s Pasture Resource Protection District, RR, LL, GC-II, GC-III, DPVC Area A, and DPVC Area BA Protected Use ADU is defined as a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in Gross Floor Area than 1/2 the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller and is proposed to be located on a Lot in a Single-Family Residential Zoning District and no other Accessory Dwelling Unit is located on said Lot. Gross Floor Area (GFA). The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

ACCESSORY STRUCTURE: A detached structure located on the same lot with the principal structure to which it is accessory, and not used for either seasonal or year-round living.

ACCESSORY USE: A use customarily incidental to and located on the same lot with the use to which it is accessory except that a use accessory to scientific research or related production does not have to be on the same parcel as the use to which it is accessory.

ADULT ENTERTAINMENT: (Refer to Section 2.2.6.3)

AGRICULTURAL USE: The commercial raising of agricultural crops and/or livestock, horticultural and floricultural products on the same lot or abutting lots in the same ownership. Necessary structures and storage of equipment used on the premises are included.

AMUSEMENT ARCADE: An establishment open to the public that contains more than ten (10) amusement machines.

AMUSEMENT MACHINE: Any coin- or token-operated machine or device that, whether mechanical, electrical, or electronic, shall be ready for play by the insertion of a coin and may be operated by the public for use as a game, entertainment, or amusement, the object of which is to achieve either a high or low score, by comparison to the score of other players.

ANIMAL HOSPITAL: A place where animals are given medical or surgical treatment by or under the supervision of a veterinarian and boarding is short-term care incidental to hospital use and care.

ANIMAL KENNEL: A commercial establishment for the raising, boarding, breeding and/or training of small domestic animals (dogs, cats, etc.).

ANTENNA: The surface and supporting structure from which wireless radio signals are sent and received by a personal wireless service facility.

ARTISAN MANUFACTURING: On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, glass blowing, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties. Welding is also a permitted activity in this category. This category allows visual arts studios in these locations as well, but not performing art rehearsal spaces.

ARTIST LIVE/WORK SPACE: A dwelling unit in which up to 50% of the floor area is used for the production, showing and sale of art. This space is for both visual and performing arts.

ARTIST STUDIO/GALLERY: Floor space devoted to the production, showing or sale of art. Typical uses include art galleries and artist studios, but do not include art museums. Art Studio/Gallery space allows utilization of a space for work-only (visual studio, performing rehearsal), sale-only (gallery, store, theater, etc.) or a combination of work and sale space.

ART USE: The production of art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production. Such use may include the fine and applied arts including painting or other like picture, traditional and fine crafts, sculpture, glass blowing, writing, creating film, creating animation, the composition of music, choreography and the performing arts.

ASSISTED LIVING FACILITY: A residence for the elderly that provides rooms, or individual apartments, meals, personal care, and supervision of self-administered medication. It may also have communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation service, and other support services appropriate for the residents.

ATHLETIC CLUBS: Fitness centers, gymnasiums, health and athletic clubs including any of the following: indoor sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities.

AUDITORIUMS: Indoor facilities for public assembly and group entertainment, other than sporting events, including: civic theaters, and facilities for "live" theater and concerts, exhibition and convention halls, and similar public assembly uses

AUTOMOBILE SERVICE STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sale of vehicular fuels and servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories.

AUTOMOTIVE SERVICE AND REPAIR FACILITY, OTHER: Any premises upon which the business of maintenance, servicing, repair, or painting of vehicles is conducted or rendered, without the dispensing or sale of vehicular fuels.

BARBER SHOP: A shop where people can get their hair cut.

BEAUTY SHOP: An establishment or department where hairdressing, facials, and manicures are done —called also beauty parlor, beauty salon.

BED AND BREAKFAST: A residence, where lodging is provided by an owner/resident family in its home, to transients for compensation.

BIODIESEL BLENDING FACILITY: Means a facility which blends materials to create a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol. Biodiesel or biodiesel blends must contain at least 20% biodiesel. A biodiesel blending facility may also process associated by-products into useable items for market.

BUILDING: A structure having a roof or similar temporary or permanent covering which encloses useful space.

BUILDING HEIGHT: The vertical distance between the Average Natural Grade of the ground under the footprint of a building and the highest point of the building, including the roof, parapet, or other attached structure, but excluding the height of any chimney or residential television antenna.

AVERAGE NATURAL GRADE: shall be derived from the average elevation of the grade along the exterior of the building facing the front lot line and the average elevation of the grade along the exterior of the building facing the rear lot line or, for a through lot, the other front lot line in existence as of May 7, 2013. For corner lots, the front lot line shall be the street from which the property gains its address and the rear lot line shall be the boundary opposite the front lot line. Building heights shall be measured from the higher of Average Natural Grade or Base Flood Elevation for properties located in the FEMA established Velocity and 1% Annual Chance Floodplain.

CAMOUFLAGED: To disguise, hide, or integrate as part of an existing proposed structure or placed within an existing or proposed structure.

CARRIER: A company that provides personal wireless services as defined in the Telecommunications Act of 1996.

CHILD CARE FACILITY: Any facility that includes a day care or school age child care program as those terms are defined in M.G.L. ch. 28A, §9.

CO-LOCATION: The use of a single structure by more than one carrier as a location for multiple antennae. Structures used for co-location shall be considered as one antenna for the purpose of separation.

COMMERCIALLY REGISTERED VEHICLE OR TRAILER: Commercially registered motor vehicle or trailer, which is not a van or pickup truck having a capacity of one (1) ton or less, or a station wagon.

COMMERCIAL RECREATION: Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets may be sold or fees are collected for the activity. Commercial recreation establishments include but are not limited to: skating rinks, water slides, miniature golf courses, arcades, bowling alleys, billiard halls, etc. but excludes gambling casinos, off-track betting facilities and similar facilities offering games of chance.

COMMERCIAL SCALE SOLAR ENERGY ELECTRICAL GENERATORS: Commercial Scale Solar Energy Electrical Generators shall mean any Solar Energy Facility which exceeds five (5) kilowatts capacity and is designed to produce more than fifty (50) percent of its energy for off-site use.

COMMUNICATION FACILITY: A land use facility supporting antenna and/or microwave dishes used for the reception or transmission of electromagnetic radiation. The term Communication Facility includes any appurtenant structures, buildings, antennas, or towers.

COMMUNITY RESIDENTIAL HOME: A dwelling unit licensed to serve clients and provides living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional, and social needs of an aged person, a physically disabled or handicapped person, a developmentally disabled person, a non-dangerous mentally ill person, and a child as defined in the appropriate statute.

CONSUMER SERVICES: Retail services provided to the public for consumers such as barber shop, beauty salon, dry cleaning, shoe repair, etc.

CONTINUING CARE RETIREMENT FACILITY: A facility that provides a continuum of accommodations and care to residents, from independent living to long-term bed care.

CONTRACTOR'S YARD: A premises, other than a construction site on which a building permit is in force, which is used by a building contractor or any other tradesman or landscaper, for the fabrication of subassemblies or the storage of supplies or equipment.

COTTAGE COLONY: A group of three (3) or more buildings on a lot, which are devoted to residential use on a seasonal basis.

DAY CAMP: The use of a site for provision of indoor or outdoor activities for children, including sports, arts and crafts, entertainment, recreation, educational activities, swimming, fishing, horseback riding, and incidental food service. If incidental to the camp use, camp facilities may be used to provide meeting, recreation, or social facilities for a private association or group.

DISPOSAL AREA: Any area of land used for the storage or abandonment of junk, scrap or discarded materials made or used by man, or the demolition or abandonment of automobiles or other vehicles, boats, machinery or parts thereof.

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation as required by state sanitary code.

DWELLING UNIT - TWO: A building containing two dwelling units.

DWELLING UNIT - MULTI: A building containing more than two dwelling units.

ELEVATION: The measurement of height referred to the National Geodetic Vertical Datum.

EMPLOYEE TEMPORARY HOUSING: Means a building providing sleeping quarters for employees of a hotel, motel, restaurant or entertainment facility with food service including the property manager. Each unit shall be readily accessible to adequate kitchen facilities and/or regularly scheduled meals shall be provided in a common dining facility.

ENTERTAINMENT FACILITY WITH FOOD SERVICE: Means a facility providing various forms of entertainment (music or other performance arts), other than adult entertainment, which provides food service to accompany the entertainment.

ENVIRONMENTAL ASSESSMENT (EA): An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER: An enclosed structure, cabinet, shed or box within which electrical equipment is housed.

EXHIBITION AREA: An area or space either outside or within a building for the display of topic-specific goods or information.

EXTENDED CARE FACILITY: A separate facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

FALL ZONE: The area on the ground within a prescribed radius from the base of an antenna, which is set aside for falling debris or collapsing material.

FAMILY DAY CARE HOME: Any family day care home facility as defined by M.G.L c.28A, §9.

FUEL CELL ENERGY MANUFACTURING FACILITY: Means a site which produces 1 or more fuel cells or fuel cell stacks, inverters or other power conditioning units for use in fuel cell energy systems. Fuel cell energy manufacturing shall include fuel processors for converting fuel for use in a fuel cell.

FUEL CELL: Means an electrochemical device that uses an external fuel and continuously converts the energy released from the oxidation of fuel by oxygen directly into electricity without combustion and consists of an anode, a cathode, and an electrolyte.

FUEL CELL STACK: means an assembly of fuel cells.

FUEL PROCESSOR: means a device that converts a fuel, including, but not limited to, methanol, natural gas, or gasoline, into a hydrogen rich gas, without combustion for use in a fuel cell.

FILLING STATION: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and oil.

FORMULA BASED BUSINESS: A type of retail sales establishment (not including consumer services), or a restaurant, tavern, bar, or other food establishment which is under common ownership or control or is a franchise and is one (1) of ten (10) or more other businesses or establishments worldwide maintaining three or more of the following features:

	FORMULA BASED FOOD SERVICE	FORMULA BASED RETAIL
1	Standardized menu	Standardized array of merchandise with 50% or more of in-stock merchandise bearing uniform markings.
2	Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of goods from one party from those of others, on products or as part of the store design. Such as on cups, napkins, bags, boxes, wrappers, straws, store signs, or advertising devices.	Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of goods from one party from those of others, on products or as part of the store design. Such as merchandise labels, bags, boxes, signs or advertising devices.
3	A standardized façade.	A standardized façade
4	Standardized décor and color scheme used throughout the interior of the establishment.	Standardized décor and color scheme used throughout the interior of the establishment.
5	Standardized uniform including but not limited to aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags).	Standardized uniform including but not limited to aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags).
6	Standardized signage.	Standardized signage.

GEOHERMAL ENERGY MANUFACTURING FACILITY: means a facility that manufactures systems designed for the collection of absorbed heat derived from underground, in the atmosphere and oceans.

GIFT SHOP: – Retail sales use including antique shops, handcrafted items that are produced on the site, art galleries, curio, gift, and souvenir shops, and the sales of collectible items including sports cards and comic books.

HOME OCCUPATION: A business, trade or profession conducted in the proprietor's legal residence or within a structure accessory to the residence.

HOOKAH LOUNGE (SHISHA BAR): An establishment where patrons share flavored smoking tobacco, herbs or synthetic material from a communal hookah.

HOTEL: A building or complex of buildings providing transient lodging, food and other related serviced within which access to the individual units is provided by common interior corridors. The individual units do not have cooking facilities.

HOTEL/CONDO: A hotel or motel property containing a mixture of uses subject to Chapter 140 and Chapter 183B of the Massachusetts General Laws.

HOTEL/MOTEL ROOM: A single room in a hotel or motel forming a single living unit.

HOTEL/MOTEL SUITE: A number of connected rooms in a hotel or motel forming one living unit.

INSTITUTIONAL USE, OTHER: A public service use operated or run by a nonprofit corporation or organization which is not entitled to exemption from zoning requirements as set forth in M.G.L. c.40A, §3.

LAUNDRY FACILITIES: Areas for washing clothing/linens intended to serve the needs of the guests of a Hotel, Motel or Hotel/Condo property.

LIGHT INDUSTRY: A use which involves the processing, assembling, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause: Excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater. Including, but not limited to, food and associated industries such as: wholesale bakeries, packaging and/or bottling of food, winery and small brewery.

LODGING HOUSE: A building in which living space, with or without common cooking facilities, is let for compensation to four (4) or more persons who are not within the second degree of kinship to the owner or operator, as defined by civil law, but not including a hotel, motel, motor court, or a building in an educational or philanthropic use.

LOT: A parcel of land not divided by a street, in one (1) ownership, with definite boundaries ascertainable by recorded plan or deed, and used or set aside and available for use as the site of one (1) or more buildings or for any other definite purpose.

LOT AREA: The horizontal area of a lot exclusive of any area within a street. A maximum of ten percent (10%) of the lot may be wetland as defined under M.G.L. c.131.

LOT FRONTAGE: Continuous portions of the street line over which automobiles have legal and physical access from the lot.

LOT LINE: A line bounding a lot.

LOT SHAPE NUMBER: The number resulting from the division of the square of the perimeter by the area of the lot or said portion thereof.

LOT WIDTH: The horizontal distance between lot lines measured parallel to the street line at the back of the required front yard.

MARINE USE: A commercial or industrial activity serving or deriving its nature from water crafts, including but not limited to boat storage, repair or maintenance, sale and service or water crafts, motors, electronic, and other goods or services associated exclusively with water crafts.

MAXIMUM TOTAL SITE COVERAGE: Maximum total site coverage shall be calculated by adding the square footage of the footprint of all structures, parking, pavement, including street access drive, but excluding walks, and dividing the total square feet thereby obtained by the total lot area in square feet.

MODULAR BUILDING MANUFACTURING: An enclosed manufacturing facility dedicated to the fabrication, assembly or construction of structural insulated panels, pre-fabricated walls, roofs, flooring, ceilings and other structural elements intended for delivery to and assembly on a building site.

MOTEL OR MOTOR COURT: A building or complex of buildings providing transient lodging accommodations with separate outside entrances for each unit without cooking facilities.

MOUNT: The structure or surface upon which antennas are mounted, including the following types of mounts:

1. Roof-mounted: Mounted on the roof of a building.
2. Side-mounted: Mounted on the side of a building.
3. Ground-mounted: Mounted on the ground.
4. Structure-mounted: Mounted on a structure other than a building.

NON-COMMERCIAL SCALE SOLAR ENERGY ELECTRICAL GENERATORS: Non-Commercial Scale Solar Energy Electrical Generators shall mean any Accessory Solar Energy Facility with five (5) kilowatts or less capacity or which exceeds five (5) kilowatts capacity and is designed to produce fifty (50) percent or more of its energy for the principal on-site use.

NONCONFORMING USE OR STRUCTURE: A use or structure which conformed to the provisions of the zoning By-Law, if any, at the time it was established or constructed, but does not conform to the current requirements for the district in which it is located.

NON-PROFIT EDUCATIONAL: Any structure or use entitled to the education exemption set forth in M.G.L. c.40A, §3.

NURSING AND/OR CONVALESCENT HOMES: Any institution however named whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for three (3) or more persons admitted thereto for the purpose of nursing or convalescent care.

PANHANDLE LOT: A lot with the required lot frontage which has reduced access to the main portion of the lots.

PARKING LOT/GARAGE, COMMERCIAL: A structure or designated area used for the parking and storage of vehicles which is operated as a business and open to the public for a fee.

PERSONAL WIRELESS SERVICE FACILITY: Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996 which include the offering of telecommunications for a fee directly to the public (including cellular telephone, personal communications and enhanced specialized mobile radio service which are offered for a fee to the public), or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Such personal wireless service facility shall not include any non-fee, "ham", short-wave, FM mobile radio or similar non-fee antenna facility.

PERSONAL WIRELESS SERVICES: The three types of services regulated by Section 7.

PHILANTHROPIC USE, OTHER: An organization operating under a nonprofit charter, the activities of which are devoted exclusively to benevolent purposes.

PHOTOVOLTAIC ENERGY SYSTEM MANUFACTURING FACILITY: Means a site which produces a solar energy device composed of 1 or more photovoltaic cells or photovoltaic modules and an inverter or other power conditioning unit. A Photovoltaic Energy System Manufacturing Facility may also produce batteries for power storage or an electricity storage device.

PHOTOVOLTAIC CELL: means an integrated device consisting of layers of semiconductor materials and electrical contacts capable of converting incident light directly into electricity.

PHOTOVOLTAIC MODULE: means an assembly of photovoltaic cells.

PRINCIPAL STRUCTURES: The structure within which the primary activity of the principal use of a given lot occurs.

PRINCIPAL USE: The primary use to which a lot or structure is put or employed.

PRIVATE CLUB, MEMBERS ONLY: A structure or facility owned and/or operated by a corporation or association of persons for social or recreational purposes.

PROFESSIONAL OR BUSINESS OFFICE: An office or place of business where professional or business services are offered and does not involve the sale of goods, or the keeping of a stock in trade.

RADIO FREQUENCY (RF) ENGINEER: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR): The emissions from personal wireless service facilities.

RECREATION, INDOOR: A business operating sports or leisure time activities or facilities within a building.

RECREATION, OUTDOOR: A business operating sports or leisure time activities or facilities which are open to the weather.

RENEWABLE ENERGY MANUFACTURING FACILITY: Shall mean a business engaged in the research, development, or manufacturing of biodiesel, photovoltaic, solar-thermal, geo-thermal, fuel cell and wind energy systems

RESTAURANT: An establishment for the retail sales of prepared food for consumption on the premises.

RESTAURANT, FAST FOOD OR TAKE-OUT: An establishment for the sale of food prepared and made ready for immediate sale in advance of a customer's order, or of food prepared and packaged for take-out or consumption off premises, including establishments providing in-car service, drive-up service, exterior window service or service at two (2) or more interior customers service windows or stations. The foregoing shall apply notwithstanding the fact that the establishment may provide available eating facilities within the establishment. The foregoing shall not apply if such sales are wholly incidental and ancillary to a conventional restaurant or other allowed principal use; not shall this regulation apply to ice cream parlors.

RETAIL SALES: The selling of goods or merchandise to the general public and providing services incidental to the sale of such goods.

SECURITY APARTMENT INCIDENTAL TO A COMMERCIAL OR INDUSTRIAL USE: A dwelling unit, of six hundred (600) square feet or less, including separate kitchen facilities and separate bath, located within a commercial structure.

SECURITY BARRIER: A wall or a fence that completely encloses an area from unauthorized entry or trespass.

SEPARATION: The horizontal distance between any two antennas.

SERVICE ORGANIZATION: A nonprofit organization, the services of which are devoted to the betterment or improvement of the community.

SETBACK: The minimum horizontal distance from a structure to an adjacent lot line measured perpendicular to the lot line.

SOLAR THERMAL ENERGY SYSTEM MANUFACTURING FACILITY: Means a facility involved in the production of the components for an integrated unit consisting of a sunlight collection device, a system containing a heat transfer fluid to receive the collected sunlight, and heat exchangers to transfer the solar energy to a thermal storage tank to heat or cool spaces or water or to generate electricity.

SPA: Center including any of the following: indoor sauna, spa or hot tub facilities; masseuse etc.

SPECIAL REVIEW: A review conducted by the Planning Board of proposed improvements, alterations or development of land or buildings by public or private organizations (i.e. religious and municipal) not subject to Site Plan Approval requirements of the By-Law.

STABLE: A structure for housing three (3) or fewer horses.

STABLE: COMMERCIAL, RIDING SCHOOL The commercial housing of four (4) or more horses by means of rental of stalls and/or stables and/or the use of the property for the purposes of horseback

riding lessons, horse training, and similar uses. It does not include the breeding of horses, which is considered an agricultural use.

STORY: That portion of a building contained between any floor and the floor or roof above.

STREET: A way which affords the principal means of access as defined in M.G.L. Ch.90 and 41, §81L.

STREET LINE: A lot line abutting a street.

STRUCTURE: An assembled combination of materials at a fixed location to give support or shelter, exclusive of boundary or retaining walls, fences, flag poles, self contained heating or ventilating equipment and the like.

TEMPORARY CHILD CARE: On-site child care facilities serving the needs of a customer or employee of a business.

TEMPORARY MOBILE HOME: A mobile home used by the owner and occupier of a residence which has been destroyed by a fire or other natural holocaust placed on the site of such residence and residing in such home for a period not to exceed 12 months while the residence is being rebuilt. Any such mobile home shall be subject to the provisions of the state sanitary code.

TEMPORARY USE: Any activity which by its nature is intended and expected to begin and end within a period of eleven (11) days or less, including but not limited to theatrical entertainments, athletic contests, public sales or demonstrations.

THEATER: Building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

TOWER, COMMUNICATION: A freestanding structure designed to accommodate one or more communication antennas. Communication towers shall be considered to mean the tower plus the antennas to be affixed to the tower.

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

WAREHOUSING: The storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field which shall not include the bulk storage of nuclear or radioactive products and/or toxic waste chemicals.

WATER DEPENDENT USES: A use which by its nature must be located or is customarily located abutting a waterway or waterbody including, without limiting the generality of, the building, maintenance, repairing, storage or sale of boats, the sale of marine fuels and lubricants, the sale of marine accessories (such as rope and fishing gear), docking facilities and launching facilities.

WHOLESALE TRADE: The sale of goods or services intended for resale.

WIND ENERGY SYSTEM MANUFACTURING FACILITY: Means a facility involved in the production of the components for wind turbines including the production of rotors, electrical

generators, control systems, inverters or other power conditioning units, towers, and blades which uses moving air to produce power.

YARD: That portion of the lot which is unoccupied by a structure except for fences, furniture, and other customary yard accessories.

YARD, FRONT: A yard extending between any street line and the principal structure, and bounded by the sides of the lot.

YARD, REAR: The yard most distant from and generally opposite the front lot line. In the case of a triangular lot or lot with more than four sides, however, the line from which the rear setback shall be measured shall be a line located ten feet from the farthest point of the lot from the frontage and that is parallel to the front lot line or its chord.

YARD, SIDE: A yard other than a front or rear yard, extending between lot line and the principal structure, and bounded by a front yard and the rear yard.

SECTION 6: FLOODPLAIN DISTRICT

6.1 STATEMENT OF PURPOSE AND BOUNDARIES

The purposes of the Floodplain District are to:

- 1) Ensure public safety through reducing the threats to life and personal injury;
- 2) Eliminate new hazards to emergency response officials;
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- 5) Eliminate costs associated with the response and cleanup of flooding conditions;
- 6) Reduce damage to public and private property resulting from flooding waters.

6.1.1 FLOODPLAIN DISTRICT BOUNDARIES

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Dennis designated as Zone A, AE, AH, AO, A99, V, or VE on the Barnstable County Flood Insurance Rate Map (FIRM) dated July 16, 2014 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance 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, Planning Board, Building Official, and Conservation Commission.

6.2 ADMINISTRATION

6.2.1 ABROGATION AND GREATER RESTRICTION

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

6.2.2 DISCLAIMER OF LIABILITY

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

6.2.3 SEVERABILITY

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

6.2.4 DESIGNATION OF COMMUNITY FLOODPLAIN ADMINISTRATOR

The Town of Dennis hereby designates the position of Building Commissioner to be the official floodplain administrator for the town.

6.2.5 PERMITS

- a) The Town of Dennis requires a permit for all proposed construction or other development in the floodplain overlay district, including new

construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

- b) All applicants for development plans impacted by an “Area of Special Flood Hazard,” shall complete the Town of Dennis Staff Review process, which coordinates review by the Dennis Planning, Natural Resources, Health, Engineering, Building, Police and Fire Departments, prior to filing for the first required permit.
- c) Dennis requires the applicant to obtain and submit documentation of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. This includes but is not limited to those regulations listed in Section 6.4.1.

6.2.6 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA
02114

6.2.6 NOTIFICATION OF WATERCOURSE ALTERATION

In a riverine situation, the Natural Resources Director shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and
Recreation 251 Causeway Street, 8th Floor
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management
Agency, Region I 99 High Street, 6th
Floor
Boston, MA 02110

6.3 USE REGULATIONS

6.3.1 REFERENCE TO EXISTING REGULATIONS

- a) The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:
- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);
 - Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
 - Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
 - Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
 - Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
 - Minimum Requirements of the Subsurface Disposal of Sewage Regulations Town of Dennis
 - Dennis Wetland Protection By-law
- b) Any variances from the provisions and requirements of the above referenced state or local regulations may only be granted in accordance with the required variance procedures of these state or local regulations.
- c) Variances to the flood-resistant standards as found in the MA State Building Code may only be issued by the MA State Building Code Appeals Board.

Upon learning that an applicant intends to file for a variance from the State Building Code Appeals Board, the Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

The Town/City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

6.3.2 OTHER USE REGULATIONS

- a) In Zone A and AE, along watercourses that have a regulatory floodway designated on the Town of Dennis FIRM Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, 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) Man-made alteration of sand dunes within Zone VE which would increase potential flood damage are prohibited.
- c) All new construction within Zone VE must be located landward of the reach of mean high tide.
- d) All subdivision proposals must be designed to assure that:
 - a) such proposals minimize flood damage;
 - b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c) adequate drainage is provided to reduce exposure to flood hazards.
- e) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- f) When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- g) In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- h) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- i) In Zones A, AH, AE, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements, be on the site for less than 180 consecutive days, or be fully licensed and highway ready.

6.4 Special Provisions for Lifting Existing Structures to New and Appropriate Elevations

(1) Notwithstanding the provisions of any other provision of the Dennis Zoning By-law to the contrary, except as otherwise provided pursuant to paragraph (3) of this subsection, a

person shall be allowed to lift an existing structure located in an Area of Special Flood Hazard to a new and appropriate elevation, or constructing a staircase or other attendant structure necessitated by such raising without the need for Board of Appeals relief, provided, however, this exemption shall apply only to the minimum extent or degree necessary to allow the structure to meet the new and appropriate elevation with adequate means of ingress, egress and accommodation of typical basement facilities.

(2) Appurtenant to lifting an existing structure, the existing structure may be relocated elsewhere on the lot as long as said relocation does not create a new, or increase the intensity of a setback nonconformity. For the purposes of accomplishing meeting the new and appropriate elevation, the restrictions found in Section 2.4.1.2 D 2 (a.k.a. the 40% rule) shall not apply.

(3) The exemption established pursuant to paragraph (1) of this subsection shall not be available to a person who has altered or is seeking to alter the original dimensions of a structure if, had the alteration not been made, the structure could have been raised to meet the new and appropriate elevation either without the exemption or with an exemption of lesser degree than is needed with the alteration.

6.5 PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- 1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- 2) Forestry and nursery uses.
- 3) Outdoor recreational uses, including fishing, boating, play areas, etc.
- 4) Conservation of water, plants, wildlife.
- 5) Wildlife management areas, foot, bicycle, and/or horse paths.
- 6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- 7) Buildings lawfully existing prior to the adoption of these provisions.

6.6 VARIANCES TO THESE FLOODPLAIN DISTRICT ZONING BYLAWS

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

6.7 ENFORCEMENT

Violations of any section or provision of this Bylaw may be enforced by the institution of enforcement actions, either criminal or civil, either legal or equitable or both, or by fines of not more than three hundred (300) dollars for each offense. Each day that such offense continues shall constitute a separate offense.

6.8 DEFINITIONS

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, AE, V, or VE.

ATTENDANT STRUCTURE means an area to accommodate utilities, laundry facilities or mechanicals which are otherwise typically located within a basement area.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

COASTAL HIGH HAZARD AREA means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone VE.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DISTRICT means floodplain district.

EXISTING STRUCTURE means any commercial or municipal structure or residential dwelling that currently exists, or existed prior to the catastrophic event, at the time a request is made to elevate.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY means the channel of a river, creek, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HIGHEST APPLICABLE FLOOD ELEVATION STANDARD means the one-percent (1%)

FEMA base flood elevation plus up to an additional three (3) feet.

HISTORIC STRUCTURE means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW AND APPROPRIATE ELEVATION means any elevation to which a structure is raised, or is to be raised, that is equal to or higher than the applicable FEMA base flood elevation, provided, however, in no case shall the new and appropriate elevation exceed the highest applicable flood elevation standard.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of the first floodplain management regulation adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. For the purpose of determining insurance rates,

ORIGINAL DIMENSIONS means the exact vertical and horizontal dimensions of a structure as it presently exists.

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - see FLOODWAY

SPECIAL FLOOD HAZARD AREA means the land area subject to flood and/or flood-related erosion hazards, and shown on a Flood Insurance Rate Map (FIRM) as Zone AE or VE.

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage

occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation result in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation.

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

ZONE A means an area of special flood hazard without water surface elevations determined.

ZONE AE means area of special flood hazard with water surface elevations determined.

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined.

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE X means an area of minimal or moderate flood hazards or areas of future-conditions flood hazard.

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area).

ZONE VE means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (see also Coastal High Hazard Area).

7. COMMUNICATION FACILITIES

7.1 GOALS AND PURPOSE

7.1.1 The Purpose of this section is to regulate communication facilities so that these services may be provided with minimal harm to the public health safety and general welfare. Specifically, the Communication Facilities section of the Zoning By-law has been created to:

1. Comply with all existing state and federal laws and to facilitate the availability of wireless service to the residents of Dennis while minimizing adverse visual, economic and environmental effects and impact of communication antennas, communication buildings, and communication towers on the scenic vistas of the community, adjacent property values and environmentally sensitive areas through careful design, siting, and vegetative screening.
2. Manage the placement of all communication antennas, communication buildings, and communication towers so as to minimize the impact of these facilities on the community, and;
3. Avoid potential damage to adjacent properties from the failure of communication antennas and communication towers by careful engineering and siting.

7.1.2 Applicants for a Special Permit to construct Communication Facilities are required to explore alternative types of systems other than systems on newly constructed towers. It is preferred that wireless communications antennas (including panels) be mounted or attached to existing structures, (including water towers and church steeples). Antennas therefore may be attached to existing structures upon issuance of a Special Permit provided the facility conforms to the applicable design requirements set forth below.

7.2 DISTRICT REGULATIONS

7.2.1 Use Regulations: A communication facility shall require a special permit from the Planning Board in accordance with M.G.L. Chapter 40A, Section 9 and a building permit in all cases and are permitted as indicated in Section 2.2.2 Use Schedule.

7.2.2 The provisions of Section 7 shall apply in addition to other sections of the By-Law applicable in the zoning district. To the extent that there is any inconsistency between the provisions of Section 7 of this By-Law and any other sections of the By-Law, the provisions of Section 7 shall apply to Communications Facilities.

7.2.3 General Regulations: Applicants seeking approval for Communication Facilities shall comply with the following:

7.2.3.1 Antennas may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, church steeple, clock tower, or water tower provided that the facility complies with the following:

7.2.3.1.1 Façade Mount Antennas must

7.2.3.1.1.1 Not extend above the top of the building or parapet;

7.2.3.1.1.2 Not detract, based upon a written finding from the Massachusetts Historical Commission, from the historic significance of a structure on, or eligible for listing on the National Register of Historical Places;

7.2.3.1.1.3 Any alteration made to a structure in a historical district to accommodate a communication facility shall be fully reversible; and

- 7.2.3.1.1.4 Be painted so as to blend in with the existing structure as much as possible.
 - 7.2.3.1.2 Roof mounted antennas must
 - 7.2.3.1.2.1 Not extend more than twenty (20) feet above the highest point of the building;
 - 7.2.3.1.2.2 Not detract, based upon a written finding from the Massachusetts Historical Commission, from the historic significance of a structure on, or eligible for listing on the National Register of Historical Places;
 - 7.2.3.1.2.3 Any alteration made to a structure in a historical district to accommodate a communication facility shall be fully reversible; and
 - 7.2.3.1.2.4 Be painted so as to blend in with the existing structure as much as possible.
 - 7.2.3.1.2.5 Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
- 7.2.3.1.3 Communication Facilities placed on existing buildings, and any equipment associated with the facility, shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building. Buildings or structures, shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for communication facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.
- 7.2.3.1.4 The applicant shall submit documentation of the legal right to install and use the proposed facility Mount at the time of application for a Special Permit.
 - 7.2.3.1.5 There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four hour basis.
 - 7.2.3.1.6 Additional parking shall not be required for roof-mounted antennas, façade-mounted antennas or for the addition of antennas or panels to a tower.
 - 7.2.3.1.7 All network connections from the communications site to off-site facilities shall be via underground land lines except to the extent that underground lines are not feasible in the reasonable determination of the Planning Board.
 - 7.2.3.1.8 Clearing of natural vegetation should be limited to that which is necessary for the construction, operation and maintenance of the facility.
 - 7.2.3.1.9 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

7.2.3.2 New communication towers may be constructed provided that the facility complies with the following:

- 7.2.3.2.1 Towers shall be set back from the lot lines a distance equal to the height of the tower except that a tower shall be no closer to the nearest lot line of a residentially zoned lot or a lot in residential use (other than the lot on which the tower is proposed) than a distance determined by the following formula:

$$(\text{height of tower in feet})^2 / (\text{maximum allowed height in feet for the district})$$

(For example a 150 foot tower in the industrial district would have to be 642.9 feet away from the nearest residential property boundary. $150^2 / 35' = 642.857'$) This setback projects a visual image of structure height at the residential property boundary that is similar in nature to the structural height for buildings.

- 7.2.3.2.2 One tower shall be allowed per lot.
- 7.2.3.2.3 No tower shall be more than 150 feet above the natural grade.
- 7.2.3.2.4 Towers shall be camouflaged based upon the proposed location and shall be painted a neutral, non-reflective color designed to blend with the surrounding environment. Monopoles are the preferred type of structure.
- 7.2.3.2.5 Any equipment associated with the facility, shall be camouflaged or screened. Buildings or structures, shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted communication facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for communication facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.
- 7.2.3.2.6 The applicant shall submit documentation of the legal right to construct and use the proposed site at the time of application for a Special Permit.
- 7.2.3.2.7 There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four-hour basis.
- 7.2.3.2.8 There shall be a minimum of one parking space for each new facility, to be used in connection with the maintenance of the facility and the site, and not to be used for the permanent storage of vehicles.
- 7.2.3.2.9 All network connections from the communications site to off-site facilities shall be via underground land lines except to the extent of underground lines are not feasible in the reasonable determination of the Planning Board.
- 7.2.3.2.10 Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the tower.
- 7.2.3.2.11 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.
- 7.2.3.2.12 Scenic Landscapes and Vistas: Any communication facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the Town of Dennis Local Comprehensive Plan shall not exceed the height of vegetation at the proposed location.

7.2.4 Environmental Standards

- 7.2.4.1 If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- 7.2.4.2 Storm water run-off shall be contained on-site.
- 7.2.4.3 Ground-mounted equipment for communication facilities shall not generate noise in excess of 50 db at the property line, as documented by a qualified acoustical engineer.
- 7.2.4.4 Roof-mounted or side-mounted antennae shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna, as documented by a qualified acoustical engineer.
- 7.2.4.5 Monopole towers shall be so equipped that there are no exposed openings. Said openings pose a potential nuisance in that when exposed to the wind they will tend to send off a high pitched whistle.

7.2.5 Safety Standards

- 7.2.5.1 Radio frequency Radiation (RFR) Standards

All equipment proposed for a communication facility shall be authorized per the FCC *Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation* (FCC Guidelines), latest publication.

7.2.5.2 All ground mounted communication facilities shall be surrounded by a security barrier as approved by the Planning Board.

7.3 APPLICATION PROCEDURES

7.3.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for communication facilities shall be the Planning Board.

7.3.2 Application Filing Requirements

The following shall be included with an application for a Special Permit for all communication facilities:

7.3.2.1. General Filing Requirements

7.3.2.1.1 Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.

7.3.2.1.2 Co-applicants may include the landowner of the subject property, licensed carriers and tenants for communication facility.

7.3.2.1.3 A provider of personal wireless services shall either be an applicant or a co-applicant.

7.3.2.1.4 Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo-reproductions of signatures will not be accepted.

7.3.2.2 Locus Filing Requirements

7.3.2.2.1 A locus plan at a scale of 1"=200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features.

7.3.2.2.2 Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.

7.3.2.2.3 Assessor's map and parcel number of subject property.

7.3.2.2.4 Zoning district designation for the subject property (Submit copy of Town zoning map with parcel identified)

7.3.2.2.5 A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

7.3.2.2.6 A town-wide map showing the other existing communication facilities in the Town and outside the Town within three miles of its corporate limits.

7.3.2.2.7 The proposed locations of all existing and future communication facilities in the Town and a Town-wide map for this carrier.

7.3.3 Plan Filing Requirements

7.3.3.1 A one-inch-equals-40 feet site plan showing the following:

7.3.3.1.1 Property lines for the subject property.

7.3.3.1.2 Tree cover on the subject property and abutting properties within 300 feet by dominant species and average heights, as measured by or available from a verifiable source.

7.3.3.1.3 Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and abutting properties within 300 feet.

7.3.3.1.4 Proposed location of antenna, mount and equipment shelter(s).

- 7.3.3.1.5 Proposed security barrier, indicating type and extent as well as point of controlled entry.
 - 7.3.3.1.6 Location of all roads, public and private, on the subject property and on all abutting properties within 300 feet including driveways proposed to serve the communication facility.
 - 7.3.3.1.7 Distances, at grade, from the proposed communication facility to each building on the site plan.
 - 7.3.3.1.8 Contours at two feet intervals for the subject property and abutting properties within 300 feet.
 - 7.3.3.1.9 All proposed changes to the site, including grading, vegetation removal and temporary or permanent roads and driveways.
 - 7.3.3.1.10 Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, parking areas and any other construction or development attendant to the communication facility.
 - 7.3.3.2 Sighting elevations, or views at-grade from the north, south, east and west shall show the proposed communication facility. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
 - 7.3.3.2.1 Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
 - 7.3.3.2.2 Any and all structures on the subject property.
- 7.3.4 Design Filing Requirements
- 7.3.4.1 Materials of the proposed communication facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters and security barrier. Photographs of the above listed items shall be provided.
 - 7.3.4.2 Colors of the proposed communication facility represented by a color board showing actual colors proposed.
 - 7.3.4.3 Dimensions of the communication facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier.
 - 7.3.4.4 Appearance shown by:
 - 7.3.4.4.1 At least two photographs superimposing the communication facility within the subject property. The photographs shall be provided for the antennas, mounts, equipment shelters, and security barrier for the total heights, width and breadth.
 - 7.3.4.4.2 Photographic simulations developed from a "Crane Test" illustrating the view of the proposed structure from various locations around town. These photographs shall be taken by traveling around the town to determine all locations from which the crane is visible. The date of the Crane Test shall be coordinated with the Dennis Town Planner; provide a crane in place for a twenty-four hour time period excluding hours of darkness; be noticed in the local newspapers through the use of a legal notice, press release and other means of publicizing the date, location and time of the crane test at the applicants expense.
 - 7.3.4.5 Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
 - 7.3.4.6 If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

7.3.5 Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed communication facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

7.3.5.1 Existing, or ambient: the measurements of existing noise.

7.3.5.2 Existing plus proposed communication facilities: Maximum estimate of noise from the proposed communication facility plus the existing noise environment.

7.3.5.3 Existing plus proposed communication facilities, plus any emergency generators. This measurement provides a maximum noise estimate for extreme conditions, which although infrequent, could prove extremely problematic during certain conditions - prolonged summertime power outages. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Bylaw.

7.3.6 The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed communication facility.

7.4 CO-LOCATION

7.4.1 Licensed carriers shall share communication facilities and sites where feasible and appropriate. All applicants for a single site facility shall demonstrate that it is not feasible to co-locate on any existing structure or tower. The following information shall be provided:

7.4.1.1 A survey of all existing structures that may be feasible sites for the purpose.

7.4.1.2 Contact with all the other licensed carriers providing wireless services to the Town of Dennis.

7.4.1.3 Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

7.4.2 In the event that co-location is found to be not feasible, a written statement of why it is not feasible shall be submitted to the Board. The Board may retain a technical expert in the field of RF Engineering to verify if co-location is, or is not, feasible given the design configuration submitted. The cost for such a technical expert will be at the expense of the applicant. The Board may deny the application if the applicant does not prove that co-location is not feasible.

7.4.3 If the applicant does intend to co-locate or to permit co-location, the Board shall request drawing and studies which show the appearance and operation of the facility at full build-out.

7.4.4 If the SPGA approves co-location for a communication facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on the site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit.

7.5 MODIFICATIONS

7.5.1 A modification of a communication facility may be considered, provided the provisions of the by-law are adhered to. A modification of a personal wireless facility that is a pre-existing non-conforming use or structure shall also be subject to the provisions of Section 2.4.1.2 of the Zoning By-law.

7.5.1.1 The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the communication facility in one or more of the following ways:

7.5.1.1.1 Change in the number of facilities permitted on the site;

7.5.1.1.2 Change in technology used for the communication facility.

7.5.1.1.3 The applicant and/or co-applicant wants to change equipment or additional height not specified in the original design filing.

7.6 MONITORING AND MAINTENANCE

7.6.1 After the communication facility is operational, the applicant shall submit to the Special Permit Granting Authority, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Permit, existing measurements of RFR from the communication facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Standards of this Bylaw.

7.6.2 After the communication facility is operational, the applicant shall submit to the Special Permit Granting Authority, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the communication facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Bylaw.

7.6.3 In the event of complaints about noise from the facility, the Special Permit Granting Authority may request additional noise analysis to determine the source of the noise, and possible remedies for the noise. These requirements may be made anytime after the construction of the tower and may include requests for noise analysis prior to the attachment of any communication panels to the facility.

7.6.4 The applicant and co-applicant shall maintain the communication facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

7.6.5 The applicant and co-applicant shall provide plumb and tension tests to enforcement authorities and to the Planning Board within 90 days of construction of the facility, and annually thereafter. The applicant and co-applicant shall also provide plumb and tension tests to enforcement authorities and to the Planning Board within 90 days of the addition or modification to any antennas on the facility.

7.7 ABANDONMENT OR DISCONTINUATION OF USE

7.7.1 At such time that a provider of personal wireless services plans to abandon or discontinue operation of a communication facility, such carrier will notify the Special Permit Granting Authority by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, their communication facility shall be considered abandoned upon such discontinuation of operations.

7.7.2 The loss of FCC license, the removal of communication device, the disconnection of utilities, the failure to carry the construction through to completion in a timely fashion (i.e. more than six months, from the beginning of site alteration, to erect the tower and attach the first set of communication devices shall not be considered timely) shall all be evidence of the abandonment of the facility.

7.7.3 Upon abandonment or discontinuation of use, the carrier shall physically remove the communication facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

7.7.3.1 Removal of towers, underground support structures, antennas, mount, equipment shelters and security barriers from the subject property. This shall include the complete removal of all underground components of the facility.

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

7.7.3.3 Restoring the site of the communication facility to its natural condition, except that any landscaping and grading may remain at the discretion of the Planning Board in the after-condition.

7.7.4 If a carrier fails to remove a communication facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the communication facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in 7.7.3.1 - 7.7.3.3 above at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of 7.7.3.1 - 7.7.3.3 above. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages.

7.7.5 A permit from the Building Department is required to remove a Communication Facility.

7.8 RECONSTRUCTION OR REPLACEMENT OF EXISTING TOWERS AND MONOPOLES

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of the By-law may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the Board (SPGA) finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

7.9 TERM OF SPECIAL PERMIT

7.9.1 The Special Permit is granted for a period of one (1) years and shall lapse if substantial use or construction has nor commenced by such a date, except for good cause shown (including but not limited to appeals of the grant of the special permit or litigation enjoining the construction under the permit), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.

7.9.2 A Special Permit issued for any communication facility over forty-five (45) feet in height shall be valid for fifteen (15) years. At the end of that time period, the communication facility shall be removed by the carrier or a new Special Permit shall be required."

7.9.3 The Bond for the removal of the tower shall be reviewed biennially by the Planning Board starting on the second anniversary of the issuance of the Special Permit . The permit holder shall provide the Planning Board with three (3) written bids to meet the requirements of 7.7.3.1 – 7.7.3.3 above at prevailing wages. Based upon these estimates the Planning Board shall determine whether the bond should be increased and by how much. Failure to comply with this section shall be grounds to revoke the Special Permit.

SECTION 8 DPVC –DENNIS PORT VILLAGE CENTER ZONE

8.1 PURPOSES AND INTENT.

In accordance with the Town of Dennis Local Comprehensive Plan, this section supports the development of the Dennis Port Village Center District surrounding Route 28 and Upper County Road to promote a more functional and attractive community through the use of recognized principles of urban design, the preservation of structures and open space, and by allowing developers and land owners considerable flexibility in land use and site design.

The Village Center shall promote a variety of land uses and include design elements supporting pedestrian and vehicular accessibility. The Village Center shall provide landscaped public spaces directly accessible from the public right-of-way, appropriate night lighting, sidewalks and landscaped walkways through the parking areas.

A high level of attention to site and building design is required to promote attractive, functional development that is more compatible with residential development than other commercial zoning districts in the Town of Dennis.

The Dennis Port Village Center shall include a mix of retail, office, institutional and residential uses, including affordable housing. The Dennis Port Village Center may include increased height for upper floor residential uses. The Dennis Port Village Center is intended to be a place where visitors and patrons may visit more than one residence and business establishment in a single visit and also enjoy open space accessible to the public.

The Dennis Port Village Center shall enhance the economic vitality of the Village, offer a needed mix of commercial services to Village residents and visitors and expand the choice of housing available to Village residents. The Dennis Port Village Center shall be a unique and identifiable place, landmark and destination for residents and shall be readily understood as “the heart of Dennis Port.” The district shall be well connected to the surrounding neighborhoods to encourage convenient pedestrian and bicycle access.

The Dennis Port Village Center has been divided into two distinct areas. The Core area, Dennis Port Village Center District Area A, represents the traditional core of Dennis Port, is envisioned to contain mostly ground floor commercial space with suitable residential densities located above these facilities to provide a critical population mass to support the commercial district. Dennis Port Village Center Area B is envisioned as a slightly lower density mixture of commercial and residential uses.

8.2 LOCATION AND AREA

1. The Dennis Port Village Center District shall include the Dennis Port Village Center District Areas A and B as described on the Town of Dennis Zoning Map as Amended through April 5, 2004

8.3 PROJECT APPROVAL

Development meeting all the criteria for as-of-right development in the Dennis Port Village Center District will be approved by the Building Commissioner.

Development which does not meet the criteria for as-of-right development for the Dennis Port Village Center District or requires a Special Permit for Use as described in this section can be approved through the issuance of a Special Permit by the Dennis Planning Board.

8.4 PERMISSIVE USES.

A building or property shall be used only for the following purposes:

All permitted uses as set forth in Section 2.2.2 Use Regulation Schedule as a “Y” as long as the there is no addition of gross floor area, or any reduction in the number of available parking spaces on the site than that which was present on April 5, 2004 or the minimum parking requirements of Section 3.1 whichever is less regardless of use.

Additions to gross floor area may be approved by the Building Commissioner for:

1. Architectural features, which do not add usable area to a structure, such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, eaves, gutters, awnings, and steps, provided such architectural features do not extend more than 5 feet from the existing structure.
2. Architectural features, which do not add usable area to a structure, such as elevators, wheelchair ramps, and fire escapes (side and rear yard only), provided such architectural features are the minimum necessary to serve the purpose for which it is intended.
3. Terraces and patios, uncovered decks and stoops, or similar features, provided that such features shall not extend above the height of the ground floor level of the structure.
4. The addition of a single housing unit, which would allow for only that one housing unit, in a structure of less than 2,500 square feet provided the structure complies with the setback requirements in Section 8.8 below.

Vacant lots within the Dennis Port Village Center District may be developed, subject to the provisions of Section 4.1.2 of the Dennis Zoning By-law relative to commercial development and Section 2.4.2.1 or Section 8.5.3 relative to lots for residential uses.

8.5 SPECIAL PERMIT USES:

1. In the Dennis Port Village Center District any addition of gross floor area, or any reduction in the number of available parking spaces on the site shall be subject to a special permit under this section if the proposed parking does not meet the numerical minimum required by Section 3.1 of the Dennis Zoning By-law.
2. All uses as set forth in Section 2.2.2 Use Regulation Schedule as an “S”.
3. The Base Residential density of the Dennis Port Village Center shall be 1 unit per 40,000 sf of land area or pre-existing lot of record unless an increase of density is granted by a Special Permit for the creation of mixed income housing opportunities if a minimum of 25% of the total number of dwellings are affordable restricted per the requirements of Section 4.9.4 of this Zoning By-law.

8.6 ACCESSORY USES.

Those uses which are customarily associated with permitted uses, but incidental to the primary uses including parking in excess of that required by the by-law, wastewater facilities, etc. which in the case of the Dennis Port Village Center District may be shared by multiple property owners. Service bays shall not be allowed as accessory uses to retail uses in the Dennis Port Village Center District.

8.7 MINIMUM LOT SIZES.

Minimum Lot Size shall be 40,000 sf or that present on April 5, 2004 whichever is less. Except that when two or more lots are combined the minimum lot size requirement shall be the lesser of 40,000 sf or that present due to the combination of the lots.

Minimum lot width shall be 100 feet or that present on April 5, 2004 whichever is less. Except that when two or more lots are combined the minimum lot width requirement shall be the lesser of 100 feet or that present due to the combination of the lots.

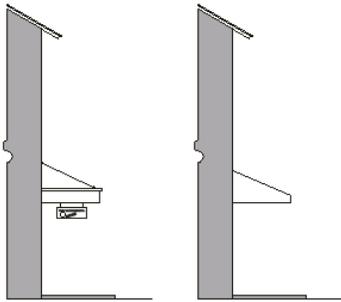
8.8 SETBACKS AND BUILD-TO LINES

1. Minimum Front Yard Setback Requirements

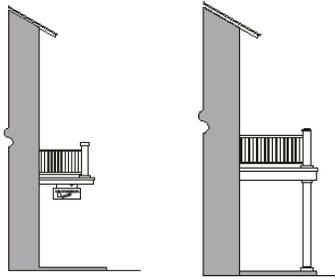
a. Dennis Port Village Center District Area A

- i. Where a parcel in the Dennis Port Village Center District Area A fronts on Route 28 and is a corner parcel with frontage on Route 28 and one other street the build to line (i.e. the horizontal distance at which the nearest side of the building must be located from the right-of-way) shall be 10 feet. Notwithstanding other provisions of this section, for all new buildings or additions to the front or street side of existing buildings in the Dennis Port Village Center District Area A District, up to fifty percent of the front or street side facade area of the first floor, or first and second floors in buildings with more than one floor, shall extend to the build to line so that the building visually reinforces the building facade line of the street. The remainder of the building facade may be set back from the front or street side property line to accommodate shop entrances, arcades, plazas, sidewalk cafes, other approved urban design amenities, or landscaping required pursuant to the provisions of this section.

Marquees, awnings, open air balconies and colonnades may occur forward of the Build-to Line but shall not extend past the property line.



Awnings and Marquees



Open Air Balconies and Colonnades

- ii. For lots not fronting on Route 28 as described in 8.8.1.a.i above, the minimum front setback shall be 15 feet.

Dennis Port Village Center District Area B

- i. For lots located within the Dennis Port Village Center District Area B the minimum front setback shall be 15 feet.

2. Maximum Front Yard Setback Requirements

Where a parcel in the Dennis Port Village Center fronts on Route 28 the maximum front yard setback shall be 25 feet.

3. Minimum Side Yard Setbacks

The minimum side yard setback shall be 15 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser side yard setback may be appropriate. Except adjacent to existing residentially zoned parcels outside the Dennis Port Village Center, where the minimum side setback shall be 25 feet.

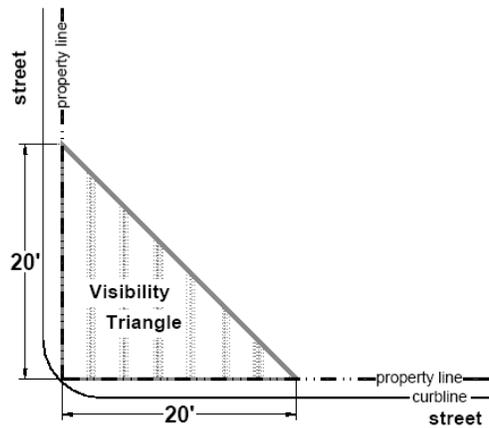
4. Minimum Rear Yard Setbacks

The minimum rear setback shall be 25 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser rear yard setback may be appropriate. Except that for through lots that include a Frontage on Route 28, Route 28 shall always be considered the front yard for setback purposes and the secondary street shall be treated as the rear yard for setback purposes.

Accessory open patios or courts, the outside display of merchandise, sidewalk cafes, etc. provided between the building and the sidewalk or adjacent buildings on abutting side property lines are allowed within the setback requirements and are considered to meet the structural setback requirements of this section. Except adjacent to existing residentially zoned parcels outside the Dennis Port Village Center.

5. Corner Lots

On a corner lot no sign or sign structures shall be located within a clear sight triangle area. The clear sight triangle area is formed by the street right-of-way lines and the line connecting points twenty (20) feet from the intersection of such street right-of-way lines extended.



Clear sight triangle

8.9 HEIGHTS.

1. Dennis Port Village Center District Area A

The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 42 feet or three stories. The third story shall be a portion of the building, having a floor area, with a vertical dimension of at least seven feet three inches (7' 3"), measured from the finished floor to the finished ceiling. This third story area shall not exceed 65% of the floor area immediately below.

Roof pitch, visible from the streets (face to full allowable height) must be between 6:12 and 12:12, except that roof pitches towards Route 28 shall be between 8:12 and 12:12. Roof pitch shall start no higher than the finished floor height of the third story. The gabled end of all buildings must be peaked and cannot be flat. Parapet walls shall not be higher than 28 feet tall.

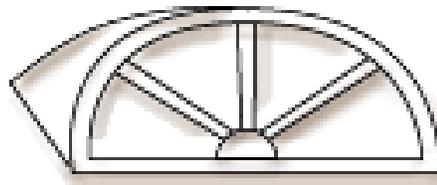
Buildings or portions of a building mass over 75 feet wide are encouraged to divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.



The roof pitch may be interrupted by “dog-house” or “eye-brow” style dormers or sky-lights to provide for daylight and ventilation.



Dog House Dormer



Eye-brow dormer

Accessory rooftop equipment may extend to 46 feet, provided that they are set back from the exterior wall(s) by at least 10 feet, and are enclosed or screened with materials compatible with the building and are not visible from the ground. Accessory equipment may not exceed 20% of the roof area.

2. Dennis Port Village Center District Area B

The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 35 feet or two stories.

Buildings or portions of a building mass over 75 feet wide are encouraged to 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.



The roof pitch may be interrupted by “dog-house” or “eye-brow” style dormers or sky-lights to provide for daylight and ventilation.

Accessory rooftop equipment may extend to 42 feet, provided that they are set back from the exterior wall(s) by at least 10 feet, and are enclosed or screened with materials compatible with the building and are not visible from the ground. Accessory equipment may not exceed 20% of the roof area.

8.10 GENERAL REGULATIONS

For the purpose of this section the Dennis Planning Board shall adopt **Dennis Port** Village Center Site and Architectural Design Guidelines which shall constitute rules and regulations guiding the implementation of the standards of this by-law.

1. All requests for commercial development of over 2,500 sf, other than the re-use of floor space in existence on April 5, 2004, shall include residential development within the district at the minimum rate of one new dwelling per 5,000 square feet of commercial space. For partial units, less than 0.5 of a unit rounds down to the next lower whole number of units and 0.5 of a unit or greater rounds up to the next higher whole number of units.

2. All site development other than the re-use of space in existence on April 5, 2004 shall be required to include the provisions of “public” areas such as landscaped greenbelts, sidewalks, patios or courts. Such “public” areas may include areas such as outdoor café’s clearly identified for a private purpose that increases the street oriented activity of the site itself. These public areas should include a connected network of streets or walkways to ensure free movements of vehicles, pedestrians and bicycles within the Dennis Port Village Center District and connecting to adjacent neighborhoods. These public areas shall provide for pedestrian connections across the front of the site and between the front of the site and parking facilities located on the property. These connections may be provided either within the structure or immediately adjacent to the structure within the site’s setback area.

3. Landscaping: All developments, other than the re-use of space in existence on April 5, 2004, must be landscaped with appropriate low-water vegetation, including deciduous shade trees within 50 feet of parking areas. Decorative flower beds and containers are excluded from this restriction on water use.

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.

Shade trees in parking areas shall be minimum 1 ½ inch caliper at planting and shall be of a species that grows to a minimum of 25 feet in height. These trees shall be in a planting area with a minimum fifty square feet of permeable surface area (Trees located in sidewalk areas shall be allowed to be planted in areas with a minimum of 25 square feet of permeable area). Deciduous street trees shall be planted along streets no farther than 30 feet on center and shall be irrigated and maintained by the owner of the property. Abutting private property owners shall be responsible for maintaining street trees immediately in front of their property in the public right of way. Dead or damaged trees shall be replaced within 30 days of written notice. Street trees shall be a minimum of 1 ½ inch caliper at planting. Irrigation shall be provided and maintained for all landscaped areas. Trees shall not be planted in the ‘clear sight’ area at intersections and driveways. For the purposes of this requirement, alleys and unimproved rights of way are not considered streets.

4. Parking: To maintain a pedestrian-friendly environment, parking lots shall be located behind or beside buildings. On-site parking shall not exceed 5 spaces per 1,000 square feet of building and shall not be less than 50% of the number required based upon Section 3.1 unless authorized by a Special Permit by the Planning Board. Shared use of parking is strongly encouraged. A shared parking agreement shall be submitted with site development plans as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping and snow plowing of the shared parking area. Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide. No more than one curb cut on Route 28 shall be allowed for any lot. For lots with alternative access, driveways shall take their access off of the alternative access unless otherwise permitted by Special Permit. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Route 28 within 200 feet of any intersection.

5. Loading docks, trash compactors, and trash containers shall not be accessed directly from Route 28. Trash compactors shall be enclosed to minimize noise. Trash containers shall be fully enclosed on 3 sides with solid walls a minimum of six feet high with a solid gate, six feet high, which shall be kept closed.

6. Lighting: All developments in the Dennis Port Village Center shall use full cutoff light fixtures for exterior lighting. For the purpose of this section, a “full cutoff light fixture” is one 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.

7. Primary Commercial Building Entrances: For visibility and accessibility, all primary commercial entrances used by the public shall be visible from the right -of-way and the sidewalk, shall have an entrance directly accessible from the sidewalk and shall be no more than 75 feet from the sidewalk.

8. For visibility of retail businesses all commercial facades shall have at least 70% transparent glass between 3 feet and 8 feet above the walking surface facing the right of way or parking lot. The sills of windows shall not be higher than 3 feet above the walking surface. Blank walls are prohibited along public right of ways. Up to one half of the window area may be used for temporary displays of merchandise or advertising. Outside of said advertising signs located within the windows; no other architectural features shall be used to block the view into the building. The Planning Board may, by Special Permit waive any of the requirements of this section.

9. The Dennis Port Village Center District shall have a consistent and distinct identity through the use of similar and compatible architectural design.

Architectural treatment of buildings, including materials, color and style, shall be compatible with the district's historical architectural character and with buildings located within the Dennisport Village Center District. Compatibility may be achieved through the use of similar building massing, materials, scale, colors, or other architectural features (detailing) as is present in adjacent and nearby structures within the same block or directly across any road which are representative of the history of Dennis Port. Facades facing Route 28 shall not include flat or shed roofs.

For the purpose of this section the Dennis Planning Board shall adopt **Dennis Port** Village Center Site and Architectural Design Guidelines

10. The following elements are prohibited:

- (a) structures which are of symbolic design for reasons of advertising
- (b) high intensity, metallic, or fluorescent colors
- (c) neon tubing, fiber optics or similar lighting
- (d) high gloss vinyl and plastic awnings
- (e) unpainted or plain/unfinished exterior facades other than natural wood or brick
- (f) smooth faced painted concrete masonry block
- (g) drive-through facilities (except for bank drive-throughs which are allowed by Special Permit).
- (h) use of storage containers except during construction or as regulated as a temporary use.

11. All junction and accessory boxes shall be minimized from view of adjacent property and public rights-of-way by landscaping or architectural treatment integrated with the building served.

12. Mechanical equipment, whether ground-level or rooftop, shall be screened from view of adjacent properties and public rights-of-way and designed to be perceived as an integral part of the building,

13. Pedestrian Amenities. One (1) pedestrian amenity for each one hundred thousand (100,000) gross square feet of floor area or fraction thereof shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to:

- (a) public art
- (b) clock tower
- (c) water feature/fountain
- (d) outdoor patio, courtyard or plaza
- (e) tables with umbrellas for open air eating or outdoor furniture

14. The maximum area for any single tenant or occupant space shall be 60,000 square feet.

15. Within Dennis Port Village Center District Area A for any lot with frontage on Route 28, only commercial uses identified in Section 2.2.2.5 shall be allowed at ground floor on the Route 28 side of the building.

16. Within the Dennis Port Village Center District Area A for any lot with frontage on Route 28, the primary means of access to the upper stories of any structure shall be by means of a building entryway accessing Route 28. Said entryway area shall include any building lobby area, internal directory, and mail delivery facilities.

8.11 DEVELOPMENT PLANS AND STANDARDS

Site development plans for approval shall include:

1. Urban Design features:

- a. Blocks, streets, alleys, parks, patios, sidewalks and planting strips, stormwater drainage features, outdoor seating areas for private commercial uses
- b. Building types (for example, patio house, townhouse, storefront retail built to sidewalk)
- c. Signage master plan
- d. Shared parking agreement

2. Architectural features:

- a. Building facades (should include photographs of similar structures for comparative purposes to meet the requirements of Section 8.10.9 above)
- b. Exterior features
- c. Building heights, setbacks and built-to lines
- d. Roofs and rooftop features
- e. Exterior materials, doors and windows
- f. Exterior colors
- g. Signage, flags and banners
- h. Sign design standards as applicable and consistent with the Town of Dennis Sign By-law

3. On-site and off-site improvements

- a. Fences and walls
- b. Patio, square or plaza
- c. Landscaping with areas and plants noted
- d. Special pavement and sidewalk treatments
- e. Setbacks and sidewalk and utility easements
- f. Street and parking lot lighting
- g. Street furniture, trash containers, benches, news racks, kiosks
- h. Parking standards including shared parking agreements
- i. Refuse storage and access
- j. Utilities: all utility lines shall be underground or provided from locations other than from Route 28 this provision may be waived or amended by the Planning Board.
- k. Traffic circulation plan and street improvements as needed to relieve excessive congestion.
- l. Water and Sewer availability study and infrastructure improvements as needed.

4. Permanent bicycle racks at the minimum rate of one bicycle space per every 5000 sf of gross floor area.

5. Specific operational standards for permitted hours of operation for any business, delivery of stock in trade or supplies for any business, permitted levels of noise, including amplified sound, from any business or any entertainment special event, and other operating restrictions needed to promote compatible coexistence of mixed uses in the Dennis Port Village Center. Note, this is not intended to prohibit amplified indoor or outdoor entertainment which may be important to the vitality of the Dennis Port Village Center, it is intended to understand the operation of the facility in relation to neighboring land uses to ensure compatible uses and hours of operation. All normal licensing requirements will remain under the jurisdiction of the Dennis Board of Selectmen.

8.12 OTHER REVIEWS AND APPROVALS

Construction approved in the Dennis Port Village Center District must commence within 12 months of the issuance of a special permit or such approval shall expire unless an extension is approved by the Planning Board upon written request. After approval of a specific development plan changes of tenants in the DPVC may be approved administratively by the Building Commissioner consistent with the requirements of this section, provided that any changes be certified in writing by the Building Commissioner to comply with the standards of this ordinance and the approved regulating or development plan.

8.13 WAIVERS

A waiver is an administrative procedure relating to a minor deviation from the specific language in the general regulations. The waiver allows a deviation that still meets the intent and purpose of the zoning ordinance. The Town Planner shall review waiver requests with the Planning Board, which allows the development plan to continue the streamlined approval process. The Planning Board may approve the waiver in review of the development plan, or may deny the waiver as not meeting the intent of the regulations. Along with the waivers specifically listed above, the Planning Board may consider waivers requests to parking area setbacks in Section 3.1.5.2 in order to promote a more cohesive development pattern within the Dennis Port Village Center and the provision of off-site parking within 300 feet of a principal structure (Section 3.1.7.1).

9.0 WEST DENNIS VILLAGE ZONING DISTRICTS

9.1 PURPOSES AND INTENT.

In accordance with the Town of Dennis Local Comprehensive Plan, this section supports the development of the West Dennis Village Zoning Districts surrounding Route 28 and School Street to promote a more functional and attractive community through the use of recognized principles of urban design, the preservation of structures and open space, and by allowing developers and land owners considerable flexibility in land use and site design.

The Village Districts shall promote a variety of land uses and include design elements supporting pedestrian and vehicular accessibility. The Village Districts shall provide landscaped public spaces directly accessible from the public right-of-way, appropriate night lighting, sidewalks and landscaped walkways through the parking areas. A high level of attention to site and building design is required to promote attractive, functional development that is more compatible with residential development than other commercial zoning districts in the Town of Dennis.

The West Dennis Village shall create a core of cultural activities and supportive residential, retail and commercial uses which would generate more pedestrian vitality in the district, promote Dennis's regional leadership in the arts, and encourage compatible economic activity in this area. The Village, stretching from the Bass River to the West to the historic "Columns" building in the east, provides a variety of elements that attract artists and tourists to the areas. The West Dennis Village is intended to be a place where visitors and patrons may visit more than one residence and business establishment in a single visit and also enjoy open space accessible to the public. To this end, the use and appearance of ground floor spaces in the West Dennis Village are important to the success of the Town's plans for the area, since these spaces define the ambiance and character of the area for pedestrians. The types of uses which would enhance the District include ground floor retail uses which would contribute to the cultural vitality of the area, full-service restaurants, and uses which provide pedestrian scale and siting. Desirable new and re-development would include projects which fully utilize the potential of the property and incorporate continuity in street facades. Uses such as full-service food uses, art galleries, bookstores and other culturally compatible and pedestrian-oriented uses will contribute to the area's economic vitality.

The West Dennis Village Zoning Districts shall enhance the economic vitality of the Village, offer a needed mix of commercial services to Village residents and visitors and expand the choice of housing available to Village residents. The West Dennis Village shall be a unique and identifiable place, landmark and destination for residents and shall be readily understood as "the heart of West Dennis." The district shall be well connected to the surrounding neighborhoods to encourage convenient pedestrian and bicycle access.

The West Dennis Village has been divided into five distinct areas. The Residential Commercial District, Mixed Use Marine District, Marine Open Space District, Village Center Support District and the West Dennis Village Center. The West Dennis Village Center represents the traditional core of West Dennis. This area is envisioned to contain mostly ground floor commercial space with suitable residential densities located above these facilities to provide a critical population mass to support the commercial district. The Village Center Support District is envisioned as a slightly lower density mixture of commercial and residential uses. The Mixed-Use Marine District is envisioned as an area that enhances the traditional water front and tourist-oriented services adjacent to the Bass River. The Residential Commercial District is envisioned as a lower density mixed use area that transitions between the higher density commercial area and the adjacent residential areas. Finally, the Marine Open Space District is a low-density waterfront district promoting open space and water-dependent uses.

9.2 REGULATIONS SPECIFIC TO PROPERTY WITHIN THE RESIDENTIAL/COMMERCIAL ZONING DISTRICT (RC)

9.2.1 Purpose. The RC Zone is a transitional area between commercial and residential activities.

9.2.2 Allowed Uses. The following uses are allowed by right in the RC Zone:

- Single Family Residential
- Two-family Residential
- Gift Shop
- Art Studio/Gallery
- Antiques Store
- Specialty Clothing Store
- Professional Office
- Ice Cream Shop
- Candy Store
- Municipal Use
- Temporary Use
- Temporary Construction Office
- Family Day Care Facility
- Home Occupation
- Agricultural Use over 5 Acres
- Security Apartment incidental to a Commercial or Industrial Use
- Non-profit Educational Use
- Child Care Facility
- Religious Uses
- Community Residential Home
- Artist Live/Work Units

9.2.3 Permitted Uses. The following uses require a Special Permit within the RC Zone

- Any allowed commercial use of over 2,500 sf
- Bed and Breakfast
- Sit Down Restaurant
- Cemetery
- Research Lab, Accessory Uses for Scientific Research or Development or Related
- Artisan Manufacturing
- Accessory Dwelling Unit

9.2.4 Development Standards.

A. Density: The base residential density in the RC Zone shall be one (1) dwelling unit for every 20,000 square feet unless an increase of density is granted by a Special Permit for the creation of mixed income housing opportunities if a minimum of 25% of the total number of dwellings are affordable restricted per the requirements of Section 4.9.4 of this Zoning By-law.

B. Lot Dimensions:

1. Minimum lot size: 20,000 square feet
2. Minimum street frontage: 50 feet
3. Minimum lot width: 100 feet

C. Yard Requirements:

1. Setbacks

a. Front yard: Minimum 20 feet or that present on September 24, 2007 if less than 20 feet.

Maximum 25 feet

b. Rear yard: The minimum rear setback shall be 25 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser rear yard setback may be appropriate. Except that for through lots that include a frontage on Route 28, Route 28 shall always be considered the front yard for setback purposes and the secondary street shall be treated as the rear yard for setback purposes.

c. Side yard: 15 feet

2. Height: 35 feet

3. Building Lot Coverage: 25%

4. Floor area ratio: 50%

5. Maximum lot coverage (Building, outdoor display and parking area): 60%

9.3 REGULATIONS SPECIFIC TO PROPERTY WITHIN THE MIXED USE MARINE ZONE

9.3.1 Purpose. This zone provides for mixed uses which are compatible with the waterfront and which attract the public.

9.3.2 Allowed Uses. The following uses are allowed by right in the MUM Zone:

- Single Family Residential
- Two-family Residential
- Gift Shop
- Art Studio/Gallery
- Antiques Store
- Specialty Clothing Store
- Professional Office
- Ice Cream Shop
- Candy Store
- Municipal Use
- Temporary Use
- Temporary Construction Office
- Family Day Care Facility
- Agricultural Use Over 5 Acres
- Security Apartment Incidental to a Commercial or Industrial Use
- Non-Profit Educational Use
- Child Care Facility
- Religious Use
- Community Residential Home
- Home Occupation
- Artist Live/Work Units

9.3.3 Permitted Uses

- Bed and Breakfast
- Boat and Marine Equipment Sales, Service and Rentals
- Boat Maintenance; Moorage, Storage, and Related Facilities
- Boat Rental Operations, Charters and Water Taxis
- Piers and Walkways
- Water Taxi
- Tour boat
- Hotels
- Marinas
- Meeting Rooms and Convention Facilities
- Multiple Family Dwellings
- Public Markets
- Indoor Recreational Facilities
- Outdoor Recreational Facility
- Amusement Arcade
- Recreational Equipment Sales and Rentals
- Restaurants
- Retail Stores
- Tourist Facilities such as Museums, Aquariums and other similar attractions
- Transient Tourist Accommodation
- Yacht Clubs
- Research Lab, Accessory Uses for Scientific Research or Development or Related
- Artisan Manufacturing
- Musical Instrument Stores
- Art Oriented For-Profit Educational Uses including art school, school of dance, music school, photography school, etc.
- Accessory Dwelling Unit

9.3.5 Development Standards.

A. Density: The base residential density in the MUM Zone shall not exceed one (1) dwelling unit per 40,000 square feet unless an increase of density is granted by a Special Permit for the creation of mixed income housing opportunities if a minimum of 25% of the total number of dwellings are affordable restricted per the requirements of Section 4.9.4 of this Zoning By-law.

B. Lot Dimensions:

1. Minimum lot size: 40,000 square feet
2. Minimum street frontage: 150 feet
3. Minimum lot width: 150 feet

C. Yard Requirements:

1. Setbacks

a. Front yard: Minimum 20 feet or that present on September 24, 2007 if less than 20 feet.

Maximum 25 feet

b. Rear yard: The minimum rear setback shall be 25 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser rear yard setback may be appropriate. Except that for through lots that include a frontage on Route 28, Route 28 shall always be considered the front yard for setback purposes and the secondary street shall be treated as the rear yard for setback purposes.

c. Side yard: 25 feet

2. Height: The height of buildings shall not exceed three stories or 42 feet The third story shall be a portion of the building, having a floor area, with a vertical dimension of at least seven feet three inches (7' 3"), measured from the finished floor to the finished ceiling. This third story area shall not exceed 65% of the floor area immediately below. Roof pitch, visible from the streets (face to full allowable height) must be between 6:12 and 12:12, except that roof pitches towards Route 28 shall be between 8:12 and 12:12. Roof pitch shall start no higher than the finished floor height of the third story. The gabled end of all buildings must be peaked and cannot be flat. Parapet walls shall not be higher than 28 feet tall.

3. Building Lot Coverage: 20%

4. Floor area ratio: 50%

5. Maximum lot coverage (Building, outdoor display and parking area): 70% of the lot area

D. No individual retail business unit exceeds 10,000 square feet except for marine oriented retail uses.

E. No individual office business unit exceeds 10,000 square feet except for marine oriented office uses.

9.4 Marine Open Space District (MOS)

9.4.1 Purpose The MOS shall be low density area designated for low intensity water oriented uses.

9.4.2 Allowed Uses:

- Marinas
- Boat Moorage and Seasonal Storage
- Piers and Walkways
- Boat and Marine Rentals
- Outdoor Recreational Facilities
- Municipal Uses
- Family Day Care Facility
- Agricultural Use Over 5 Acres
- Non-Profit Educational Use
- Child Care Facility
- Religious Use
- Community Residential Home
- Tour boat
- Water Taxi

9.4.3 Permitted Uses:

Land side support for the facilities listed in Section 9.4.2 may include requisite operations buildings by Special Permit of the Planning Board.

9.4.4 Development Standards

A. Lot Dimensions:

1. Minimum lot size: 40,000 square feet

2. Minimum street frontage: 150 feet

3. Minimum lot width: 150 feet

B. Yard Requirements:

1. Setbacks

a. Front yard: Minimum 20 feet or that present on September 24, 2007 if less than 20 feet.

Maximum 25 feet

- b. Rear yard: 50 feet from the top of the Coastal Bank
- c. Side yard: 25 feet
- 2. Height: The height of buildings shall not exceed one story or 25 feet
- 3. Building Lot Coverage: 5%
- 4. Floor area ratio: 5%
- 5. Maximum lot coverage (Building, outdoor display and parking area): 30% of the lot upland area

9.5 VILLAGE CENTER SUPPORT DISTRICT

9.5.1 Purpose. This zone provides for a transitional area between the waterfront district to the west and the West Dennis Village Center to the east. Mixed uses which are compatible with the Village Center and which attract the public to walk between the waterfront and the Village Center are encouraged in this district.

9.5.2 Allowed Uses.

A. A building or property shall be used only for the following purposes in the VCS District as long as there is no reduction in the number of available parking spaces on the site than that which was present on September 24, 2007 or the minimum parking requirements of Section 9.7.6 are met:

- Single Family Residential
- Two-family Residential
- Gift Shop
- Art Studio/Gallery
- Antiques Store
- Specialty Clothing Store
- Professional or Business Office
- Ice Cream Shop
- Candy Store
- Retail Store 2,500 sf or less
- Security Apartment Incidental to a Commercial or Industrial Use
- Non-Profit Educational Use
- Child Care Facility
- Religious Use
- Community Residential Home
- Family Day Care Facility
- Municipal Use
- Temporary Use
- Temporary Construction Office
- Indoor Recreation
- Bank
- Agricultural Use over 5 acres
- Home Occupation
- Artist Live/Work Space

9.5.3 Permitted Uses

A. In the Village Center Support District any addition of gross floor area over 2,500 sf, or any reduction in the number of available parking spaces on the site shall be subject to a special permit under this section if the proposed parking does not meet the numerical minimum required by Section 9.7.6 of the Dennis Zoning By-law.

B. A building or property shall be used only by special permit for the following purposes in the VCS District:

- Bed and Breakfast
- Multiple Family Dwellings
- Public Markets
- Outdoor Recreational Facilities
- Restaurants
- Museums, Aquariums and other similar attractions
- Open Space Village Development
- For Profit Educational Use
- Cemetery
- Assisted Living Facility
- Service Organization
- Other Philanthropic Use
- Other Institutional Use
- General Merchandise, Food Stores, Apparel & Accessories, Furniture &

- Home Furnishings, Other Retail Sales
- Consumer Service
- Funeral Home
- Animal Hospital
- Research Lab, Accessory Uses for Scientific Research or Development or Related
- Communication Facility (See Section 7)
- Artisan Manufacturing
- Art Oriented For-Profit Educational Uses including art school, school of dance, music school, photography school, etc.
- Musical instrument store
- Accessory Dwelling Unit

9.5.4 Development Standards.

A. Density: The base residential density in the VCS Zone shall not exceed one (1) dwelling unit per 40,000 square feet unless an increase of density is granted by a Special Permit for the creation of mixed income housing opportunities if a minimum of 25% of the total number of dwellings are affordable restricted per the requirements of Section 4.9.4 of this Zoning By-law.

B. Lot Dimensions:

1. Minimum lot size: Minimum Lot Size shall be 40,000 sf or that present on September 24, 2007 whichever is less. Except that when two or more lots are combined the minimum lot size requirement shall be the lesser of 40,000 sf or that present due to the combination of the lots.

2. Minimum street frontage: 50 feet

3. Minimum lot width: Minimum lot width shall be 100 feet or that present on September 24, 2007 whichever is less. Except that when two or more lots are combined the minimum lot width requirement shall be the lesser of 100 feet or that present due to the combination of the lots.

C. Yard Requirements:

1. Setbacks

a. Front yard: Minimum 20 feet or that present on September 24, 2007 if less than 20 feet.
Maximum 25 feet

b. Rear yard: The minimum rear setback shall be 25 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser rear yard setback may be appropriate. Except that for through lots that include a frontage on Route 28, Route 28 shall always be considered the front yard for setback purposes and the secondary street shall be treated as the rear yard for setback purposes.

c. Side yard: The minimum side yard setback shall be 15 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser side yard setback may be appropriate. Except adjacent to existing residentially zoned parcels outside the Village Center Support District, where the minimum side setback shall be 25 feet.

2. Height: The height of buildings shall not exceed two stories or 35 feet except as otherwise provided in this section

3. Building Lot Coverage: 15%

4. Floor area ratio: 30%

5. Maximum lot coverage (Building, outdoor display and parking area): 60% of the lot area

9.5.5 PROJECT APPROVAL

Development meeting all the criteria for as-of-right development in the Village Center Support District will be approved by the Building Commissioner.

Development which does not meet the criteria for as-of-right development for the Village Center Support District or requires a Special Permit for Use as described in this section can be approved through the issuance of a Special Permit by the Dennis Planning Board.

9.6 WEST DENNIS VILLAGE CENTER ZONE

9.6.1 Purpose. This zone reinforces the traditional village center appearance and uses within the traditional West Dennis Village Center. Mixed uses which are compatible with the Village Center and which attract the public to live, work and shop in the district are to be promoted. Site densities are being established to promote a walk-able, livable village.

9.6.2 Allowed Uses.

A. A building or property shall be used only for the following purposes in the WDVC District as long as there is no reduction in the number of available parking spaces on the site than that which was present on September 24, 2007 or the minimum parking requirements of Section 9.7.5 are met:

- Single Family Residential
- Two-family Residential
- Gift Shop
- Art Studio/Gallery
- Antiques Store
- Specialty Clothing Store
- Professional or Business Office
- Ice Cream Shop
- Candy Store
- Retail Store 2,500 sf or less
- Security Apartment Incidental to a Commercial or Industrial Use
- Non-Profit Educational Use
-
- Child Care Facility
- Religious Use
- Community Residential Home
- Family Day Care Facility
- Municipal Use
- Temporary Use
- Temporary Construction Office
- Indoor Recreation
- Bank
- Agricultural Use over 5 acres
- Home Occupation
- Restaurant 50 seats or less
- Artist Live/Work Space

9.6.3 Permitted Uses

A. In the West Dennis Village Center District any addition of gross floor area over 2,500 sf, or any reduction in the number of available parking spaces on the site shall be subject to a special permit under this section if the proposed parking does not meet the numerical minimum required by Section 9.7.5 of the Dennis Zoning By-law.

B. A building or property shall be used only by special permit for the following purposes in the WDVC District:

- Bed and Breakfast
- Hotels
- Motel/Motor Court
- Meeting Rooms and Convention Facilities
- Multiple Family Dwellings
- Public Markets
- Outdoor Recreational Facilities
- Restaurants
- Museums, Aquariums and other similar attractions
- Open Space Village Development
- For Profit Educational Use
- Cemetery
- Assisted Living Facility
- Service Organization
- Other Philanthropic Use
- Other Institutional Use
- Amusement Arcade
- General Merchandise, Food Stores, Apparel & Accessories, Furniture & Home Furnishings, Other Retail Sales
- Consumer Service
- Funeral Home
- Animal Hospital
- Research Lab, Accessory Uses for Scientific Research or Development or Related
- Communication Facility (See Section 7)
- Commercially Registered Vehicles or Trailers
- Recreational Facilities
- Restaurants over 50 seats
- Retail Store over 2,500 sf
- Tourist Facilities such as Museums, Aquariums and other similar attractions
- Transient Tourist Accommodation
- Lodging House
- Artisan Manufacturing
- Art Oriented For-Profit Educational Uses including art school, school of dance, music school, photography school, etc.
- Performing Art Space
- Accessory Dwelling Unit

9.6.4 Development Standards.

A. Density: The base residential density in the WDVC Zone shall not exceed one (1) dwelling unit per 40,000 square feet unless an increase of density is granted by a Special Permit for the creation of mixed income housing opportunities if a minimum of 25% of the total number of dwellings are affordable restricted per the requirements of Section 4.9.4 of this Zoning By-law.

B. Lot Dimensions:

1. Minimum lot size: Minimum Lot Size shall be 40,000 sf or that present on September 24, 2007 whichever is less. Except that when two or more lots are combined the minimum lot size requirement shall be the lesser of 40,000 sf or that present due to the combination of the lots.

2. Minimum street frontage: 50 feet

3. Minimum lot width: Minimum lot width shall be 100 feet or that present on September 24, 2007 whichever is less. Except that when two or more lots are combined the minimum lot width requirement shall be the lesser of 100 feet or that present due to the combination of the lots.

C. Yard Requirements:

1. Setbacks

a. Front yard: Minimum 15 feet or that present on September 24, 2007 if less than 15 feet.

Maximum 25 feet

b. Rear yard: The minimum rear setback shall be 25 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser rear yard setback may be appropriate. Except that for through lots that include a frontage on Route 28, Route 28 shall always be considered the front yard for setback purposes and the secondary street shall be treated as the rear yard for setback purposes.

c. Side yard: The minimum side yard setback shall be 15 feet unless, by the issuance of a Special Permit the Planning Board determines that a lesser side yard setback may be appropriate. Except adjacent to

existing residentially zoned parcels outside the Village Center Support District, where the minimum side setback shall be 25 feet.

2. Height: The height of buildings shall not exceed three stories or 42 feet. The third story shall be a portion of the building, having a floor area, with a vertical dimension of at least seven feet three inches (7' 3"), measured from the finished floor to the finished ceiling. This third story area shall not exceed 65% of the floor area immediately below. Roof pitch, visible from the streets (face to full allowable height) must be between 6:12 and 12:12, except that roof pitches towards Route 28 shall be between 8:12 and 12:12. Roof pitch shall start no higher than the finished floor height of the third story. The gabled end of all buildings must be peaked and cannot be flat. Parapet walls shall not be higher than 28 feet tall.

3. Building Lot Coverage: 20%

4. Floor area ratio: 50%

5. Maximum lot coverage (Building, outdoor display and parking area): 70% of the lot area

9.6.5 PROJECT APPROVAL

Development meeting all the criteria for as-of-right development in the West Dennis Village Center District will be approved by the Building Commissioner.

Development which does not meet the criteria for as-of-right development for the West Dennis Village Center District or requires a Special Permit for Use as described in this section can be approved through the issuance of a Special Permit by the Dennis Planning Board.

9.7 GENERAL REGULATIONS

For the purpose of this section the Dennis Planning Board shall adopt West Dennis Village Center Site and Architectural Design Guidelines which shall constitute rules and regulations guiding the implementation of the standards of this by-law.

9.7.1. Additions or changes to existing gross floor area may be approved by the Building Commissioner for:

1. Architectural features, which do not add usable area to a structure, such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, eaves, gutters, awnings, and steps, provided such architectural features do not extend more than 5 feet from the existing structure.
2. Architectural features, which do not add usable area to a structure, such as elevators, wheelchair ramps, and fire escapes (side and rear yard only), provided such architectural features are the minimum necessary to serve the purpose for which it is intended.
3. Terraces and patios, uncovered decks and stoops, or similar features, provided that such features shall not extend above the height of the ground floor level of the structure.
4. The creation of a single housing unit, which would allow for only that one housing unit, in the structure.

9.7.2. Affordable Housing Requirements:

- a. All requests for commercial development of over 2,500 sf, other than the re-use of floor space in existence on September 24, 2007, shall include residential development within the district at the minimum rate of one new dwelling per 5,000 square feet of commercial space. For partial units, less than 0.5 of a unit rounds down to the next lower whole number of units and 0.5 of a unit or greater rounds up to the next higher whole number of units.
- b. Hotels, motels and motor courts shall not be required to meet the requirements of providing required housing on-site. Instead, hotels, motels and more courts within the

MUM and WDCV districts shall provide for required housing in one of the following fashions:

- i. Provide one (1) employee unit for every twenty (20) guest rooms, or fraction thereof;
- ii. Provide one (1) permanently affordable housing unit within the West Dennis Village Zoning Districts by acquisition or partnership with another West Dennis redevelopment project; or
- iii. Provide a one-time cash donation of \$1,500 per guest room to the Dennis Affordable Housing Trust.

9.7.3 FORMULA BASED BUSINESS RESTRICTIONS

“Formula Businesses” shall be allowed by Special Permit per the requirements of Section 4.10.

9.7.4 Public Areas: All site development other than the re-use of space in existence on September 24, 2007 shall be required to include the provisions of “public” areas such as landscaped greenbelts, sidewalks, patios or courts. Such “public” areas may include areas such as outdoor café’s clearly identified for a private purpose that increases the street oriented activity of the site itself. These public areas should include a connected network of streets or walkways to ensure free movements of vehicles, pedestrians and bicycles within the West Dennis Village Districts and connecting to adjacent neighborhoods. These public areas shall provide for pedestrian connections across the front of the site and between the front of the site and parking facilities located on the property. These connections may be provided either within the structure or immediately adjacent to the structure within the site’s setback area.

9.7.5 Landscaping: All developments, other than the re-use of space in existence on September 24, 2007, must be landscaped with appropriate low-water vegetation, including deciduous shade trees within 50 feet of parking areas. Decorative flower beds and containers are excluded from this restriction on water use.

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.

Shade trees in parking areas shall be minimum three (3) inch caliper four feet above grade at planting and shall be of a species that grows to a minimum of 25 feet in height. One tree of three inch caliper four feet above grade shall be required for every five parking spaces or fraction thereof. Said trees shall be planted within five feet of the parking areas served. These trees shall be in a planting area with a minimum fifty square feet of permeable surface area

Deciduous street trees shall be planted along streets no farther than 30 feet on center. One tree of three inch caliper four feet above grade shall be required for every thirty feet of street frontage. These street trees shall be planted on the property of the applicant and shall be located on the side of any sidewalk furthest from the edge of Route 28 or School Street. Trees located in sidewalk areas shall be allowed to be planted in areas with a minimum of 25 square feet of permeable area and shall be irrigated and maintained by the owner of the property. Abutting private property owners shall be responsible for maintaining street trees immediately in front of their property in the public right of way. Dead or damaged trees shall be replaced within 30 days of written notice. Street trees shall be a minimum of three (3) inch caliper at planting. Irrigation shall be provided and maintained for all landscaped areas. Trees shall not be planted in the ‘clear sight’ area at intersections and driveways. For the purposes of this requirement, alleys and unimproved rights of way are not considered streets.

9.7.6 Hotels, Motels and Motor Courts: Buildings containing hotel, motel, or motor court rooms for hire subject to the regulations of MGL C. 140 S. 7, shall be restricted to the following development standards:

- A. Rooms shall be no smaller than 350 sf.
- B. Suites shall be no smaller than 700 sf.
- C. Kitchenettes may be allowed in rooms of at least 350 sf subject to the granting of a special permit by the Dennis Planning Board.
- D. Hotel, motel or motor court rooms for hire subject to the regulations of MGL C. 140 S. 7 with kitchenettes shall not be converted to timeshare units as governed by MGL Chapter 183B.

9.7.7 Parking: To maintain a pedestrian-friendly environment, parking lots shall be located behind or beside buildings. On-site parking shall not exceed 5 spaces per 1,000 square feet of building and shall not be less than 50% of the number required based upon Section 3.1 unless authorized by a Special Permit by the Planning Board. Shared use of parking is strongly encouraged. A shared parking agreement shall be submitted with site development plans as part of any Special Permit request. Said shared parking agreement shall address issues such as the maintenance, striping and snow plowing of the shared parking area. Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide. No more than one curb cut on Route 28 shall be allowed for any lot. For lots with alternative access, driveways shall take their access off of the alternative access unless otherwise permitted by Special Permit. No parking shall be located between a building and Route 28 or School Street.

9.7.8 Loading docks, trash compactors, and trash containers shall not be accessed directly from Route 28. Trash compactors shall be enclosed to minimize noise. Outdoor storage and trash containers shall be fully enclosed on 3 sides with solid walls a minimum of six feet high with a solid gate, six feet high, which shall be kept closed.

9.7.9 Lighting: All developments in the West Dennis Village Zoning Districts shall use full cutoff light fixtures for exterior lighting. For the purpose of this section, a “full cutoff light fixture” is one 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.

9.7.10 Primary Commercial Building Entrances: For visibility and accessibility, all primary commercial entrances used by the public shall be visible from the right-of-way and the sidewalk, shall have an entrance directly accessible from the sidewalk and shall be no more than 75 feet from the sidewalk.

9.7.11 For visibility of retail businesses all commercial facades shall have at least 70% transparent glass between 3 feet and 8 feet above the walking surface facing the right of way or parking lot. The sills of windows shall not be higher than 3 feet above the walking surface. Blank walls are prohibited along public right of ways. Up to one half of the window area may be used for temporary displays of merchandise or advertising. Outside of said advertising signs located within the windows, no other architectural features shall be used to block the view into the building. The Planning Board may, by Special Permit waive any of the requirements of this section.

9.7.12 The West Dennis Village Zoning Districts shall have a consistent and distinct identity through the use of similar and compatible architectural design. All development shall be subject to design controls consistent with West Dennis Village Site and Architectural Design Guidelines as adopted by the Dennis Planning Board. Design consideration shall be given to the harmonious blend of commercial and residential land uses consistent with the village character of West Dennis.

Architectural treatment of buildings, including materials, color and style, shall be compatible with the district's historical architectural character and with buildings located within the West Dennis Village

Zoning Districts. Compatibility may be achieved through the use of similar building massing, materials, scale, colors, or other architectural features (detailing) as is present in adjacent and nearby structures within the same block or directly across any road which are representative of the history of West Dennis. Facades facing Route 28 shall not include flat or shed roofs.

For the purpose of this section the Dennis Planning Board shall adopt West Dennis Village Site and Architectural Design Guidelines

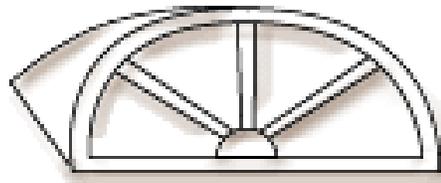
9.7.13 Buildings or portions of a building mass over 75 feet wide are encouraged to divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.



The roof pitch may be interrupted by “dog-house” or “eye-brow” style dormers or sky-lights to provide for daylight and ventilation.



Dog House Dormer



Eye-brow dormer

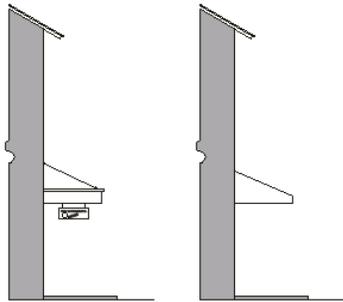
9.7.14 The following elements are prohibited:

- (a) structures which are of symbolic design for reasons of advertising
- (b) high intensity, metallic, or fluorescent colors
- (c) neon tubing, fiber optics or similar lighting
- (d) high gloss vinyl and plastic awnings
- (e) unpainted or plain/unfinished exterior facades other than natural wood or brick

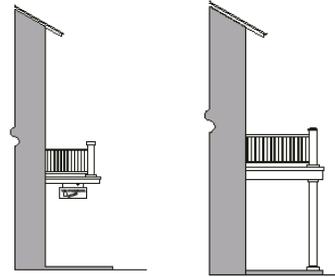
- (f) smooth faced painted concrete masonry block
- (g) drive-through facilities (except for bank drive-throughs which are allowed by Special Permit).
- (h) use of storage containers except during construction or as regulated as a temporary use.

9.7.15. Setbacks and Build-to Lines

- A. The West Dennis Village Districts represent a varied architectural character. As such, the Planning Board needs infinite latitude in applying the standards for front setbacks and build-to lines. A strict adherence to the setback and build-to lines could result in the unnecessary removal of some signature structures within the zoning districts. Similarly, strict adherence could obliterate the street-side facades by requiring additions in front of other signature structures. The Planning Board, after consultation with the Dennis Historical Commission, may waive strict adherence to front setback and build-to lines to preserve historical continuity.
- B. For all new buildings or additions to the front or street side of existing buildings in the West Dennis Village Zoning Districts, up to fifty percent of the front or street side facade area of the first floor, or first and second floors in buildings with more than one floor, shall extend no deeper onto a property than the maximum front setback line so that the building visually reinforces the building facade line of the street. The remainder of the building facade may be set back from the front or street side property line to accommodate shop entrances, arcades, plazas, sidewalk cafes, other approved urban design amenities, or landscaping required pursuant to the provisions of this section.
- C. Marquees, awnings, open air balconies and colonnades may occur forward of the Minimum Front Setback Line but shall not extend more than ten feet into the front setback area.

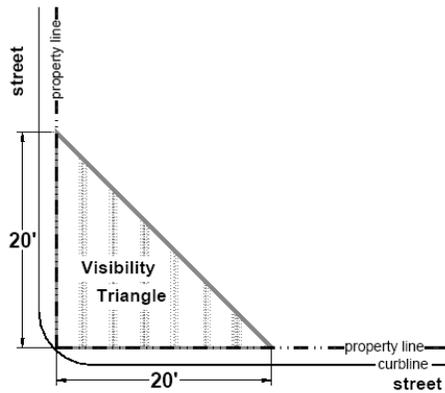


Awnings and Marquees



Open Air Balconies and Colonnades

- D. Accessory open patios or courts, the outside display of merchandise, sidewalk cafes, etc. provided between the building and the sidewalk or adjacent buildings on abutting side property lines are allowed within the setback requirements and are considered to meet the structural setback requirements of this section. Except adjacent to existing residentially zoned parcels outside the West Dennis Village Zoning Districts.
- E. Accessory rooftop equipment may extend to 42 feet (46 feet for three story structures), provided that they are set back from the exterior wall(s) by at least 10 feet, and are enclosed or screened with materials compatible with the building and are not visible from the ground. Accessory equipment may not exceed 20% of the roof area.
- F. On a corner lot no structure, sign or sign structures shall be located within a clear sight triangle area. The clear sight triangle area is formed by the street right-of-way lines and the line connecting points twenty (20) feet from the intersection of such street right-of-way lines extended.



Clear sight triangle

9.7.16. All junction and accessory boxes, mechanical, electrical or other service equipment shall be minimized from view of adjacent property and public rights-of-way by landscaping or architectural treatment integrated with the building served.

9.7.17 Mechanical equipment, whether ground-level or rooftop, shall be screened from view of adjacent properties and public rights-of-way and designed to be perceived as an integral part of the building,

9.7.18 Pedestrian Amenities. One (1) pedestrian amenity for each twenty thousand (20,000) gross square feet of floor area or fraction thereof shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to:

- (a) public art
- (b) clock tower
- (c) water feature/fountain
- (d) outdoor patio, courtyard or plaza
- (e) tables with umbrellas for open air eating or outdoor furniture

9.7.19 The maximum area for any single tenant or occupant space shall be 60,000 square feet.

9.7.20 Within the West Dennis Village Zoning Districts for any lot with frontage on Route 28 or School Street, the primary means of access to the upper stories of any structure shall be by means of a building entryway accessing Route 28 or School Street. Said entryway area shall include any building lobby area, internal directory, and mail delivery facilities.

9.7.21 Accessory Uses: Those uses which are customarily associated with permitted uses, but incidental to the primary uses including parking in excess of that required by the by-law, wastewater facilities, etc. may be shared by multiple property owners. Service bays shall not be allowed as accessory uses to retail uses in the West Dennis Village Zoning Districts.

9.7.22 A use which is noxious or offensive because of odor, dust, smoke, gas, noise, vibration, heat, glare, electrical interference, or is a nuisance beyond the limits of the lot on which the use is located, shall not be permitted.

9.8

DEVELOPMENT PLANS AND STANDARDS

Site development plans for approval shall include:

1. Urban Design features:

- a. Blocks, streets, alleys, parks, patios, sidewalks and planting strips, storm water drainage features, outdoor seating areas for private commercial uses
- b. Building types (for example, patio house, townhouse, storefront retail built to sidewalk)
- c. Signage master plan
- d. Shared parking agreement

2. Architectural features:

- a. Building facades (should include photographs of similar structures for comparative purposes to meet the requirements of Section 9.7 above)
- b. Exterior features
- c. Building heights, set backs and build-to lines
- d. Roofs and rooftop features
- e. Exterior materials, doors and windows
- f. Exterior colors
- g. Signage, flags and banners
- h. Sign design standards as applicable and consistent with the Town of Dennis Sign By-law

3. On-site and off-site improvements

- a. Fences and walls
- b. Patio, square or plaza
- c. Landscaping with areas and plants noted
- d. Special pavement and sidewalk treatments
- e. Setbacks and sidewalk and utility easements
- f. Street and parking lot lighting
- g. Street furniture, trash containers, benches, newsracks, kiosks
- h. Parking standards including shared parking agreements
- i. Refuse storage and access
- j. Utilities: all utility lines shall be underground or provided from locations other than from Route 28 or School Street this provision may be waived or amended by the Planning Board.
- k. Traffic circulation plan and street improvements as needed to relieve excessive congestion.
- l. Water and Sewer availability study and infrastructure improvements as needed.

4. Permanent bicycle racks at the minimum rate of one bicycle space per every 5,000 sf of gross floor area.

5. Specific operational standards for permitted hours of operation for any business, delivery of stock in trade or supplies for any business, permitted levels of noise, including amplified sound, from any business or any entertainment special event, and other operating restrictions needed to promote compatible coexistence of mixed uses in the West Dennis Village Zoning Districts. Note, this is not intended to prohibit amplified indoor or outdoor entertainment which may be important to the vitality of the West Dennis Village Zoning Districts, it is intended to understand the operation of the facility in relation to neighboring land uses to ensure compatible uses and hours of operation. All normal licensing requirements will remain under the jurisdiction of the Dennis Board of Selectmen.

9.9 OTHER REVIEWS AND APPROVALS

Construction approved in the West Dennis Village Zoning Districts must commence within 12 months of the issuance of a special permit or such approval shall expire unless an extension is approved by the Planning Board upon written request. After approval of a specific development plan changes of tenants in the West Dennis Village Zoning Districts may be approved administratively by the Building Commissioner consistent with the requirements of this section, provided that any changes be certified in writing by the Building Commissioner to comply with the standards of this ordinance and the approved regulating or development plan.

9.10 WAIVERS

A waiver is an administrative procedure relating to a minor deviation from the specific language in the general regulations. The waiver allows a deviation that still meets the intent and purpose of the zoning ordinance. The Town Planner shall review waiver requests with the Planning Board, which allows the development plan to continue the streamlined approval process. The Planning Board may approve the waiver in review of the development plan, or may deny the waiver as not meeting the intent of the regulations. Along with the waivers specifically listed above, the Planning Board may consider waivers requests to parking area setbacks in Section 3.1.5.2 in order to promote a more cohesive development pattern within the West Dennis Village Zoning Districts and the provision of off-site parking within 300 feet of a principal structure (Section 3.1.7.1).

SECTION 10 HOTEL RESORT DISTRICTS (HR)

Sec. 10-1 Purpose.

1. To create and protect attractive areas in pleasing and harmonious surroundings to accommodate the needs and desires primarily of visitors, tourists and transient guests.
2. To control density, to assure that undue congestion of streets and facilities will not occur and to ensure that public safety is not compromised.
3. To control the organization and design of use and structures to assure that the development will not detract from the natural features and attributes of the surrounding area.
4. To insure that physical and visual public access to recreational, historic and scenic areas is maintained and improved.

Sec. 10-2 Establishment of Districts

Areas created under Section 10 Hotel Resort Districts shall be as set forth in the map on file with the Town Clerk and available in the Dennis Planning Office dated September 5, 2010 incorporated by reference herein. These areas shall be referred to as the Hotel Resort Districts in this by-law, provided that the area designated as the Chase Avenue Hotel Resort Area will have a separate set of density standards from the other Hotel Resort Areas.

Sec. 10-3 Dimensional requirements.

1. Minimum lot size:

(a) For Hotel and Motel Properties: shall have a minimum lot area of 25,000 square feet and shall be constructed at a density of not more than one (1) unit per one thousand (1,000) square feet of lot area.

(b) For all other development: shall be 40,000 sf or that present on September 5, 2010 whichever is less. Except that when two or more lots are combined the minimum lot size requirement shall be the lesser of 40,000 sf or that present due to the combination of the lots.

2. Minimum lot width:

(a) For Hotel and Motel Properties: shall have a minimum width of 70 feet or that present on September 5, 2010 whichever is less. Except that when two or more lots are combined the minimum lot width requirement shall be the lesser of 70 feet or that present due to the combination of the lots.

(b) For all other development: shall meet the lot width requirements of Section 2.3.2 Intensity of Use Schedule.

3. Minimum setback requirements:

(a) For Hotel and Motel Properties:

(1) In the Chase Avenue Hotel Resort Area,

(i) North of Chase Avenue and Old Wharf Road, twenty-five (25) foot front and rear setbacks and fifteen (15) feet side setbacks. Except that for the purposes of protecting views along designated scenic corridors (as illustrated on Inset Map 10-1), Chase Avenue and Old Wharf Road shall be subject to the bulk plane setback standards identified below.

(ii) South of Chase Avenue and Old Wharf Road:

- Twenty-five foot (25) foot setbacks from Chase Avenue and Old Wharf Road, subject to the bulk plane setback standards identified below;
- Fifteen foot front setbacks from any other streets;

- Fifty feet from the top of a coastal bank per the requirements of Section 2.3.3.5 of this Zoning By-law
- Fifteen (15) foot setbacks from any property identified on Inset Map 10-1, subject to the bulk plane setback standards identified below; and
- Zero (0) foot setbacks from other property lines (To the extent that the setback requirements set out in this subsection conflict with the requirement for a continuous vegetated buffer set out in Section 2.3.4.1.b of the Dennis Zoning Bylaw, these setback requirements shall control).

(iii) Bulk plane setbacks, for the purposes of protecting views along designated scenic corridors and avoid crowding along Chase Avenue and Old Wharf Road, a bulk plane setback shall be applied to all projects such that a clear zone shall be maintained measured as an area starting 12 feet above grade at the property line adjacent to the properties identified on Inset Map 10-1, Chase Avenue and Old Wharf Road, and running at a 45 degree angle away from the property line to the maximum structural height. (i.e. to achieve a 50 foot tall structure, a building's peak height could not be accomplished until it was 38 feet off of the property line);

(2) In other Hotel Resort Areas twenty-five (25) foot front and rear yard setbacks and fifteen (15) foot side yard setbacks.

(b) For all other development: shall meet the side, front and rear yard setback requirements of Section 2.3.2 Intensity of Use Schedule.

4. Maximum height:

(a) For Hotel and Motel Properties:

(1) In the Chase Avenue Hotel Resort Area Four and one-half (4 1/2) stories or fifty (50) feet. Except that a maximum height of fifty-eight (58) feet shall be allowed for structures with a roof pitch, visible from the street (face to full allowable height) between 6:12 and 12:12. starting at or below the ceiling height of the fourth story. Provided that up to one-half (1/2) of the at-grade level may be used for parking with the remainder of the first story being used for guest services. The half story shall be equal to no more than fifty (50%) percent of the floor area immediately below.

(2) In other Hotel Resort Areas two and two-thirds (2 2/3) stories or thirty-five (35) feet. The upper story shall be a portion of the building, having a floor area, with a vertical dimension of at least seven feet (7'), measured from the finished floor to the finished ceiling. This upper story area shall not exceed 65% of the floor area immediately below. Except that a maximum height of forty-two (42) feet shall be allowed for structures with a roof pitch between 6:12 and 12:12 starting at or below the ceiling height of the second story.

(3) For the purposes of this subsection only building heights shall be measured from Base Flood Elevation or Natural Grade whichever is higher.

(b) For all other development: shall meet the height restrictions of Section 2.3.2 Intensity of Use Schedule.

5. Frontage

For Hotel, Motel, Condo/Hotel and Restaurant and Entertainment Facilities with food services seventy (70) feet. For all other uses, fifty (50) feet.

Sec. 10-4 Generally Permitted Hotel Resort Uses And Structures.

The following types of uses and structures are permitted in all of the Hotel Resort Districts:

- (1) Accessory structures and uses
- (2) Home business
- (3) Public parks and monuments
- (4) Single family detached dwellings
- (5) Agriculture, horticulture, floriculture, or viticulture uses over 5 acres as defined within the first paragraph of Chapter 40A Section 3.
- (6) Churches, temples, monasteries and other religious uses as provided for in Chapter 40A Section 3.
- (7) Educational uses as defined by Chapter 40A Section 3.
- (8) Nonprofit educational uses; as defined by Chapter 40A Section 3.
- (9) Public service corporations as provided for in Chapter 40A Section 3.
- (10) Child care facility; as defined in section nine of chapter twenty-eight A and as provided for in Chapter 40A Section 3.
- (11) Family day care home and large family day care home, as those terms are defined in section nine of chapter twenty-eight A, shall be an allowable use.
- (12) Community Residential homes, as provided for in Chapter 40A Section 3.

Sec. 10-5 Uses And Structures In Hotel Resort Districts That Require A Special Permit.

The following uses and structures in resort districts shall require a special permit:

- (1) Hotels and Motels
- (2) Restaurants and entertainment facilities with food service
- (3) Hotel/Condos as regulated in Section 10-11 below
- (4) Marinas
- (5) Commercial recreation
- (6) Public utilities and facilities

Sec. 10-6 Special Provisions for Accessory Uses And Structures In Hotel Resort Districts That Require A Special Permit.

The following uses and structures may be permitted as accessory uses or structures associated with Hotels and Motels, Restaurants and Hotel/Condos within the Hotel Resort District by special permit from the Planning Board, except as provided for in Section 10-9.

- (1) Gift shops
- (2) Temporary Child Care for customer/employee of the facility
- (3) Day camps
- (4) Employee temporary housing
- (5) Theaters and auditoriums
- (6) Barber shop and beauty shop
- (7) Laundry facilities
- (8) Amusement Arcade
- (9) Spa's
- (10) Athletic Clubs
- (11) Exhibition Area

Sec. 10-7 Development Standards.

1. Residential. Residential development shall be restricted to the following development standards
 - (a) Subject to the dimensional limitations in Sec. 2.3.2 Intensity of Use Schedule for a Single Dwelling Unit and Section 10-3.

2. Hotels and Motels. Buildings containing hotel or motel rooms shall be restricted to the following development standards:

- (a) New or remodeled rooms shall be no smaller than 350 sf.
- (b) Kitchenettes shall only be allowed in rooms of at least 350 sf.
- (c) There is no maximum distance requirement from buildings containing hotel or motel rooms to off-site parking areas.
- (d) Only one (1) parking space must be provided for each two (2) hotel or motel rooms. If accessory commercial space is provided in a hotel or motel, the parking for the accessory commercial space requirements shall be equal to ½ the equivalent parking requirements found in Section 3.
- (e) The maximum allowable site coverage shall be seventy percent (70%)
- (f) Accessory commercial uses in Hotel and Motel Buildings are permitted in connection with a hotel/motel complex subject to the provisions found in Section 10-9.2 below.
- (g) Buildings or portions of a building mass over 75 feet wide are required to 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 as illustrated below.



Example of variation in building design to manage project massing

3. Restaurants and entertainment facilities. Buildings containing these uses shall be restricted to the following development standards:

- (a) There is no maximum distance requirement from buildings containing hotel/motel rooms to parking areas.
- (b) At least one (1) parking space shall be provided for every eight (8) seats and one (1) for every three employees.
- (c) Parking spaces must be within three hundred (300) feet of the facility served for restaurants and entertainment facilities with food service that are not part of a hotel/motel.
- (d) The maximum allowable site coverage shall be seventy percent (70%)

4. Employee temporary housing. Buildings containing these uses shall be restricted to the following development standards.

- (a) Parking spaces must be on the same site as the housing units.
- (b) At least one parking space shall be provided for every two bedrooms.
- (c) May be allowed on the same site as the hotel, motel, hotel/condo, restaurant or entertainment facility with food service;

5. Other Permitted Uses. Parking, open space and other requirements applicable to each use other than dwelling units, hotels, motels, restaurants and entertainment facilities with food service, and employee temporary housing shall be the same as the regulations established in Sections 2.3.2 Intensity of Use Schedule and 3.1.3.2.

6. Other Requirements. Other requirements for development standards in hotel resort districts are as follows:

- (a) The Planning Board may change the parking requirements under special permit review if it finds that specific nature of the overall development reasonably warrants the change.
- (b) No mechanical equipment, other than public utility facilities, or refuse receptacles are visible from grade level on the public right-of-way.
- (c) Parking structures shall be permitted in conjunction with hotels and motels.
- (d) Parking shall be permitted to be located underneath hotel and motel structures and if located at grade, shall count as the first floor of such a unit.
- (e) Bicycle rental establishments, as an accessory use, hotels and motels are permitted.
- (f) All commercial facilities including but not limited to hotels, motels, restaurants and entertainment facilities, etc., shall provide an area to park bicycles.
- (g) Drive-through facilities shall not be permitted.

Sec. 10-8 Hotel and Motel Projects in the General Commercial II Zoning District

1. Minimum lot size shall have a minimum lot area of 25,000 square feet and shall be constructed at a density of not more than one (1) unit per one thousand (1,000) square feet of lot area.

2. Minimum lot width shall have a minimum width of 70 feet or that present on September 5, 2010 whichever is less. Except that when two or more lots are combined the minimum lot width requirement shall be the lesser of 70 feet or that present due to the combination of the lots.

3. Minimum setback requirements twenty-five (25) foot front, side and rear yard setbacks.

4. Maximum height two and one-half (2 1/2) stories or thirty-five (35) feet. Except that a maximum height of forty-two (42) feet shall be allowed for structures with a roof pitch between 6:12 and 12:12. The half story shall be equal to no more than fifty (50%) percent of the floor area immediately below.

5. Hotel and motels shall be restricted to the following development standards:

- (a) New or remodeled rooms shall be no smaller than 350 sf.
- (b) Kitchenettes shall only be allowed in rooms of at least 350 sf.
- (c) Maximum distance requirement from buildings containing hotel and motel rooms to parking areas shall be 300 feet.
- (d) Only one (1) parking space must be provided for each two (2) hotel or motel rooms. If accessory commercial space is provided in a hotel or motel, the parking for the accessory commercial space requirements shall be equal to ½ the equivalent parking requirements found in Section 3.
- (e) The maximum allowable site coverage shall be seventy percent (70%)
- (f) Accessory commercial uses in Hotel and Motel Buildings are permitted in connection with a hotel/motel complex subject to the provisions found in Section 10-9.2 below.

6. Accessory commercial uses in Hotel and Motel Buildings are permitted in connection with a hotel/motel complex

7. Other Requirements. Other requirements for hotel/motel development standards in the GC-II district are as follows:

- (a) The Planning Board may change the parking requirements under special permit review if it finds that the specific nature of the overall development reasonably warrants the change.
- (b) No mechanical equipment, other than public utility facilities, or refuse receptacles are visible from grade level on the public right-of-way.
- (c) Parking structures shall be permitted in conjunction with hotels and motels.
- (d) Parking shall be permitted to be located underneath hotel and motel structures and if located at grade, shall count as the first floor of such a unit.

- (e) Bicycle rental establishments in conjunction with hotels and motels are permitted.
- (f) All hotels and motels shall provide an area to park bicycles.

Sec. 10-9 Permits Required.

1. No construction or other development shall be undertaken within any Hotel Resort District except in accordance with a valid building or special permit.
2. Conversion of existing floor area within the Hotel Resort District may be approved by the Building Commissioner for any of the following accessory uses provided that the Building Commissioner finds that the change of use does not require any exterior site modifications or trigger Site Plan Review as provided for in Section 4.1.2 of the Dennis Zoning By-law:
 - (a) Gift shops
 - (b) Temporary Child Care for customer/employee of the facility
 - (c) Day camps
 - (d) Employee temporary housing
 - (e) Theaters and auditoriums
 - (f) Barber shop and beauty shop
 - (g) Laundry facilities
 - (h) Amusement Arcade
 - (i) Spa's
 - (j) Athletic Clubs
 - (k) Exhibition Area
3. The Dennis Planning Board shall be the Special Permit Granting Authority for this section.
4. The issuance of any special permit referred to in this section is subject to the standards set out in Section 1.4.2.1 and 4.1 of the Dennis Zoning Bylaw.
5. The requirement for proposed development to receive a special permit for use under this section does not relieve the requirement that an applicant receive site plan approval as set out in Section 4.1 of the Dennis Zoning Bylaw.
6. The Planning Board may permit more than one principal structure on a property to accommodate the most beneficial site design.

Sec. 10-10 Application To Hotel/Motel Development In Other Districts.

All hotel or motel construction, development or use permitted by or in accordance with the Dennis Zoning By-law in any other Zoning District shall be carried out in accordance with the Standards established in this Sections 2, 3 and 5 of the Dennis Zoning By-law.

Sec. 10-11 Limitations on Hotel/Condo Projects

Purpose. The purpose of this section is to promote the public health, safety and general welfare of the people of the town by controlling the location of, and establishing requirements and standards for Hotel/Condo projects.

1. Hotel/Condo projects shall be allowed within the Hotel Resort Districts and General Commercial II Zoning District subject to the following:
 - (a) Hotel/Condo projects shall be defined as any hotel or motel property containing a mixture of uses subject to Chapter 140 and Chapter 183B of the Massachusetts General Laws.
 - (b) Time-share estate projects, as defined in MGL Chapter 183B Section 2, are distinctly different uses from Hotel and Motel uses, as defined in MGL Chapter 140 Section 12A.

Time-share estate	Hotel
Units available by ownership for specific portions of the year.	Rooms available to for-pay guests for transient occupancy.
Generally not available to stranger or traveler except in participation of a time-share exchange program,	Cannot refuse to receive and make suitable provision for a stranger or traveler. (MGL C. 140 S. 7)
Not subject to innholder licensing requirements.	Subject to innholder licensing requirements.

- (c) Hotel/Condo developments shall require that at least 50% of the units within the structure remain available for transient use as defined under Chapter 140 Section 12A at all times.
- (d) Interval ownership units subject to Chapter 183B shall not include intervals of less than one week.
- (e) Hotel/Condo developments shall be required to provide proof of hotel occupancy compliance set forth in this section, and shall be certified by the permit holder at the time of issuance and renewal of the applicable hotel occupancy permit by providing proof of appropriate room tax receipts.
- (f) Typical hotel services must be offered including linen and maid service, and receipt and disbursement of keys and mail by the attendant at the desk in the lobby or office, for the occupants of all units of the hotel/condo.

SECTION 11 WIND ENERGY FACILITIES

- 11.1 Purpose. The purpose of this section is to encourage the use of wind energies by allowing wind energy technologies to be utilized, while protecting public health and safety and minimizing the impacts of wind facilities on the character of neighborhoods, on property values, on the scenic, historic, and environmental resources of the Town.
- 11.2 Special Permit Granting Authority. The Planning Board shall be the special permit granting authority (SPGA) for wind facilities requiring a Special Permit under this by-law.
- 11.3 Wind Energy Facilities shall be divided into the following four categories for location and permitting requirements.
- 11.3.1 Systems up to 10 kW – herein referred to as Residential Scale Wind Facility
- 11.3.2 Systems greater than 10 kW and less than 30 kW – herein referred to as Small Scale Wind Facility
- 11.3.3 Systems of between 30kW and less than 100 kW – herein referred to as Medium Scale Wind Facility
- 11.3.4 Systems 100 kW and larger– herein referred to as Large Scale Wind Facility
- 11.4 Permit Requirements
- 11.4.1 Residential Scale Wind Facilities shall be allowed subject to the issuance of a Building Permit and the requirements of Section 11.6.3 below.
- 11.4.2 Small Scale Wind Facilities shall require the issuance of a Special Permit subject to the requirements of Section 11.6.2 below.
- 11.4.3 Medium Wind Facilities shall require the issuance of a Special Permit subject to the requirements of Section 11.6.3.2 below.
- 11.4.4 Large Scale Wind Facilities shall
- a) be allowed in the Dennis Industrial Zoning District subject to the issuance of a Building Permit and the requirements of Section 11.6.4 and 11.7 below for Large Scale Wind Facilities up to 100 kW and 120 feet hub height; or
- b) require the issuance of a Special Permit for all other Large Scale Wind Facilities subject to the requirements of Section 11.6.4 below.
- 11.5 Definitions:
- Blade – Extensions from the hub which are designed to catch the wind and turn the rotor to generate electricity.
- Blade-Tip Height - The height as measured from the grade of the land below to the highest extension of the blade.
- Cut-out Wind Speed – The high wind speed at which the Facility must shut-down to protect itself from being overpowered.
- Hub – The center of the rotor to which the blades are attached.
- Hub Height – The height as measured from the grade of the land below the wind Facility to the center of the rotor or hub.

Nacelle – The frame and housing at the top of the tower. It protects the gear box and generator from weather and helps control the mechanical noise level.

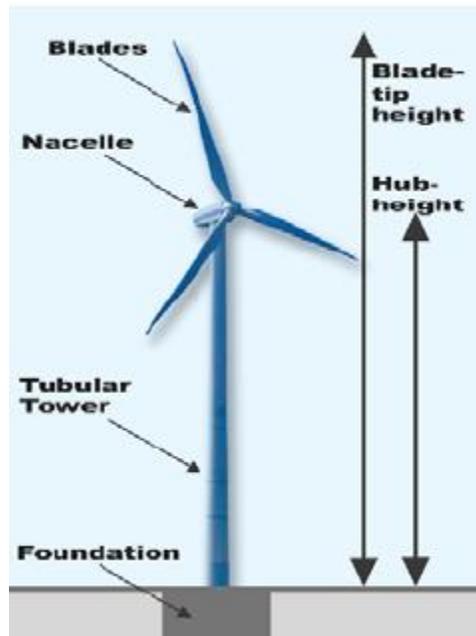
Rotor – A wind Facility’s blades and the hub to which they are attached.

Rotor Diameter – The diameter of a wind facilities rotor measured as twice the length of the longest blade plus the hub width (or equal to the diameter of the cylinder).

Wind Facility - All equipment, machinery and structures utilized in connection with wind-generated energy production, generation and sale, including related transmission, distribution, collection, storage or supply systems whether underground, on the surface, or overhead and other equipment or byproducts in connection therewith, including but not limited to, rotor, electrical generator and tower, anemometers (wind measuring equipment), transformers, substation, power lines, control and maintenance facilities, site access and service roads.

Wind Facility, Commercial – A wind facility, which is designed to generally supply less than fifty percent (50%) of its electrical output for use on site.

Wind Facility, Non-Commercial – A wind facility, which is designed to generally supply fifty percent (50%) or more of its electrical output for use on site.



11.6 Wind Energy Facilities Permitting Requirements: The Town of Dennis Zoning Map shall be amended as illustrated in Map 11.1 Wind Facility Overlay District to establish the following overlay districts

- Medium Wind Facility Overlay District
- Large Wind Facility Overlay District

11.6.1 Residential Scale Wind Facilities

11.6.1.1 Shall be allowed within the R40, R60, RR, LB, EB, R/C, MUM, VCS, WDVC, DPVC A and DPVC B Zoning Districts subject to the following:

- (a) Residential Scale Wind Facilities shall be a Non-commercial Wind Facility.
- (b) A Building Permit is granted by the Dennis Building Commissioner.

- (c) Only Rooftop Wind Facilities shall be allowed.
- (d) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (e) No more than one Rooftop Wind Facility shall be constructed on any parcel.

11.6.2 Small Scale Wind Facilities

11.6.2.1 Shall be allowed in the General Commercial I, General Commercial III and Industrial Zoning Districts subject to the following:

- (a) Small Scale Wind Facilities shall be allowed, subject to the following.
- (b) A Special Permit subject to the requirements of Section 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (c) For the purposes of protecting against problems due to noise, collapse of the tower, and ice throw the Small Scale Wind Facilities shall be located::
 - (i) Land Area Requirements:
 - (1) Small Scale Wind Facilities may be located on any parcel subject to the setback considerations of this subsection;
 - (ii) Freestanding Small Scale Wind Facilities shall have at least 2 times its hub-height from its nearest property boundary; and
 - (iii) Freestanding Small Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or commercial structure on the site hosting the Wind Facility.
- (d) Freestanding Small Scale Wind Facilities shall have a maximum hub-height of 40-feet.
- (e) Freestanding Small Scale Wind Facilities shall have a maximum blade tip height of 60-feet.
- (g) Only one Freestanding Small Scale Wind Facility may be allowed on any parcel of land.
- (h) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (i) No more than two Rooftop Wind Facilities shall be constructed on any parcel.

11.6.2.2 Shall be allowed in the General Commercial II subject to the following:

- (a) Small Scale Wind Facilities shall be allowed, subject to the following.
- (b) A Special Permit subject to the requirements of Section 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (c) Only Rooftop Wind Facilities shall be allowed
- (h) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (i) No more than two Rooftop Wind Facilities shall be constructed on any parcel.

11.6.3 Medium Scale Wind Facilities

- 11.6.3.1 Medium Scale Wind Facilities shall be allowed within the Industrial District and on the sites illustrated on Map 11-1 (Medium Wind Facility Overlay District) subject to the following:
- (a) Medium Wind Facilities may be constructed for the purposes of serving the needs of the site upon which the facility is located, or to generate revenue through the sale of electricity, the revenue from which must serve:
 - (i) a public purpose;
 - (ii) a commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture land use.
 - (b) A Special Permit subject to the requirements of Sections 11.7 and 11.8 below is granted by the Dennis Planning Board.
 - (d) Medium Scale Wind Facilities located within the Industrial Zoning District shall meet the standards noted in Section 11.6.4 below unless specifically modified below:
 - (i) Land Area Requirements – See Section 11.6.4;
 - (ii) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub-height from its nearest property boundary except that the Planning Board may determine that a lesser setback is appropriate if the adjacent land is restricted, municipally owned (i.e. Town of Dennis, Dennis Water District, Dennis Housing Authority or Dennis Yarmouth School District) open space and an agreement has been reached between the applicant and the relevant town entity to ensure the safety of the potential setback area, but must be at least 50 feet from any property boundary; and
 - (iv) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or occupied structure on the site hosting the Wind Facilities.
 - (e) Medium Scale Wind Facilities located on properties shown on Map 11.1 and located outside the Industrial Zoning District shall meet the standards set forth below:
 - (i) shall be a parcel of land illustrated on Map 11.1;
 - (ii) Freestanding Medium Scale Wind Facilities shall have at least two times its hub-height from its nearest property boundary except that the Planning Board may determine that a lesser setback is appropriate if the adjacent land is restricted, municipally owned (i.e. Town of Dennis, Dennis Water District, Dennis Housing Authority or Dennis Yarmouth School District) open space and an agreement has been reached between the applicant and the relevant town entity to ensure the safety of the potential setback area, but must be at least 50 feet from any property boundary; and
 - (iii) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or occupied structure on the site hosting the Wind Facility.
 - (f) Freestanding Medium Scale Wind Facilities shall:
 - (i) have a maximum hub height of 80 feet.
 - (ii) have a maximum blade tip height of 120 feet.
 - (g) Rooftop Medium Scale Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
 - (h) When more than one Medium Scale Wind Facility is located on a property a minimum spacing equal to two times the widest dimension will be required between wind structures.

11.6.4 Large Scale Wind Facilities

Large Scale Wind Facilities shall be allowed in the Industrial Zoning District and on the sites illustrated on Map 11-1 (Large Wind Facility Overlay District) subject to the following restrictions:

- (a) Large Scale Wind Facilities may be permitted as Non-commercial Wind Facilities when serving the needs of single property or may be permitted as Commercial Wind Facilities.
- (b) (i) Be allowed in the Dennis Industrial Zoning District subject to the issuance of a Building Permit and the requirements of this section and Section 11.7 below for Large Scale Wind Facilities up to 100 kW and 120 feet hub height; or;
 - (ii) Require the issuance of a Special Permit for all other Large Scale Wind Facilities subject to the requirements of Sections 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (c) For the purposes of protecting against problems due to noise, collapse of the tower and ice throw, the Large Scale Wind Facilities shall be located:
 - (i) on a tract of land (a parcel or contiguous parcels under common ownership) that contains a minimum of ten (10) acres;
 - (ii) at least 1 times its blade-tip height from its nearest property boundary;
 - (iii) at least as 2 times the hub height from the nearest residential structure located outside the Dennis Industrial Zoning District (and not on the same site as the proposed structure); and
 - (iv) at least 1 times its hub height from any dwelling unit or commercial structure on the site hosting the Large Scale Wind Facility.
- (d) Freestanding Large Scale Wind Facilities shall have a maximum hub-height of 275 feet.
- (e) Freestanding Large Scale Wind Facilities shall have a maximum blade tip height of 400 feet.
- (f) Rooftop Large Scale Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (g) When more than one Large Scale Wind Facility is located on a property a minimum spacing equal to two times the rotor diameter will be required between wind structures.

11.7 General Requirements for the Installation of any Wind Facility.

- 11.7.1 The safety of the design and construction of any Wind Facility, including towers and associated equipment, shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.2 Safety wires shall be installed on the turnbuckles on guy wires of guyed wind facility towers.
- 11.7.3 All wind facilities shall be equipped with manual and automatic cut-out wind speed controls. The rotor and cut-out wind speed control shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.4 The compatibility of the tower structure with the rotors and other components of the wind facility shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.5 All towers or wind facilities shall either have tower climbing apparatus located not closer than twelve (12) feet to the ground or be un-climbable by design for the first twelve (12) feet.

- 11.7.6 Wind facilities sited on top of, or attached to and extending above the ridge line of, an existing structure shall comply with all applicable provisions of the latest version of the Uniform Building Code. Certification by an Engineer Licensed by the State of Massachusetts shall be required.
- 11.7.7 The owner/applicant of any wind facility shall provide, as part of the submissions for review by the Planning Board for a Special Permit, proof of liability insurance that specifically addresses the installation, use and maintenance of the wind facility.
- 11.7.8 Any equipment associated with the facility, shall be camouflaged or screened. Buildings, shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for wind facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.
- 11.7.9 All utility connections from the wind facility to the existing grid shall be underground.
- 11.7.10 Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility.
- 11.7.11 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.
- 11.7.12 Wind Facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment.
- 11.7.13 Removal. The owner, or their successors in interest shall remove any wind facility the use of which has been discontinued for a period of twelve months. All wind facilities and appurtenant structures shall also be removed. If an owner fails to remove a wind facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the wind facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in this section at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of this section. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages.
- 11.7.14 Each wind facility shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the devices so that it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted with any application for review by the Building Commissioner file for that application.
- 11.7.15 Minimum Rotor Wind Blade Clearance. The lowest point of the arc created by rotating wind blades on a freestanding wind turbine generator shall be no less than 25 feet above grade.
- 11.8 Criteria for review and approval of a Special Permit for a Wind Energy Facility.

- 11.8.1 A special permit shall be granted under this section if the SPGA finds that each of the design standards set forth above has been met and that the location of the wind facility is suitable and that the size, height and design are the minimum necessary for that purpose
- 11.8.2 The SPGA shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this section, including, but not limited to: screening, lighting, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.
- 11.8.3 RESERVED
- 11.8.4 The SPGA may require the proponent to provide or pay for professional services for the SPGA to evaluate the proposal to determine the suitability of geographic location, to analyze the loading capacities of the proposed structures, and to review camouflage and screening techniques.
- 11.8.5 Removal. The owner, his successors in interest shall remove any wind facility the use of which has been discontinued. All wind facilities and appurtenant structures shall also be removed. If an owner fails to remove a wind facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the wind facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in this section at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of this section. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages. Municipally owned wind facilities shall be exempt from the surety requirement.
- 11.8.6 Each wind facility shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the devices so that it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted with any application for review by the Planning Board file for that application.
- 11.8.7 The Planning Board may impose Conditions of Approval that are necessary to address health, safety, community welfare and community aesthetic issues or concerns raised during the Development Permit review.
- 11.8.8 RESERVED
- 11.8.9 There shall be a minimum of one parking space to be used in connection with the maintenance of any Medium, Municipal or Large Scale Wind Facility on the site; however, it shall not to be used for the permanent storage of vehicles.
- 11.8.10 Fencing shall be provided to control access to the site of the wind facility and accessory structures.
- 11.8.11 Signs. There shall be no signs, except no trespassing signs or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.
- 11.9 Application for Special Permit. In addition to the requirements of Section 4.1 of the Zoning By-law the following information must be submitted for all Wind Energy Facilities for an application to be considered complete:

- 11.9.1 A locus plan or aerial photograph at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features, dwellings and other structures within three times the blade-tip height of the proposed wind facility.
- 11.9.2 A site reference plan at 1"=20 feet which shall show the location of the proposed structures, site facilities, landscaping etc.
- 11.9.3 A color photograph or rendition of the wind facility. A rendition shall also be prepared illustrating a view of the wind facility from the nearest street(s).
- 11.9.4 The following information must be prepared and signed by a registered professional engineer qualified in the field of wind power:
- (a) A description of the wind facility and the technical, economic and other reasons for the proposed location, height and design.
 - (b) Certification that the wind facility complies with all applicable Federal and State standards.
 - (c) If applicable, a written statement that the proposed wind facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

11.10 Nothing in this by-law should be read to regulate the provision of wind facilities for an agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture land use the primary purpose of such wind facility is to meet the needs of said land use on parcels of 5 acres or more as defined in Chapter 40A Section 3.

12.0 SEASONAL RESORT COMMUNITY (SRC)

12.1 PURPOSES AND INTENT.

To provide sites for seasonal cottage and recreational vehicle oriented resorts with special attention to preserving and enhancing the existing land uses, vegetation, visual landscape, and amenities for future generations, thereby retaining the historic “way of life” and character of the area while considering the needs of neighboring properties.

12.2 Allowed Uses. The following uses are allowed by right in the SRC Zone:

- Seasonal Resort Community to the extent present on September 5, 2010 provided that existing Seasonal Residential Units and accessory structures may be modified, replaced, relocated or reconstructed as provided in this section. A Seasonal Resort Community may not be expanded to increase the number of Seasonal Residential Units after September 5, 2010.
- Seasonal Cottage Site located in a Seasonal Resort Community
- Recreational Vehicle Site located in a Seasonal Resort Community
- Single Family Residential
- Municipal Use
- Temporary Use
- Family Day Care Facility
- Agricultural Use over 5 Acres
- Non-profit Educational Use
- Child Care Facility
- Religious Uses
- Accessory structures and uses to any of the above noted uses

12.3 DEFINITIONS

The following definitions are specific to Section 12 of the Dennis Zoning By-law.

SEASONAL COTTAGE: A building containing a single unit made up of a room or group of rooms containing facilities for eating, sleeping, bathing and cooking and is designed for seasonal use and not as a year-round dwelling unit.

SEASONAL RESORT COMMUNITY: A site generally consisting of three or more Seasonal Cottages and/or Recreational Vehicle Sites which may also contain subject to the other provisions hereof other accessory structures, neighborhood convenience store, temporary seasonal retail facilities, recreational facilities, common facilities and an owner's/manager's unit.

OWNER'S/MANAGER'S UNIT: A residential unit located on a property used for a seasonal resort community used by the owner or manager of the facility. The Owner's/Manager's Unit may be a year-round dwelling, including covered parking and a garage.

RECREATIONAL VEHICLE: A vehicle that:

- A. Is built on a single chassis;
- B. Contains 400 square feet or less of floor area;
- C. Is self-propelled or towed by a passenger car or truck;
- D. Is designed as temporary living quarters for recreational, camping, travel or seasonal use, not as a dwelling unit; and

E. Is built to ANSI Standards.

RECREATIONAL VEHICLE ACCESSORY ENCLOSURE: A factory-manufactured rigid metal or plastic/composite enclosure, with the dimensions not exceeding twelve feet in width nor the length of the Recreational Vehicle, and designed for use with Recreational Vehicles. The term shall include decks, patios, awnings, awning tents, screen panels and unenclosed roof projections.

RECREATIONAL VEHICLE, PARK MODEL: A recreational vehicle containing between 320 and 400 square feet of floor area, not counting Recreational Vehicle accessory enclosures. Recreational Vehicle, Park Models are built to ANSI Standards.

RECREATIONAL VEHICLE SITE: A site within a Seasonal Resort Community provided for occupancy by Recreational Vehicle or Recreational Vehicle Park Model

SEASONAL COTTAGE SITE: A site within a Seasonal Resort Community provided for occupancy by Seasonal Cottage

RECREATIONAL FACILITIES: Facilities provided for the amusement and enjoyment of the residents of the Seasonal Resort Community and not hired or rented out for use by individuals not associated with the Seasonal Resort Community.

RESORT CONVENIENCE STORE: A Resort Convenience Store is intended primarily to serve the day-to-day needs of a seasonal resort community primarily with the sale of merchandise, including but not limited to items such as foodstuffs, prepared foods, nonprescription medical supplies, sanitary supplies, newspapers, emergency home repair articles, household cleaners, toiletries, and other household items. A Resort Convenience Store may include the provision of a coffee shop, deli or ice cream shop.

SEASONAL RESIDENTIAL UNIT: As used in this section, a Seasonal Residential Unit shall refer to any Recreational Vehicle Site, Seasonal Cottage; or Owner/Manager's Unit.

COMMON FACILITIES: Seasonal resort communities generally include common facilities such as laundry facilities, picnic areas, clubhouse, meeting areas and other recreational facilities for the use of the residents.

MAINTENANCE GARAGE: An accessory structure intended to serve the operation and/or maintenance needs of a seasonal resort community including for the storage of maintenance vehicles, equipment and supplies, the housing of infrastructure systems and/or office or workshop space related to the same.

12.4 Development Standards

12.4.1 Lot Area

The minimum lot area for a Seasonal Resort Community shall consist of a lot or lots, when combined, that (a) comprise a minimum of five (5) acres of land, or (b) comprise, at a minimum, at least one parcel of land that lawfully existed as a defined parcel of land as of [the effective date of the new zoning.

The minimum lot area for all other uses shall be 40,000 sf.

12.4.2 Setbacks

Where the lot line of a lot in a Seasonal Resort District abuts a residentially zoned district (R-40, R-60 or RR), the yard setback shall be ten feet provided that:

- Recreational Vehicles and seasonal cottages located within this ten foot setback area may remain in their current footprint. No expansion to these Recreational Vehicles or seasonal cottages may occur without approval of a modification to a pre-existing non-conforming structure or use by the Dennis Board of Appeals. The Dennis Board of Appeals may approve such expansions based upon a finding of the change not being substantially more detrimental to the surrounding neighborhood based upon the proposal meeting screening requirements and other considerations established in this section. However, the ZBA shall consider the potential cumulative effects of any such permits.
- No accessory uses or structures (including sheds, propane tanks, outdoor showers and similar facilities) may be placed within this ten foot setback after September 5, 2010 and the Board of Appeals shall consider whether it is feasible to relocate existing accessory structures and uses from this setback when considering permitting modifications to non-conforming cottages and RV's located within the setback areas.

The purpose of this setback area is to provide for a fenced, and vegetated buffer between the Seasonal Resort Community and adjacent residential neighborhoods.

The minimum setbacks for all other uses shall be as established in Table 2.3.2 of the Dennis Zoning By-law.

12.4.3 Parking

There shall be a minimum of one parking space per seasonal residential unit located within the Seasonal Resort Community Zoning District. All other uses shall provide parking as required in Section 3.0 of the Dennis Zoning By-law.

12.5 Landscaping and Buffering Requirements

Landscaping and buffering shall be provided along lot lines which abut a residential district. This landscaping and buffering shall provide a visual screen between adjacent residential uses and the Seasonal Resort Community. Parking lots, outdoor business storage areas and outdoor business uses shall be visually screened from adjacent residential lots. Said visual screening shall consist of a continuous landscaped border of vegetation, except where encroached upon by pre-existing cottages, ~~or~~ recreational vehicles, or accessory structures and uses, four feet wide at least six feet in height and/or solid fencing six feet in height. A landscaped strip four feet wide shall be provided between any outdoor business, storage area or parking lot and a street right-of-way. The Board of Appeals may approve other buffer configurations for this area when considering requests to modify pre-existing seasonal residential units located within the ten foot setback area.

12.6 Provisions Affecting All Seasonal Resort Communities

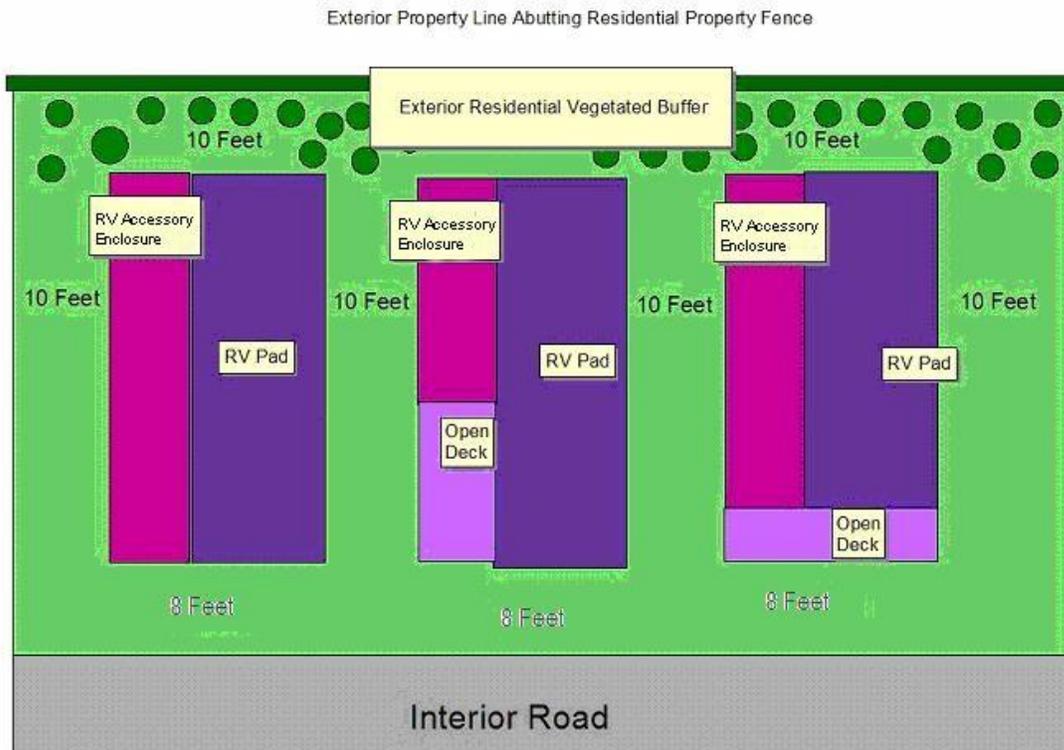
A. Seasonal Resort Communities may be open between April 1st and December 31st, inclusive. Seasonal Resort Communities may provide for short term overnight occupancy, up to four days in any thirty day period, during the remainder of the year, provided that there is an occupancy permit which ensure sanitary facilities are provided.

- B. Seasonal Resort Community facility office and recordkeeping. All seasonal resort communities may maintain an office on the premises. Each Seasonal Resort Community shall maintain a record of unit occupancy between January 1st and March 31st, which shall be available for inspection by the Building Commission upon request.
- C. Except as accessory to a designated Seasonal Resort Communities Owner's/Manager's Unit, parking garages and covered parking structures accessory to seasonal cottages are prohibited.
- D. No addition to a Seasonal Residential Unit may be located in a location that was used for "common facilities" (picnic, laundry, meeting space etc) on September 5, 2010 unless equivalent off-set or replacement common facilities are provided elsewhere within the site.
- E. The maximum lot coverage for all other uses except recreational vehicles and seasonal cottages shall be as established in Table 2.3.2 of the Dennis Zoning By-law.
- F. The maximum building height for all other uses except recreational vehicles and seasonal cottages shall be 1 ½ stories or 25 feet.
- G. Resort Convenience Stores may be located in Seasonal Resort Communities within one or two structures. Resort Convenience Stores shall contain no more than a combined total of 750 square feet of gross floor area (active retail, storage, and food preparation area) regardless of the number of structures. There shall be no Resort Convenience Store located within any single Seasonal Resort Community with a total lot area of less than five (5) acres. Resort Convenience Stores may be located within structures containing the Resort Office, Mail Room, Common Facilities or the Owner's/Manager's Resort, the floor space of these other uses shall not count against the size of the Resort Convenience Store. A Resort Convenience Store shall only be open for business when the Seasonal Resort Community in which it is located is also open between April 1st and October 31st.

12.7 Provisions Specific to Recreational Vehicle Sites

Recreational Vehicle sites shall conform to the minimum requirements imposed under state licensing procedures and the following standards:

- A. No rigid enclosed addition shall be affixed to a recreational vehicle other than a recreational vehicle accessory enclosure as herein defined.
- B. An open deck not exceeding twelve (12) feet deep, and 240 square feet total, may be attached to each Recreational Vehicle.
- C. There shall be at least ten (10) feet between any Recreational Vehicle including pop-out portions of such vehicles, Recreational Vehicle Accessory Enclosure, or open deck, and the adjoining Recreational Vehicle(s), Recreational Vehicle Accessory Enclosure(s) or open decks.
- D. There shall be at least eight (8) feet between any Recreational Vehicle including pop-out portions of such vehicles, Recreational Vehicle Accessory Enclosure or open deck and the interior driveway network to the Recreational Vehicle Park.
- E. The following illustrates the "typical" site layout for Recreational Vehicle Sites with Recreational Vehicle Accessory Enclosures and/or open decks. At no time may a Recreational Vehicle Accessory Enclosure and an open deck be placed side-by-side, they may only be placed end-to-end as illustrated below.



F. Recreational Vehicles and Recreational Vehicles Park Model shall not exceed a total height of 14' 6".

12.8 Provisions Specific to Seasonal Cottages

A. Seasonal Cottages may have a footprint of up to 900 sf exclusive of the area identified in subsection C below.

B. Seasonal Cottages may be 1 ½ stories tall, provided that the half-story is

- (i) located under a sloping roof; and
- (ii) limited in floor area that complies with ceiling height requirements and noted exceptions of the Building Code to not more than one-half of the floor area immediately below.

C. Dwelling areas that do not count toward the total floor area calculation are:

- (i) Unheated storage space located under the main floor of the dwelling unit.
- (ii) Architectural projections, such as bay windows, fireplaces or utility closets not greater than 18 inches in depth or six feet in width.
- (iii) Attached roofed unenclosed (screens allowed) porches up to a maximum of 240 sf and twelve (12) feet deep.

(iv) Half-story floor area that does not comply with the minimum ceiling height requirements of the Building Code.

D. The maximum height of Seasonal Cottages shall be:

(i) The first floor elevation must be no greater than the minimum clearance required under the Building Code, or other applicable flood plain regulations, above the highest point where the structure meets the existing grade, or above base flood elevation, which-ever is greater.

(ii) The top of the ridge of the roof may not be greater than Eighteen (18) feet above the top of finished first floor elevation, except that a maximum height of twenty five (25) feet shall be allowed for a structure with a roof pitch between 6:12 and 12:12.

E. An open deck may be attached to each seasonal cottage and shall not be included in the floor area of the cottage. Open decks shall not be more than 12 feet deep when measured from the face of the cottage.

F. Seasonal Cottages must provide a minimum of 10 feet of clearance between any Seasonal Cottage, porch or deck and the adjacent Seasonal Cottage, porch or deck even if not located on the same property. Provided that for Seasonal Cottages, porches and decks separated by less than 10 feet, they shall not be allowed to become any closer together than the pre-existing separation.

12.9 Project Approval

Development meeting all the criteria for as-of-right development in the Seasonal Resort Community Zoning District will be approved by the Building Commissioner.

Development which does not meet the criteria for as-of-right development for the Seasonal Resort Community Zoning District can be approved through the issuance of a Special Permit by the Dennis Zoning Board of Appeals.

SECTION 13 SPECIAL REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES

13.1 Purposes

13.1.1 To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).

13.1.2 To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.

13.1.3 To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

13.2 Applicability

13.2.1 The commercial cultivation [unless it meets the requirements for an agricultural exemption under Chapter 40A Section 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Section 13.

13.2.2. No Medical Marijuana Facility shall be established except in compliance with the provisions of this Section 13.

13.2.3 Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

13.2.4 If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

13.3 Definitions

Medical Marijuana Facility – Shall mean a “Medical marijuana treatment center” to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11.

Marijuana – The same substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

13.4 Eligible Locations for Medical Marijuana Facilities.

13.4.1 Medical Marijuana Facilities, other than agricultural operations meeting exemption standards under Chapter 40A Section 3, may be allowed by Special Permit from the Dennis Planning Board in the Industrial Zoning District provided the facility meets the requirements of this Section 13.

13.5 General Requirements and Conditions for all Medical Marijuana Facilities.

13.5.1 All non-exempt Medical Marijuana Facilities shall be contained within a building or structure.

13.5.2 No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.

13.5.3 A Medical Marijuana Facility shall not be located in buildings that contain any medical doctors offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

13.5.4 The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.

13.5.5 No Medical Marijuana Facility shall be located on a lot which abuts the Cape Cod Rail Trail, Tony Kent Arena, or a residential zoning district.

13.5.6 No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.

13.5.7 No Medical Marijuana Facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.

13.5.8 Signage for the Medical Marijuana Facility shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.

13.5.9 Medical Marijuana Facilities shall provide the Dennis Police Department, Building Commissioner and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.

13.6 Special Permit Requirements

13.6.1 A Medical Marijuana Facility shall only be allowed by special permit from the Dennis Planning Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.

13.6.2 A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:

- a) cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter

40A Section 3 shall not require a special permit;

- b) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
- c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;

13.6.3 In addition to the application requirements set forth in Sections 13.5 and 13.6 of this Bylaw, a special permit application for a Medical Marijuana Facility shall include the following:

- a) the name and address of each owner of the facility;
- b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
- c) evidence of the Applicant's right to use the site of the Facility for the Facility, such as a deed, or lease;
- d) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- e) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
- f) Proposed security measures for the Medical Marijuana Facility, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

13.6.4 Mandatory Findings. The Special Permit Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:

- a) the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b) the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c) the applicant has satisfied all of the conditions and requirements of Sections 13.5 and 13.6 herein;

13.6.5 Annual Reporting. Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

13.6.6 A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Medical Marijuana Facility. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 13.

13.6.7 The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the Medical Marijuana Facility in the event the Town must remove the facility. The value

of the bond shall be based upon the ability to completely remove all the items noted in 13.7.2 and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages.

13.7 Abandonment or Discontinuance of Use

13.7.1 A Special Permit shall lapse if not exercised within one year of issuance.

13.7.2 A Medical Marijuana Facility shall be required to remove all material, plants equipment and other paraphernalia:

- a) prior to surrendering its state issued licenses or permits; or
- b) within six months of ceasing operations; whichever comes first.

Section 14 Marijuana Establishments

Consistent with G.L. c.94G, § 3(a)(2), all types of non-medical “marijuana establishments” as defined in G.L. c.94G, §1, including marijuana cultivators, independent testing laboratory, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Dennis. Or take any action relative thereto.

AMENDMENTS

COMPREHENSIVE REVISED ZONING BY-LAW, Approved 10/24/73 by Robert H. Quinn, Attorney General; advertised and effective 11/5/73.

Amendment adopted at Annual Town Meeting May 7, 1974 under Article 32 amending Section 5 Definitions by adding to the definition of "Dwelling, Two Family". Approved by Francis X. Bellotti, Attorney General, Jan. 16, 1975.

Amendments adopted at Special Town Meeting Aug. 14, 1974 under Article 4 amending section 2.1.2; Article 5 amending section 2.4.3.5 by Francis X. Bellotti, Attorney General, Jan. 16, 1975 and Feb. 13, 1975.

Amendments adopted at Special Town Meeting Mary 18/76 as Article 10 amending section 2.2.2 (heliport) approved by Francis X. Bellotti, Attorney General, July 14, 1976.

Amendments adopted at Special Town Meeting October 28, 1976, as Article 2 adding Section 6 - Flood Area Provisions - approved by Francis X. Bellotti, Attorney General, Jan. 5, 1977.

Amendments adopted at Annual Town Meeting May 3, 4, 5 and 11, 1977, as Article 77 adopting the "Amended Dennis Zoning May, March 31, 1977" (R-60 District); Article 78 adding Section 2.1.5.8; Article 79 amending section 2.3.2; Article 80 adopting "Amended Dennis Zoning May March 31, 1977 (R-40 District); Article 81 amending section 2.3.2; Article 82 amending section 2.1.1; Article 83 amending section 2.2.2; Article 84 amending section 2.2.3.6; Article 85 amending section 3.1.3.2; Article 86 amending section 2.4.3.1; Article 87 adopting "Amended Dennis Zoning May, March 31, 1977 (R-20 District); Article 88 adopting "Amended Dennis Zoning Map, March 31, 1977 (LB District); Article 89 adopting "Amended Dennis Zoning Map, March 31, 1977 (EB District); Article 90 adopting "Amended Dennis Zoning Map, March 31, 1977" (GC-I District); Article 91 amending section 2.1.5.6; Article 92 amending section 2.3.2; Article 93 adding new section 2.3.4.6; Article 94 adopting "Amended Dennis Zoning Map, March 31, 1977 (GC-II District); Article 95 amending section 2.1.5.6; Article 96 amending section 2.3.2; Article 97 amending section 2.2.2; Article 98 amending section 2.2.2; Article 99 amending section 2.2.2; Article 100 adopting "Amended Dennis Zoning Map" March 31, 1977 (Industrial District); Article 101 amending section 2.3.2; Article 102 amending section 2.3.4.4; Article 103 amending section 3.1.4.2; Article 104 amending section 3.1.4.5; Article 105 adding new section 3.1.4.6; Article 106 adding new section 2.3.3.8; Article 107 adding new section 2.3.4.7, approved by Francis X. Bellotti, Attorney General, August 29, 1977.

Amendments adopted at Special Town Meeting held April 4, 1978, as Article 8 "Amend Zoning By-Law as printed with the following exceptions:" new section 1.2; new section 1.4.2; new section 1.4.3; amend section 1.4.4; new section 1.4.5; new section 1.4.6 amend section 1.9; amend section 2.2.1; amend section 2.2.2; add new section 2.2.3.8; amend section 2.3.3.3; amend section 2.3.4.6; amend section 2.3.4.7; amend section 2.4.1.1; amend section 2.4.1.2; amend section 2.4.1.3; amend section 2.4.2; amend section 2.4.2.1; amend section 2.4.2.3; new section 2.4.2.4; new section 2.4.2.5; amend section 2.4.3; amend section 2.4.3.1; amend section 2.4.3.2; amend section 2.4.3.3; add section 2.4.3.7; amend section 4.1.1.; amend section 4.2.1.3; add section 4.2.1.4; amend section 4.3.1.3; amended section 4.4.2.4; amend section 4.4.3.5; add to section 5 Definitions: cottage colony; multi-family dwelling; and site plan review. Article 9 amending section 2.4.1.2; Article 10 amending section 2.3.2; Article 11 amending section 2.1.5.1; Article 12 amending section 2.1.5.2; Article 13 amending section 2.1.5.3; Article 14 amending section 2.1.5.6; Article 15 amending the Dennis Zoning Map (Limited Business II); Article 16 amending sections 2.1.2; 2.1.5.4; 2.2.2; 2.3.2; 3.1.3.2; and 3.1.4.2; Article 17 amending section 2.2.2.; Article 18 amending the Dennis Zoning Map (Limited Business I); Article 19 amending the Dennis Zoning Map (Extensive Business). Approved by Francis X. Bellotti, Attorney General, June 27, 1978.

Amendments adopted under Article 13, Special Town Meeting June 29, 1978, (Amendment to "Amended Dennis Zoning Map dated 3/31/77 [sheet 1], detail on Sheet 8 dated 6/6/78") approved by Francis X. Bellotti, Attorney General, Oct. 10, 1978

Amendments adopted at Special Town Meeting April 5, 1979, under Article 15 amending the Dennis Zoning Map (GC-II on Candlewood Lane); Article 16 adding new section 2.2.3.9; approved by Francis X. Bellotti, Attorney General, July 16, 1979.

Amendments adopted under at Annual Town Meeting May 8/79, under Article 26 adding new section 4.2.2.4 and amending section 4.4.3.2; Article 27 deleting section 2.3.3.2 and renumbering sequentially; Article 32 amending section 2.4.1.2; by Francis X. Bellotti, Attorney General, July 3, 1979.

Amendments adopted at Annual Town Meeting, May 5, 6 & 7, 1980, under Article 49 amending the Dennis Zoning Map; Article 54 amending section 2.2.2; Articles 55 & 56 amending section 2.3.2; Article 57 amending section 1.4.7; Article 58 adopting Zoning Map dated 3/10/80. Approved by Francis X. Bellotti, Attorney General, Aug. 14, 1980.

Amendments adopted at the Annual Town Meeting May 4, 1981, under Article 25, adding section 3.1.4.7; Articles 26, 27 & 28, amending section 2.3.2; Article 29 amending section 2.3.3.1; Article 30 amending Section 5 - Definitions (panhandle lots); Article 32 amending section 2.3.4.7; Article 35 amending section 3.1.4.6; Article 36 amending section 4.1.1; and Article 38 amending section 4.2.2.4. Approved by Francis X. Bellotti, Attorney General, Aug. 11, 1981.

Amendments adopted by Special Town Meeting September 9, 1981 under Article 27 adding new sections 4.5.1 & 4.5.2; Article 28 amending section 3.1.2; Article 29 adding new definition in Section 5 "Nursing and/or Convalescent Homes"; Article 30 amending section 2.2.2; Article 31 amending section 2.3.2; Article 32 amending section 2.2.3.5; Article 33 adding section 2.2.4; and Article 34 adding new section 2.4.3.8. Approved by Francis X. Bellotti, Attorney General, Dec. 15, 1981.

Amendments adopted by Annual Town Meeting May 4, 1982, under Article 30 amending Section 5 Definitions "Lodging Houses"; Article 31 amending section 2.2.2; Article 32 amending Section 5 Definitions "Panhandle Lots"; amending section 2.3.3.1 and by adding new section 2.3.3.8; and Article 33 amending section 3.1.2. Approved by Francis X. Bellotti, Attorney General, Aug. 10, 1982.

Amendments adopted by special Town Meeting September 16, 1982, under Article 18 amending Section 6; Article 22 amending section 2.1.5.4; Article 23 amending section 2.3.2 and adding new sections 2.3.4.8 and 2.3.4.9; Article 26 amending section 2.3.4.7. Approved by Francis X. Bellotti, Attorney General, Jan. 3, 1983.

Amendments adopted by Special Town Meeting January 11, 1983 under Article 13 amending the Dennis Zoning Map; Article 14 amending section 2.3.4.9; Article 15 amending section 2.3.4.7. Approved by Francis X. Bellotti, Attorney General, March 25, 1983.

Amendments adopted by Annual Town Meeting, May 8, 1984, under: Article 11 amending Section 2.1.1, 2.1.5.2, 2.2.2, 2.2.3.6, 2.3.2, 2.3.5.0, 2.4.3.1, 3.1.3.2 and the Dennis Zoning Map; Article 12 amending Sections 2.3.2, 2.3.5.1 and 4.5.2.1; Article 13 amending Section 2.3.2, 3.1.4.6, 4.2.2.3 and Section 5 (Definitions); Article 14 amending Section 2.2.3.5. Approved by Francis X. Bellotti, Attorney General, July 31, 1984.

Amendments adopted by Annual Town Meeting, May 7, 1985, under: Article 28 amending Section 4.1.1; Article 29 amending Section 4.1.2 (Site Plan Approval); Article 30 amending Section 2.2.1 and 2.2.2; Article 31 amending Sections 4.4.2.1, 4.4.2.3, 4.4.2.4, 4.4.3.6, and 4.4.3.7; Article 32 amending Section 1.4.2; Article 38 amending Section 6; Article 39 amending Section 1.4.1. Approved by Francis X. Bellotti, Attorney General, July 31, 1985.

Amendments adopted by Annual Town Meeting, May 6, 1986 under Article 24 amending Section 4.4.3.2. Approved by Francis X. Bellotti, Attorney General, May 14, 1986.

Amendments adopted by Annual Town Meeting, May 5, 1987 under: Article 25 amending Section 1.4.3; Article 26 amending Section 2.2.2; Article 27 amending Section 2.2.3.3; Article 28 amending Section 2.3.3.8; Article 29 amending Section 2.3.4.7; Article 31 amending Section 3.1.4.4; Article 32 amending Section 3.1.4.6; Article 33 amending Section 3.1.4.7; Article 34 amending Section 3.1.5.1; Article 36 amending Section 4.1.2.4; Article 37 amending Section 5 "Definitions"; Article 38 amending Section 3.1.2. Approved by James M. Shannon, Attorney General, August 13, 1987.

Amendments adopted by Special Town Meeting, December 1, 1987, under Article 18 amending Section 5; Article 19 amending Section 3.1.4.4. Approved by James M. Shannon, Attorney General, December 28, 1987.

Amendments adopted by Annual Town Meeting May 3, 1988, under Article 17 amending Section 2.3.4.7; Article 18 amending Section 3.1.4.2; Article 19 amending Section 4.1.2.5 (c); Article 20 amending Section 4.1.2.6 (d); Article 21 amending Section 3.1.5.3. Approved by James M. Shannon, Attorney General, June 10, 1988.

Amendments adopted by Annual Town Meeting May 2, 1989, under Article 16 amending Section 5 Definitions (Site Plan Review). Approved by James M. Shannon, Attorney General, June 15, 1989.

Amendments adopted by Annual Town Meeting May 8, 1990, under Article 19 amending Section 5 Definitions (add "Maximum Total Site Coverage"); Article 20 adding new section 2.4.2.6; Article 21 deleting Section 3.1.4.6; Article 24 amending Section 2.3.4.1; Article 26 adding new Section 2.2.5. Approved by James M. Shannon, Attorney General, July 31, 1990.

Amendments adopted by Annual Town Meeting May 7, 1991, under Article 26 amending Section 2.4.3.8; Article 27 amending Sections 4.1.2.3, 4.2, 4.2.1.1, 4.2.1.3, 4.2.1.4 and 4.4.3.3 (relative to changing from "Multiple Dwellings" to Multi-Family Dwellings"); Article 32 amending Section 5 (definition for Accessory Structure and Accessory Use; Article 33 amending Section 4.1.2.3; Article 34 amending Section 3.1.4.5 (Size and measurement of required trees in parking areas); and Article 35 amending Section 2.1.4. Approved by Scott Harshbargar, Attorney General, August 14, 1991.

Amendment adopted by Annual Town Meeting May 4, 1993, under Article 33 adding new Section 2.4.3.9 (Dennis Port Revitalization). Approved by Anthony E. Penski, Assistant Attorney General, July 21, 1993.

Amendment adopted by Annual Town Meeting May 3, 1994, under Article 44, complete rewrite of Section 6 (Floodplain Regulations). Approved by Anthony E. Penski, Assistant Attorney General, June 14, 1994.

Amendment adopted by Annual Town Meeting May 2, 1995, under Article 35, amending Section 2.4.3.9 (Dennis Port Enterprise Overlay Zone) with complete rewrite. Approved by Attorney General, May 19, 1995.

Amendments adopted by Annual Town Meeting May 7, 1996, under Articles 48 - 57 and 64 - 71 amending Section 3 (General Regulations - Parking). Approved by Jonathan A. Abbott, Assistant Attorney General, August 1, 1996.

Amendments adopted by Special Town Meeting December 10, 1996, under Article 11, amending Section 1 (Administration & Interpretation) with complete rewrite. Approved by Jonathan A. Abbott, Assistant Attorney General, February 6, 1997.

Amendments adopted by Annual Town Meeting May 6, 1997, under Article 16 amending Section 5 - Definitions, with complete rewrite; Article 17 amending Section 2.2.1 and 2.2.2 (Use Regulation Schedule) with complete rewrite; Article 18 adding new Section 2.2.6 - Adult Entertainment; Article 19 amending Section 4.1.2.3; and Article 20, amending Section 4.5.1.1. Approved by Kathryn B. Palmer, Assistant Attorney General, July 22, 1997.

Amendments adopted by Special Town Meeting September 28, 1998, under Article 23 amending Section 2.2.2.5e (Restaurant-Fast Food or Take-out) and amending Section 5 (Definition of Restaurant-Fast Food or Take-out). Approved by Kathryn B. Palmer, Assistant Attorney General, November 24, 1998.

Amendments adopted by Annual Town Meeting May 4, 1999, under Article 10 amending Sections 2.1 - 2.2.5; Sections 2.2.7 - 2.2.9; Section 2.3 - 2.3.4.2(a & b) by rewriting, renumbering, adding new relative to; and Section 2.4 in its entirety. Approved by Robert W. Ritchie, Assistant Attorney General, August 5, 1999.

Amendments adopted by Annual Town Meeting May 2, 2000, under Article 43 amending Section 2.2.2.4, by adding subsection f. Amusement Arcade; and by amending Section 5.B by adding two new definitions, Amusement Arcade and Amusement Machine. Approved by Robert W. Ritchie, Assistant Attorney General, June 9, 2000.

Amendments adopted by Annual Town Meeting May 1, 2001, under Article 20 amending Section 2.2.6, by adding a new definition to section 2.2.6.3 relative to Tattoo and Body Art Establishments and 2.2.6.4 by adding Tattoo and Body Art Establishments as allowed by special permit if particular conditions are met. Approved by Robert W. Ritchie, Assistant Attorney General, August 31, 2001.

Amendments adopted by Annual Town Meeting May 1, 2001, under Article 21 amending Section 2.3.4.2, by replacing sections a and b in their entirety. Approved by Robert W. Ritchie, Assistant Attorney General, August 31, 2001.

Amendments adopted by Annual Town Meeting September 18, 2001, under Article 18 adding a new Section 4.9 relative to Affordable Housing. Approved by Robert W. Ritchie, Assistant Attorney General, December 12, 2001.

Amendments adopted by Annual Town Meeting May 7, 2002, under Article adding a new Section 7 relative to Telecommunication Facilities and Article ___ amending sections 2.4.3.3 and Section 4.1.2.3 relative to site changes triggering a Site Plan Review Special Permit by the Planning Board. Approved by Robert W. Ritchie, Assistant Attorney General, D , 2002.

Amendments adopted by Special Town Meeting September 24, 2002, under Article 18 amending Section 2.4.1.1 relative to Abandonment and Article 19 amending Section 2.4.2.1 relative to grandfather protections. Approved by Kelli E. Lawrence, Assistant Attorney General, October 25, 2002.

Amendments adopted by Annual Town Meeting May 6, 2003, under Article 37 amending Section 4.9 by adding Section 4.9.2.4 Municipally Sponsored Projects; Article 38 amending Section 2.3.3.5 relative to coastal setbacks; Article 29 amending Section 2.4.2.1 relative to grandfather protections; Article 40 amending Section 2.3.3.8 relative to Panhandle Lots; and Article 41 replacing Section 2.4.1.2 in its entirety with a new Section 2.4.1.2 relative to Change, Extension or Alteration or pre-existing non-conforming uses or structures and Section 5 Definitions relative to the definition for "Yard, Rear". Approved by Kelli E. Gunagan, Assistant Attorney General, August 19, 2003.

Amendments adopted by Special Town Meeting June 17, 2003, under Article 6 amending Section 4.9 by adding Section 4.9.5 Affordable Lots; Article 7 amending Section Approved by Kelli E. Gunagan, Assistant Attorney General, December 8, 2003.

Amendments adopted by Special Town Meeting September 21, 2004, under Article 13 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, 2.2.2 Use Regulation Schedule, 2.3.2 Intensity of Use

Schedule and adding a new Section 8 DPVC Dennis Port Village Center Zone, Approved by Kelli E. Gunagan, Assistant Attorney General, December 9, 2004.

Amendments adopted by Special Town Meeting October 18, 2005, under Article 8 amending Section 4.9 by adding a new Section 4.9.1.8 relative to affordable lots, Approved by Kelli E. Gunagan, Assistant Attorney General, December 2005.

Amendments adopted by Special Town Meeting October 16, 2007 Article 26 amending Section 2.3.1 by changing the citation in the section and replacing existing Section 2.3.3.6 Accessory Structures with a new Section 2.3.3.6 Accessory Structures. Approved by_ Kelli E. Gunagan, Assistant Attorney General, January 28, 2008.

Amendments adopted by Special Town Meeting October 16, 2007 under Article 23 amending Section 5 Definitions, 2.2.2 Use Regulation Schedule and adding a new Sub-Section 4.10 Special Permit Review for Formula Based Businesses; Article 24 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, Section 5 Definitions and adding a new Section 9 West Dennis Village Zoning Districts; and Article 25 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, and adding a new Section 11 Wind Energy Facilities Approved by_ Kelli E. Gunagan, Assistant Attorney General, March 24, 2008.

Amendments adopted by Annual Town Meeting May 5, 2009 under Article 37 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, and amending Section 11 Wind Energy Facilities; Article 38 amending Section 5 Definitions, and 2.2.2 Use Regulation Schedule to add Commercial and Non-Commercial Solar Facilities; and Article 39 amending Section 5 Definitions, and 2.2.2 Use Regulation Schedule to add Renewable Energy Manufacturing Uses; Approved August 26, 2009

Amendments adopted by Annual Town Meeting May 4, 2010 under Article 34 amending Sections 3.1.6.2 Parking and Stormwater; Article 35 amending Section 2.2.2.3.h Community Residential Homes; Article 36 amending Section 4.9 Affordable Housing; and Article 37 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, and amending Section 11 Wind Energy Facilities; Approved July 27, 2010

Amendments adopted by Special Town Meeting November 16, 2010 under Article 10 amending Sections Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, and adding new Section 10 Hotel Resort Districts and Article 11 amending Sections 2.1.1 Establishment of Districts, 2.1.2 Zoning Map, and adding new Section 12 Seasonal Resort Communities; Approved December 17, 2010.

Amendments adopted by Annual Town Meeting May 3, 2011 under Article 48 amending Sections Sections 2.2.2 Use Regulation Schedule and 5 Definitions and Article 49 amending Section 4.3.2.1 Marine Use Setbacks; Approved May 31, 2011.

Amendments adopted by Annual Town Meeting May 8, 2012 under Article 31 amending Sections Section 1 by adding new Section 1.10 Planning Board; Approved August 10, 2012.

Amendments adopted by Annual Town Meeting May 7, 2013 under Article 18 adding new Section 13 Special Requirements For Medical Marijuana Facilities and Article 19 amending Section 5 Definitions to replace the definition of Building Height; Approved August 20, 2013.

Amendments adopted by Annual Town Meeting May 6, 2014 under Article 30 replacing Section 6 Floodplain Districts in its entirety; Approved May 13, 2014.

Amendments adopted by Annual Town Meeting May 5, 2015 under Articles 23 and 24 amending Section 5 Definitions to replace the definition of Dwelling Unit One with Accessory Apartment and amend the boundaries of the General Commercial II Zoning District in Dennis Port; Approved August 13, 2015.

Amendments adopted by Annual Town Meeting October 18, 2016 under Article 15, 16 and 19; Article 15 amending 2.3.3.6 accessory structure sizes; Article 16 amending Section 2.4.2.1 to correct a missing comma, and Article 19 amending Section 2.2.2.5 to add “Hookah Lounge (Shish Bar)” to the use table and amending Section 5 Definitions to add a definition of “Hookah Lounge (Shisha Bar); Approved February 10, 2017.

Amendments adopted by Annual Town Meeting May 2, 2017 under Articles 17 amending Section 6 Flood Zone to add new definitions in Section 6.6 Definitions and add Section 6.7 Special Provisions for Lifting Existing Structures to New And Appropriate Elevations; Approved July 21, 2017.

Amendments adopted by Special Town Meeting, October 17, 2017 under Articles amending Section 12.6 Provisions Affection All Seasonal Resort Communities and adding Section 14 Marijuana Establishments; Approved, October 17, 2017.

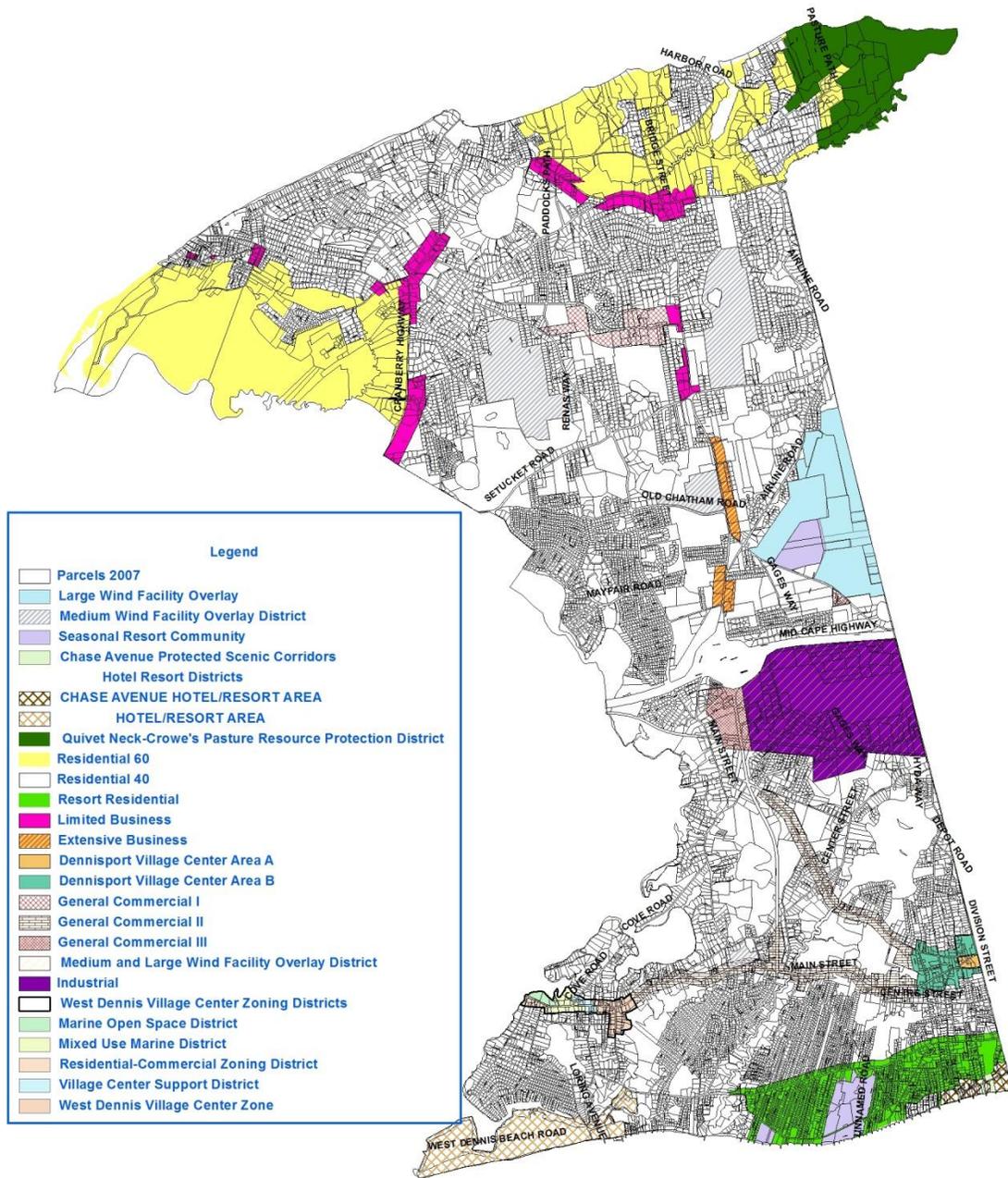
Amendments adopted by Annual Town Meeting, May 7, 2019 under Articles 13 and 42 amending Section 2.2.2.5 to add p. Collaborative Workspace; amend Sections 9.2.2, 9.3.2, 9.5.2 and 9.6.2 Allowed Uses in the West Dennis Village Center Zoning Districts to add Collaborative Workspace; Amending section 5 Definitions; Approved, May 7, 2019 - *NOTE: Article 40 was approved at Town Meeting, but rejected by Attorney General’s Office

Amendments adopted by Special Town Meeting, October 26, 2021 under Article 9 amending 2.1.2 Zoning Map to change date reference for the Zoning Map to October 26, 2021; amending the Town of Dennis Zoning Map dated October 26, 2021, changing the zoning designation for the residential lot located at 53 Old Town Road from R-60 to R-40; Approved, November 2, 2021.

Amendments adopted by Special Town Meeting, October 25, 2022 under Article 33 amending 2.2.2 item k; Sections 9.2.3, 9.3.3, 9.5.3, 9.6.3 Permitted Uses in the West Dennis Village Center Zoning Districts; Section 3.1.3.2 parking requirements for Accessory Dwelling Unit; Section 5 Definitions; Adding Section 4.11 Regulations Specific to Accessory Dwelling Units; Deleting Section 4.9.3.4 Affordable Housing Apartment Accessory to Residential Use; Approved, October 25, 2022.

Amendments adopted by Annual Town Meeting, May 2, 2023 under Article 28 replacing Section 6 Flood Zone in its entirety and replacing it with a New Section 6 Flood Zone; Approved, May 2, 2023.

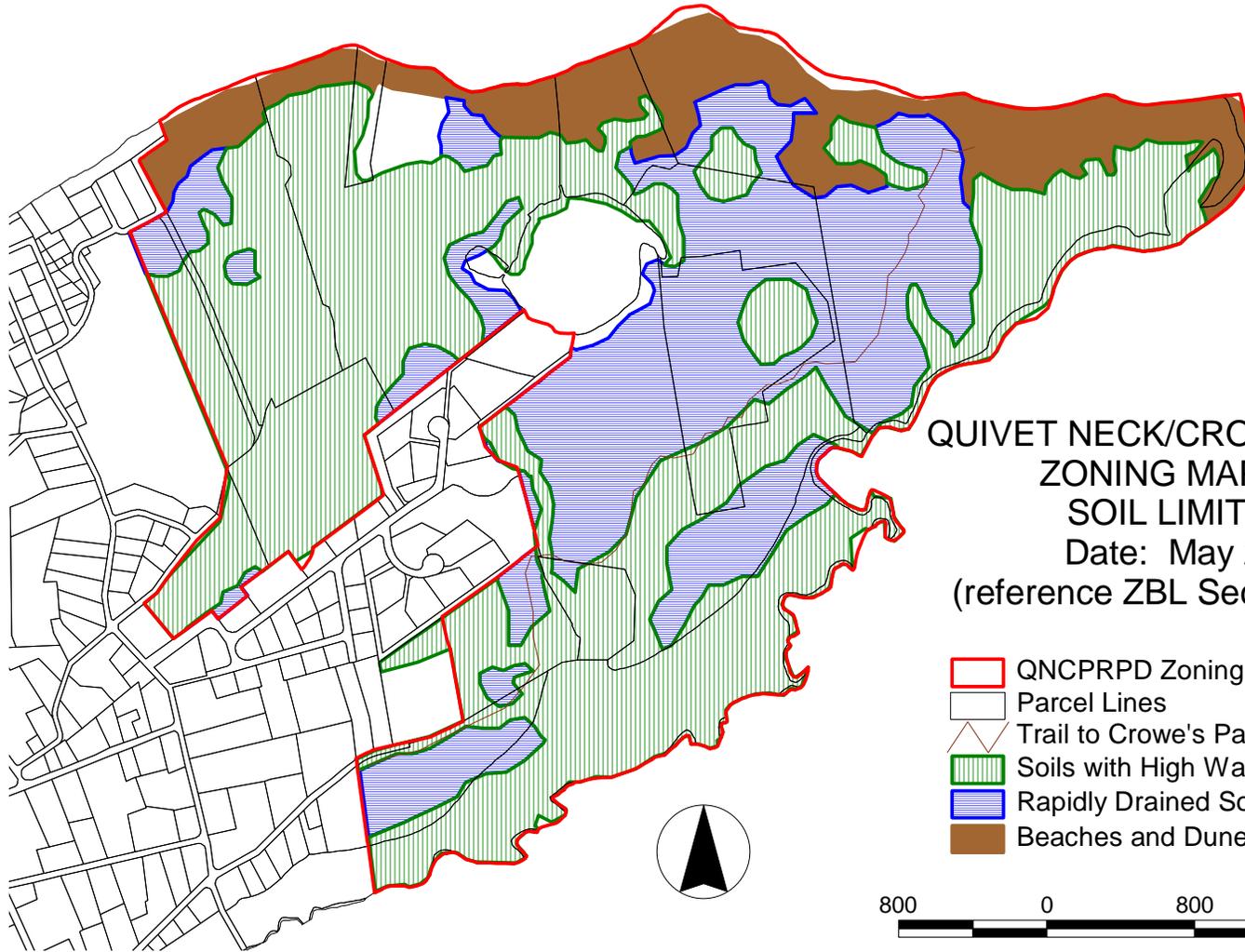
Amendments adopted by Annual Town Meeting, May 6, 2025 under Articles 26 amending Sections 2.2.2, 2.2.2 Note 8, Use Regulation Schedule; Section 2.3.2, Intensity of Use; Section 2.3.3.6, Accessory Structures; Section 2.4.1.2, Non-Conforming Conditions; Section 4.11.A, Protected ADU; Section 4.11, ADU; and Section 5, Definitions; Article 27 Adding Section 2.2.2 Note 8; Approved May 6, 2025.



Town of Dennis Zoning Map

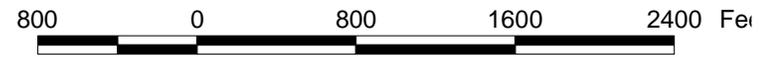
MAY 5, 2015

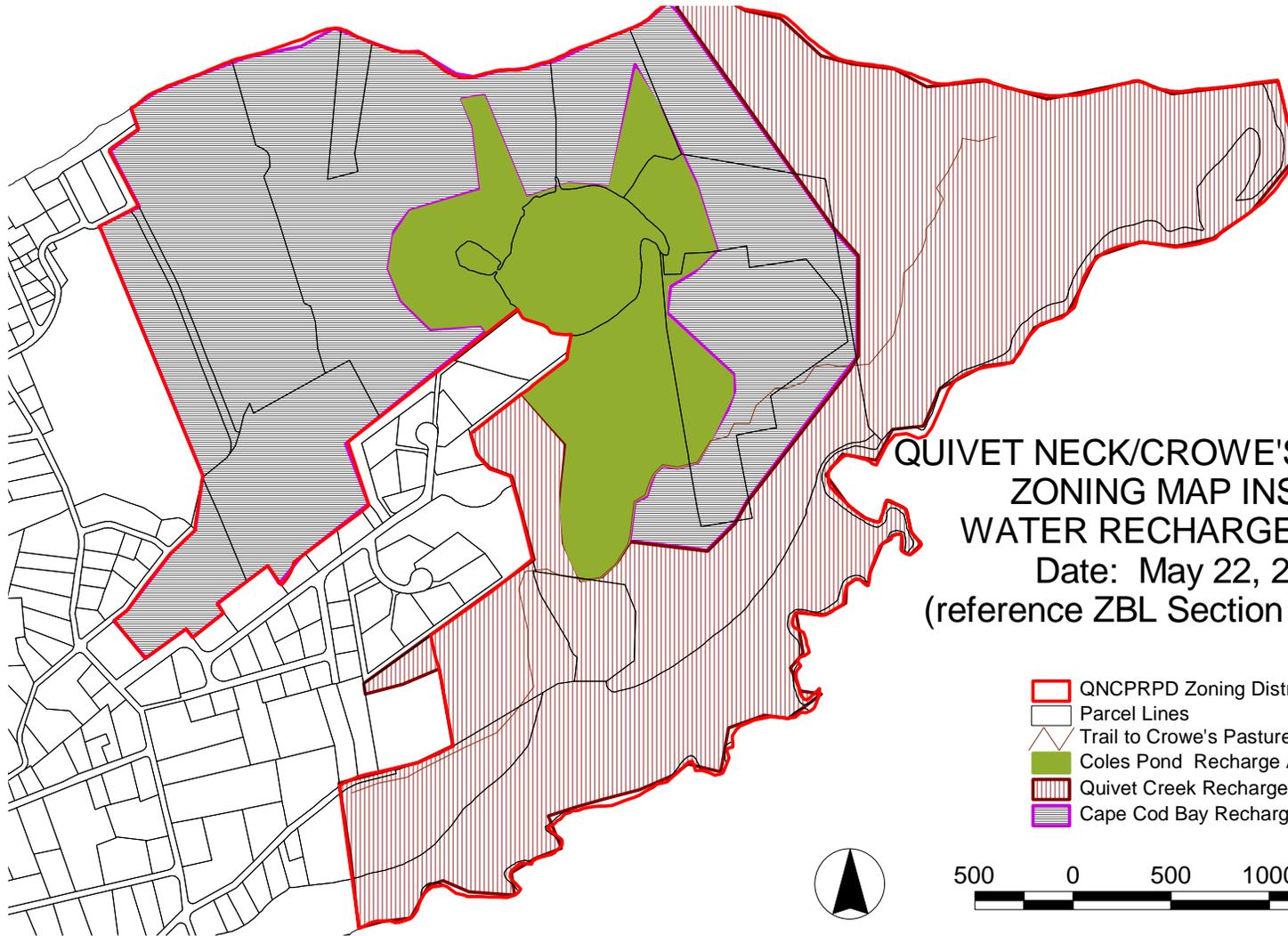
AS APPROVED AT THE MAY 5, 2015
ANNUAL TOWN MEETING



**QUIVET NECK/CROWE'S PASTURE
 ZONING MAP INSET 1
 SOIL LIMITATIONS**
 Date: May 22, 2003
 (reference ZBL Section 2.3.3.12.1)

-  QNCPRPD Zoning District Boundaries
-  Parcel Lines
-  Trail to Crowe's Pasture
-  Soils with High Water Tables - A-1 Soils
-  Rapidly Drained Soils - A-2 Soils
-  Beaches and Dunes - A-3 Soils

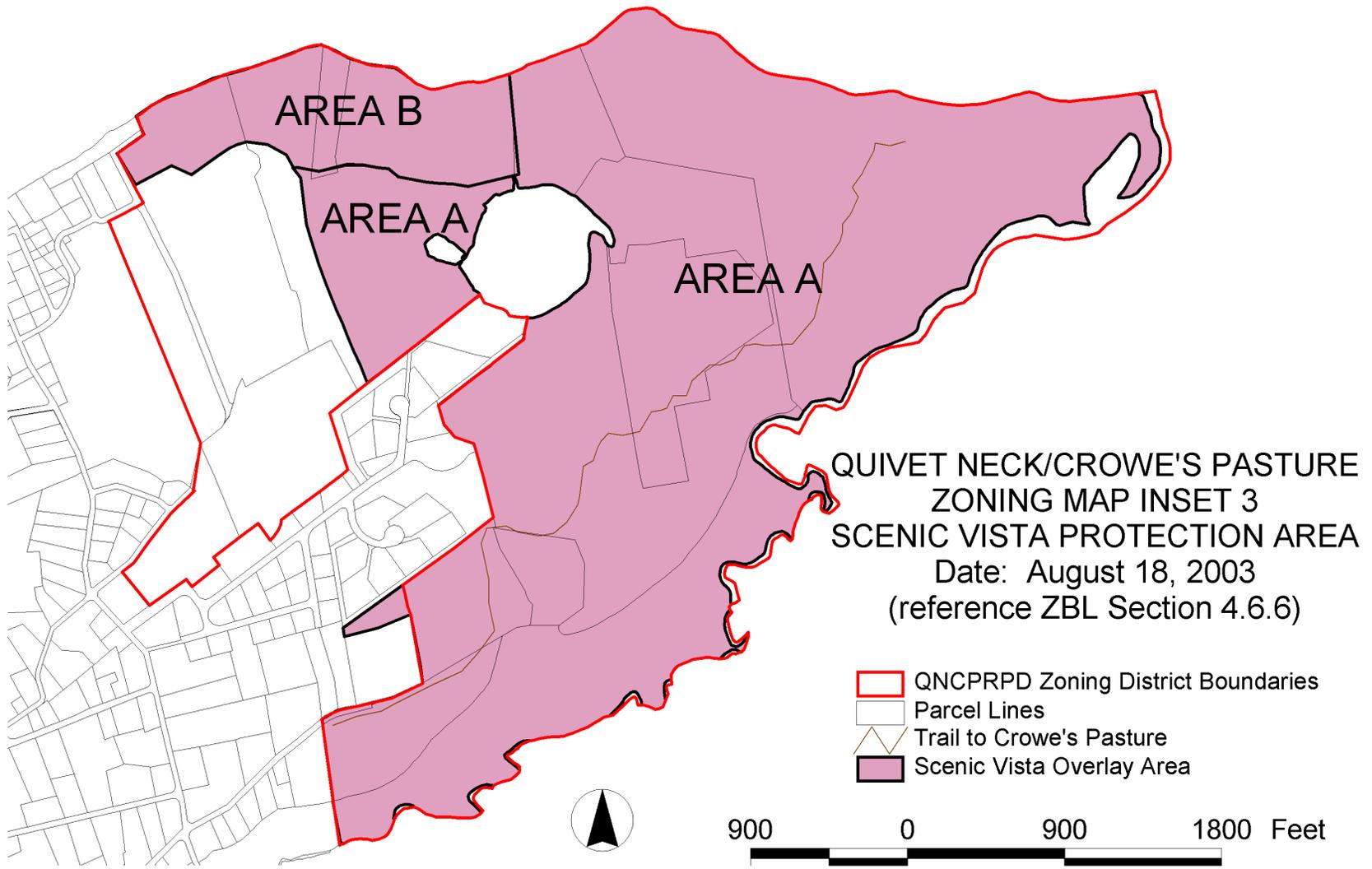


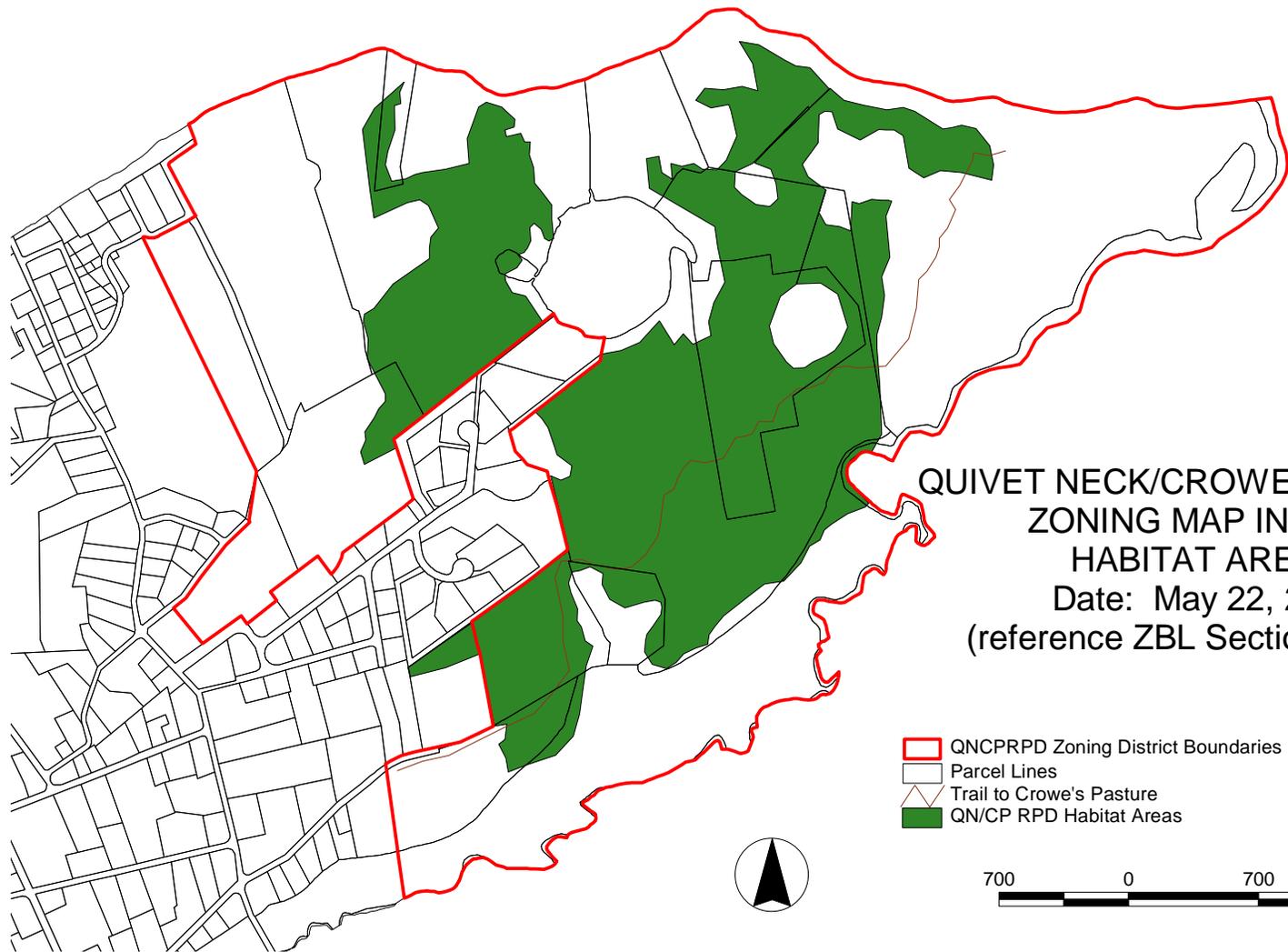


**QUIVET NECK/CROWE'S PASTURE
ZONING MAP INSET 2
WATER RECHARGE AREAS**
Date: May 22, 2003
(reference ZBL Section 2.3.3.12.1)

-  QNCPRPD Zoning District Boundaries
-  Parcel Lines
-  Trail to Crowe's Pasture
-  Coles Pond Recharge Area
-  Quivet Creek Recharge Area
-  Cape Cod Bay Recharge Area



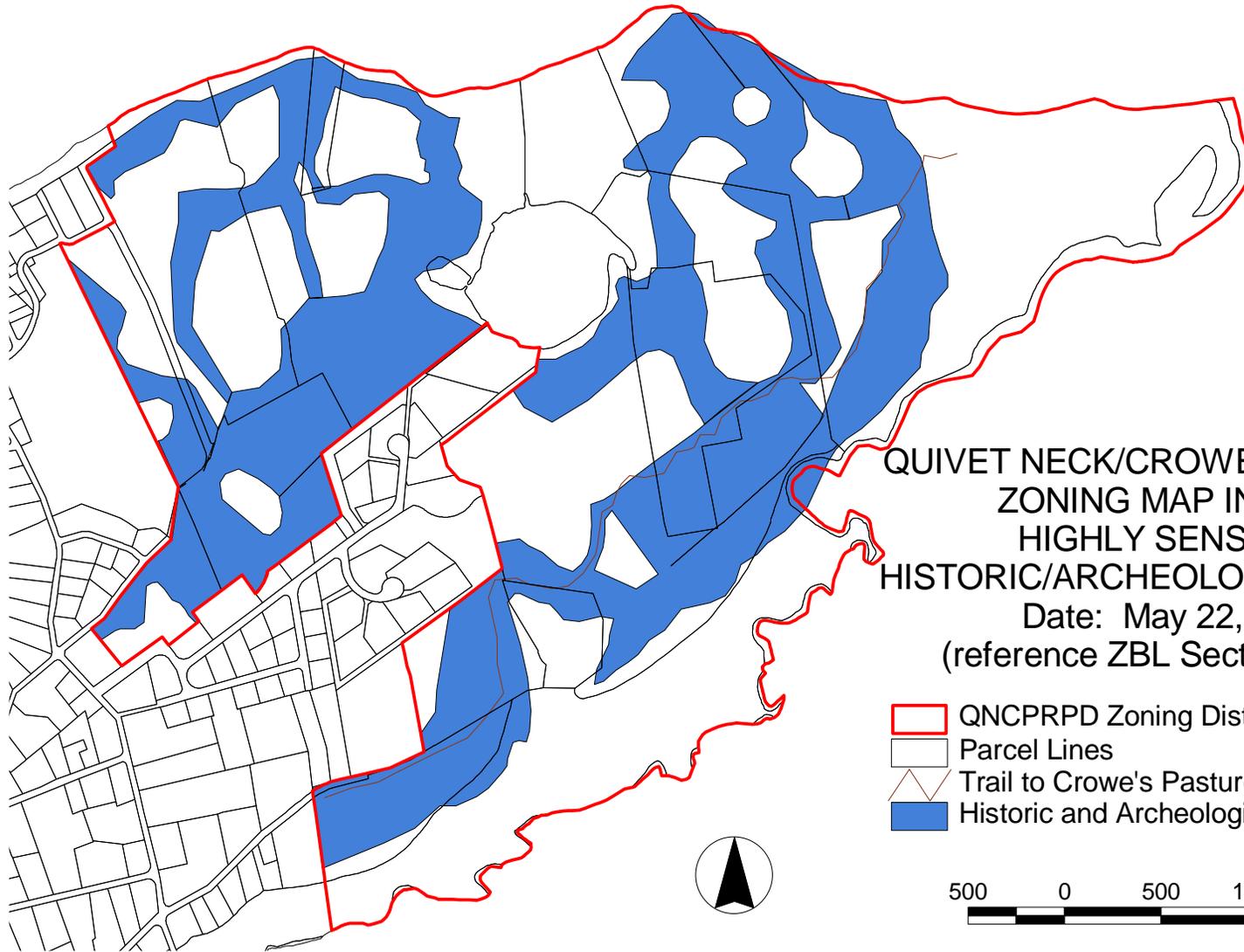




**QUIVET NECK/CROWE'S PASTURE
ZONING MAP INSET 4
HABITAT AREAS**
Date: May 22, 2003
(reference ZBL Section 4.6.11)

-  QNCPRPD Zoning District Boundaries
-  Parcel Lines
-  Trail to Crowe's Pasture
-  QN/CP RPD Habitat Areas

700 0 700 1400 Feet

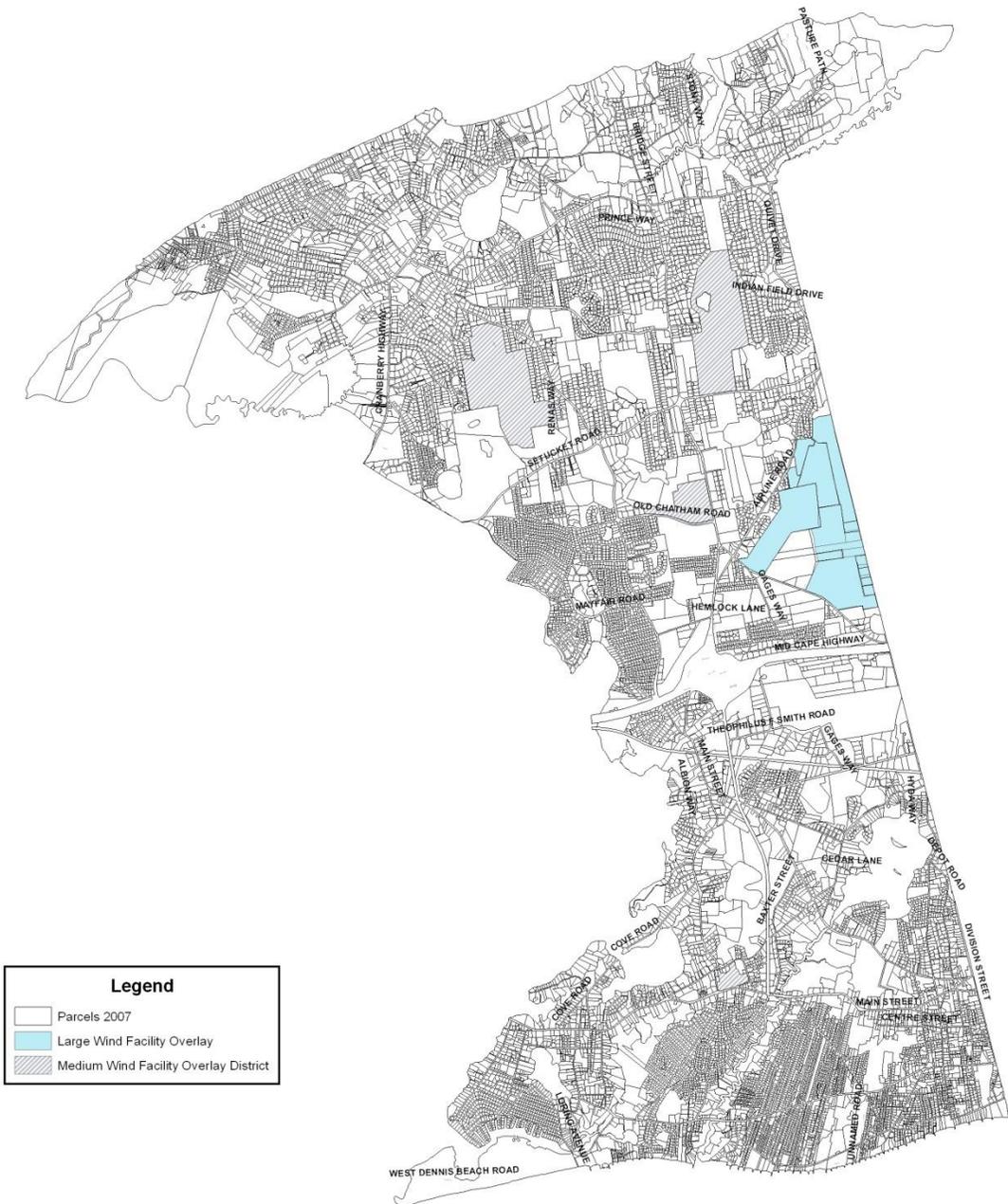


**QUIVET NECK/CROWE'S PASTURE
ZONING MAP INSET 5
HIGHLY SENSITIVE
HISTORIC/ARCHEOLOGICAL AREAS**
Date: May 22, 2003
(reference ZBL Section 4.6.10)

-  QNCPRPD Zoning District Boundaries
-  Parcel Lines
-  Trail to Crowe's Pasture
-  Historic and Archeological Sensitivity

500 0 500 1000 Feet





Zoning Map 11-1
WIND FACILITY OVERLAY DISTRICT
REVISED JANUARY 11, 2010