ZONING BY-LAW
TOWN OF DOUGLAS, MASSACHUSETTS
ADOPTED BY TOWN MEETING
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SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE

These regulations are enacted to promote the general welfare of the Town of Douglas, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.2 AUTHORITY

This Zoning By-Law is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 SCOPE

For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.4 APPLICABILITY

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

1.5 AMENDMENTS

This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

1.6 SEPARABILITY

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

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT

For the purpose of this By-Law, the Town is divided into the zoning districts set forth below:

RESIDENTIAL:
RA - Rural Agricultural
VR - Village Residential
RC1 - Residential Commercial One
RC2 - Residential Commercial Two

BUSINESS:
VB - Village Business
C - Commercial

INDUSTRIAL:
I - Industry

OPEN SPACE:
SFOS - State Forest Open Space

2.2 OVERLAY DISTRICTS

In addition, the following overlay districts are also hereby established in Section 8.0:

WRPOD - Water Resource Protection Overlay District
AEOD - Adult Entertainment Overlay District

2.3 MAP

The location and boundaries of the zoning districts are hereby established as shown on a map entitled, "Zoning Map, Town of Douglas," dated May 2009, as amended. Said map is on file in the office of the Town Clerk. All explanatory legend and memoranda thereon or attached thereto are hereby declared to be a part of this By-Law. Any change in the location of boundaries of a zoning district hereafter made through the amendment of this By-Law shall be indicated by the alteration of such Map, and the Map, thus altered, is declared to be a part of the By-Law thus amended. Photographic reductions of this Zoning Map may serve as copies of the Zoning Map.

2.4 INTERPRETATION OF MAP

The following provisions shall govern interpretation of the Zoning Map:

2.4.1 Where a boundary is shown as following a street, railroad, utility line or water course, the center line thereof is the actual boundary unless otherwise indicated.

2.4.2 Where a boundary is shown approximately parallel to a street, railroad, utility line or water course, it shall be deemed parallel to the nearest line thereof and at such distance there from as indicated on the Zoning Map.

2.4.3 Where boundary lines specifically follow private, public or institutional property lines, said zoning boundaries shall be considered fixed as of the date the zoning districts were established.

2.4.4 Where a boundary line divides an existing lot, the regulations applying to the portion of such lot in the less restricted district may be considered as extending up to fifty (50) feet into the more restricted portion, but only if the lot has frontage on a street in the less restricted district.

2.5 SPLIT LOTS

Where a zoning district boundary line divides any lot existing at the time of such zoning district is adopted, the regulations for any district in which the lot has frontage on a street may be extended not more than fifty feet into the other district, however, the land within this fifty foot area shall be controlled in a constant manner by the regulations applicable to the district which governs the larger lot.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES

No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited.

3.1.1 Symbols

Symbols employed in the Table of Use Regulations shall mean the following:

Y - Permitted as of right

N - Prohibited

BA - Special permit/Board of Appeals

PB - Special Permit/Planning Board
SB - Special Permit/Selectboard

3.1.2 If Classified Under More than One Use

Where an activity may be classified as more than one of the principal uses listed in the Table of Use Regulations, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

3.1.3 Table of Use Regulations

SEE APPENDIX A

3.2 ACCESSORY USES

3.2.1 Accessory Uses in the Residential Districts

In the Residential Districts, the following accessory uses are allowed by right or by special permit **by the Board of Appeals:**

1. Renting rooms and furnishing of board to no more than two nontransient persons.

2. Family day care and adult day care as set forth in the table of Principal Uses.

3. Home Occupation - As of Right. A home occupation may be allowed as of right, provided that it:

   A. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;

   B. is clearly incidental and secondary to the use of the premises for residential purposes;

   C. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

   D. does not utilize exterior storage of material or equipment;

   E. does not exhibit any exterior indication of its presence or any variation from residential appearance, except for a sign or name plate in compliance with the sign by-law;

   F. does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees;

   G. is registered as a business with the Town Clerk.

4. Home Occupation - By Special Permit. A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:

A. fully complies with Sections B, C, D, and G, above.

B. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premise, by not more than two additional employees;

C. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with the sign By-Law;

D. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

5. Garaging or Parking of Commercial Motor Vehicles. As of right, one (1) commercial vehicle of 26,000 gvw or less may be garaged or parked on a residential premises. By special permit, the Board of Appeals may authorize more than one such commercial vehicle or a larger commercial vehicle upon a finding that such garaging or storage will not be detrimental to the neighborhood.

6. Landscaping or Contracting Business. A landscaping or contracting business may be operated as a home business as of right on any lot with more than two (2) acres. A landscaping or contracting business may be operated as a home business by special permit from the Board of Appeals on any lot with less than two (2) acres upon a finding that such use will not be detrimental to the neighborhood.

3.2.2 Accessory Uses in All Districts

1. Use of Trailers for Nonconstruction Storage. In all districts, other than the Industrial Districts, the use of trailers and semi-trailers for nonconstruction storage shall be prohibited.

3.2.3 Accessory Uses in the Industrial District

1. The use of trailers and semi-trailers as temporary storage facilities shall be permitted for a period not to exceed three months provided that such storage facilities conform to all dimensional regulations established therein for buildings and are screened from public view on any streets. The use of such trailers for more than three months may be authorized by special permit from the Board of Appeals.

2. Accessory office uses and food services may be provided, provided that service is primarily for the employees at the principal use.

3.3 ACCESSORY APARTMENTS

3.3.1 Purpose

This by-law has been established for the following purposes:

1. To provide a variety of types of housing to meet the needs of its residents, including those with low or moderate income levels; and

2. To expand the permitted types of housing to provide an opportunity for older persons who cannot physically or financially maintain their own home to live in homes of relatives; and

3. To protect the stability, property values and the single family residential character of the neighborhood and at the same time accommodate so-called in-law apartments; and

4. To authorize the creation of such accessory apartments and at the same time encourage the Town to monitor conversions for code compliance.

3.3.2 Special Permit Required

The Planning Board may authorize an Accessory Apartment by special permit in any residential district, provided that each of the following standards are met.

3.3.3 Standards

1. The owner(s) of the residence in which the Accessory Apartment is located shall occupy one of the dwelling units.

2. Either the occupants of both units shall be related by blood or marriage, or one of the units shall be occupied by an individual hired to provide medical assistance, or custodial care to one or more individuals in the other unit. In the alternative, the accessory apartment shall be rented at a price affordable to persons or families qualifying as low or moderate income for a period of not less than fifteen (15) years. The rental price for such apartment shall be affordable for persons or families in the Worcester area earning less than 80% of the median income, as set forth in the applicable guidelines of the Commonwealth's Department of Housing and Community Development.

3. Prior to the initial lease or any subsequent lease of the apartment, lease documents complying with the terms set forth above shall be approved as to form by the Board's legal counsel.

4. Only one (1) Accessory Apartment may be created within a one family dwelling.

5. An Accessory Apartment may only be created in a dwelling which would otherwise be classified as a one family dwelling.

6. The design of the Accessory Apartment is such that the appearance remains that of a one family residence. Any new additions required for the Accessory Apartment shall conform to the minimum yard sizes and maximum height requirements for a single family dwelling of the district where the building is located.

7. The Accessory Apartment shall be clearly secondary in nature to the principal dwelling, and it shall not exceed nine hundred (900) square feet in area.

8. At least three (3) off-street parking spaces must be provided for any one family dwelling which has an Accessory Apartment.

9. An accessory apartment may be created in a detached structure provided it is no more than 50 feet from the main structure and continues to meet the standards set forth in by-law 3.3.3.

10. If the lot is not connected to public sewer, prior to obtaining a building permit, the Board of Health shall certify that the septic system is in compliance with Title 5 of the State Environmental Code and the Board's Regulations.

11. The construction of any Accessory Apartment must be in conformity with the State Building Code Requirements.

12. The Planning Board may require more or other appropriate conditions in order to protect the public health and safety, and the single-family character of the neighborhood. The Board may also allow deviation from the above conditions where necessary upon a finding that such deviation will not be detrimental to the neighborhood nor the intent of this bylaw.

3.3.4 Time Limit

The special permit may be granted for a period not to exceed three (3) years. Such special permit may be renewed, without a public hearing, for another three-year period upon submittal of an affidavit by the owner indicated that the conditions of this Section 3.3 continue to be satisfied. Upon expiration of the special permit or when the dwelling is sold, or when the need for such care ceases, whichever occurs first, the dwelling shall revert to single family use, and the Accessory Apartment may not be occupied unless a new special permit is obtained from the Planning Board.

3.4 NONCONFORMING USES AND STRUCTURES

3.4.1 Applicability

This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

3.4.2 Nonconforming Uses

The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

a. Change or substantial extension of the use;

b. Change from one nonconforming use to another, less detrimental, nonconforming use.

3.4.3 Nonconforming Structures

The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

a. Reconstructed, extended or structurally changed;

b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

3.4.4 Variance Required

Except as provided in subsection 5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

3.4.5 Nonconforming Single and Two Family Residential Structures

Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

a. alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,

b. alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.

c. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

d. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

3.4.6 Abandonment or Non-Use

A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

3.4.7 Reconstruction after Catastrophe or Demolition

A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

1. Reconstruction of said premises shall commence within three years after such catastrophe or demolition.

2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.

3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such reconstruction.

3.4.8 Reversion to Nonconformity

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

SECTION 4.0 DIMENSIONAL AND TIMING REQUIREMENTS

4.1 GENERAL

No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless otherwise exempted by this By-Law or by statute.

4.1.1 One Structure per Lot

Except as may be authorized by special permit from the Planning Board, or as otherwise may be provided herein, not more than one principal structure may be placed on any lot.

4.1.2 Change of Lot

No existing conforming or nonconforming lot shall be changed in size or shape except through a public land taking or donation for road widening, drainage, or utility improvements or except where otherwise permitted herein, so as to create a nonconformity or increase the degree of nonconformity that presently exists. If land is subdivided, conveyed, devised or otherwise transferred in violation hereof, no building or other permit shall be issued with reference to said transferred land until the lot retained meets the requirements of this By-Law.

4.1.3 Table of Dimensional Requirements

The following table shall govern dimensional requirements in the various districts:

SEE APPENDIX B

4.2 PHASED DEVELOPMENT

4.2.1 Purpose

The purpose of this section, "Subdivision Phasing," is to ensure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services; to avoid disturbance of the social fabric of the community; to maintain the community's desired rate of growth; and to provide the town an opportunity to study growth and plan accordingly.

4.2.2 Applicability

The issuance of building permits for any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act, into more than **fifteen (15) lots** after the effective date of this by-law shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or subdivision of combination of adjacent properties which were in the same ownership as of [*date of town meeting*]. This provision shall not apply to any land subject to a special permit for Flexible Development as set forth in Section 7.2.

4.2.3 Phasing

Not more than **fifteen (15) building permits** shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided or subdivided into more than **fifteen** lots pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act. This bylaw shall be in effect for five years after the vote of Town Meeting to adopt this section 4.2

4.2.4 Special Permit Relief

Issuance of more than **fifteen (15) building permits** for the same tract of land in a twelve-month period may be allowed in the following circumstances:

1. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than **fifteen** building permits in any 12-month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit. In making such determination, the Board shall consider whether the applicant has offered **one or more** of the following improvements or amenities which have a positive impact upon:

    a. schools and other public facilities;

    b. traffic and pedestrian safety;

    c. recreational facilities, open spaces, agricultural resources, and unique natural features;

    d. housing for senior citizens and people of low or moderate income;

    e. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.

f. reduction in otherwise allowable residential density. Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more.

2. Where the tract of land will be divided into more than **one hundred fifty (150) lots,** the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

4.2.5 Zoning Change Protection

The protection against subsequent zoning change granted by G.L. c. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section beyond eight (8) years, be extended to ten years.

4.2.6 Relation to Real Estate Assessment

Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

4.3 LOT FRONTAGE EXCEPTION

"Lots having less than the normally required lot frontage ("rear lot") may be created and built upon for residential use provided that such lots are shown on a plan endorsed by the Planning Board "Approved for Reduced Lot Frontage" and bear a statement to the effect that such "Approved for Reduced Lot Frontage" lot shall not be further divided to reduce its area or to create additional building lots. Plans shall be so endorsed if meeting each of the following, but not otherwise."

4.3.1 Area

The area of said lot is at two times (2x) the required area for RA zoned parcels and three times (3x) the required area for all VR zoned parcels not including the "Access Strip". "Access strip" in this case shall mean any portion of the lot between the street and the point where lot width equals one hundred (100) feet or more for the RA zone and 75 (seventy-five) feet or more for the VR zone.

4.3.2 Location

Said lot shall be entirely located in a residential zoning district and have frontage on a Public way as of [Date of Town Meeting].

4.3.3 Lot Shape

The lot creation plan shall demonstrate that a circle with a diameter of one hundred and fifty (150) feet can be drawn on the lot in the RA zone and of seventy-five (75) feet in the VR zone.

4.3.4 Lot Width

Lot width is at no point less than 40 feet, and lot frontage is not less than 40 feet. Egress over the frontage shall create no greater hazard owing to grade and visibility limitations than would be normal for a standard lot in the same area or safe access must be demonstrated via an easement or common drive from an adjacent parcel.

4.3.5 Limits

Not more than one (1) rear lot shall be created from a property, or a set of contiguous properties held in common ownership as of [date of Town Meeting]. Documentation to this effect shall be submitted to the Building Inspector. The Building Inspector shall not issue a building permit for any rear lot without first consulting with the Planning Board to verify compliance with this provision. No lot having less than normally required frontage shall be endorsed by the Planning Board if it abuts another such lot, except that the Planning Board may approve one and only one such abutting lot if it determines that such approval will not derogate from the purpose of the Zoning Bylaw and will result in responsible development of the subject property. The Planning Board shall not, under any circumstances, endorse any Plan as "Approved for Reduced Lot Frontage" where endorsement of such a Plan would create more than two contiguous reduced frontage lots.

4.3.6 Rear and Side Yard

The principal structure shall be located on the lot with rear and side yards equal to or in excess of those required in the district.

4.3.7 Setback from Street

The single-family dwelling located on the lot must be set back at least 200 feet from the street providing frontage.

4.4 RESIDENTIAL COMPOUND LOTS

By Special Permit, the Planning Board may reduce the frontage requirement for any lot(s) shown on an endorsed definitive plan for a residential compound, as defined in the Planning Board's Rules and Regulations governing the subdivision of Land, to not less than fifty (50) feet.

SECTION 5.0 GENERAL REGULATIONS

5.1 OFF-STREET PARKING REGULATIONS

5.1.1 General

Off-street parking spaces shall be provided for every new building, the enlargement of an existing building, the development of a new land use or any change in any existing use in accordance with the Table of Off-Street Parking Requirements.

5.1.2 Table of Off-Street Parking Regulations

Off-street parking shall comply with the following Table:

PRINCIPAL USE	**PARKING REQUIREMENT**
Family dwellings	One parking space for each dwelling unit.
Hospitals; hotels and motels	One parking space for room for single or double occupancy.
Nursing home; assisted living or senior housing facility	One parking space per two rooms
Places of public assembly, including meeting halls, auditoriums, libraries, museums, private clubs and lodges, funeral homes, restaurants and similar eating and drinking establishments, theaters, bowling alleys and other amusements, bus depots and other passenger terminals	One parking space for each four (4) seats. Where no fixed seats are used (as in a museum or terminal) each twenty square feet of public floor area shall equal one seat.
Retail business, personal, consumer, professional or commercial service establishment, office, bank or other financial institution, salesroom or showroom, or motor vehicle service station or repair garage or a publicly owned use involving regular and direct business with members of the public on the premises of such use	One parking space for each two hundred fifty (250) square feet of floor area or fraction thereof devoted to selling, storage, service and all other activities related to such use, exclusive of cellar and basement areas used only for storage or services incidental to the operation or maintenance of the premises
Storage, manufacturing and industrial buildings, including warehouses, distribution plants, truck terminals, printing and	Not less than one parking space for each two hundred fifty (250) square feet floor area in office use, one parking space for each two

publishing establishments, laboratories, power laundries, dry cleaning plants, manufacturing and processing plants	thousand (2,000) square feet floor area in use for storage, and one parking space for each five hundred (500) square feet floor area in other uses.
All other permitted or permissible uses, including child care facilities, animal or veterinary hospitals, golf courses, farm stands, drive-ins, open-air amusements	Sufficient parking spaces to accommodate under all normal conditions the cars of occupants, employees, members, customers, clients, or visitors of the premises, as the case may be.

5.1.3 Shared Parking

Notwithstanding any other provisions of this By-law, common parking areas may be permitted by the, Planning Board, subject to site plan approval, for the purpose of servicing two (2) or more principal uses on the same or separate lots, provided that:

1. Evidence is submitted that parking is available within four hundred (400) feet of the premises, which lot satisfies the requirements of this By-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.

2. A proposed contract, agreement, or suitable legal instrument acceptable to legal counsel, shall be filed with the Planning Board specifying the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.

3. Any reduction in area required for parking because of these joint use provisions may be required as reserved landscaped open space.

4. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this By-law if subsequently the joint use of parking facilities shall terminate.

5.1.4 Parking Standards

The following standards shall apply to off-street parking:

1. *Parking Space Size.* Each parking space shall measure nine (9) feet in width and eighteen (18) feet in length.

2. *Allowance for Compact Cars.* On all properties containing general office buildings, research/office park facilities or manufacturing facilities and which contain at least forty thousand (40,000) square feet of gross floor area in the building(s), thirty (30) percent of the required parking may be in stalls for compact cars, provided that area for these stalls is designated by signs and other markings and each parking space shall measure at least eight (8) feet in width and sixteen (16) feet in length.

3. *Handicapped Parking.* Parking spaces for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Barriers Board.

4. *Lighting.* All parking areas shall be appropriately illuminated. All illumination shall be shielded so as not to shine directly onto a public or private way or onto any property in a residential district or into the night sky.

5. *Prohibition.* Parking spaces shall be arranged so as not to require backing of automobiles onto any street.

5.1.5 Additional Parking Standards for Areas with More than Five Spaces

All parking areas containing over five spaces, including automobile and drive-in establishments of all types, shall be either contained within structures or subject to the following:

1. *Surface*. The area and access driveways thereto shall be surfaced with a durable material (i.e. bituminous or cement concrete, or other environmentally friendly surface such as an appropriate porous material to reduce storm water runoff and thereby augment groundwater recharge) and shall be graded and drained so as to dispose of all surface water accumulation away from adjacent public ways."

2. *Storage*. Unless authorized by special permit of the Planning Board, there shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations.

3. *Location*. Parking shall not be located nearer than fifteen (15) feet from any lot line.

5.1.6 Landscaping in Parking Areas

1. The area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any residential district, consisting of a solid fence or wall or solid landscaping feature not less than three (3) feet nor more than six (6) feet in height at the time of occupancy of such lot.

2. Plantings shall be installed when the adjacent property is occupied and shall thereafter be maintained by the owner and/or occupant so as to maintain a dense screen year round.

5.1.7 Special Permit

Relief from any parking requirement may be authorized by the grant of a special permit from the Planning Board where the applicant demonstrates that such relief shall not cause substantial detriment to the neighborhood or to public safety.

5.2 LOADING REQUIREMENTS

5.2.1 General

Adequate off-street loading spaces or loading areas shall be provided and maintained by the owner of the property for each nonresidential building or use which is erected, enlarged or altered after the effective date of this By-law, according to the following regulations.

5.2.2 Same Lot

All loading spaces or loading areas required by this By-law shall be on the same lot as the building or use which they are intended to serve, and in no case shall any required loading area be part of an area used to satisfy the off-street parking requirements of this By-law.

5.2.3 No Queues or Backing onto Street

No loading facility shall be designed to require trucks to queue on a public way while awaiting off-loading. No loading facility shall be designed to require vehicles to back onto a public way; all turning maneuvers shall be accommodated on the premises.

5.2.4 Shared Loading

No part of an off-street loading area required by this By-law for any nonresidential building or use shall be included as part of an off-street loading area similarly required for another building or use, unless the type of buildings or uses indicates that the usage of such loading area would not occur simultaneously, as determined by the Planning Board.

5.2.5 Screening

Loading areas shall be screened in accordance with Section 5.1.6.1.

5.2.6 Size

Loading bays shall not be less than twelve (12) feet in width, sixty-five (65) feet in length, and fourteen (14) feet in height, exclusive of driveway and maneuvering space.

5.2.7 Location

No loading dock or bay shall be located within twenty (20) feet of the boundary of any residential district.

5.2.8 Special Permit

Any loading requirement set forth herein may be reduced upon the issuance of a special permit by the Planning Board if the Board finds that the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit.

5.3 GENERAL LANDSCAPING REQUIREMENTS

5.3.1 Purpose

This section is designed to accomplish the following objectives: to provide a suitable boundary or buffer between residential uses and nearby nonresidential uses; to define the street edge and provide visual connection between nonresidential uses of different architectural styles; to separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots; to provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas; to preserve or improve the visual and environmental character of the town, as generally viewed from residential or publicly accessible locations; and to offer property owners protection against diminution of property values due to adjacent nonresidential use.

5.3.2 Applicability

The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

5.3.3 Landscaping Requirements for Property Lines

Property line(s) with residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of an indigenous species and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. No part of any building or structure or paved space intended for or used a parking area may be located within the buffer area. Planted buffer areas along property lines with residential districts or uses shall be of the following minimum depth in each district:

C or VB	10 feet
I	20 feet

5.3.4 Landscaping Requirements for Street Frontage of Nonresidential Uses

In all nonresidential districts except the VB, a landscaped buffer area, except for approved access ways, at least twenty feet in width as measured from the layout of the roadway providing frontage, shall be established. The buffer area shall be planted with grass, medium height shrubs, and shade trees. Shade trees shall be planted at least every 35 feet along the road frontage.

5.3.5 Planted Area Requirements

Planted areas shall contain an appropriate mix of the following types of indigenous and non-invasive plants. Plant species shall be appropriate to proposed use, sitting, soils, and other environmental conditions. Where Board of Appeals determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

1. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

2. Grass is preferable to mulch where practical.

3. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.

4. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

5.3.6 Coordination with Site Plan Approval

The Planning Board shall require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section.

5.3.7 Maintenance of Landscaped Areas

The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

5.3.8 Special Permit

By special permit, the Planning Board may authorize a reduction in the requirements of this section, where such reduction will not result in substantial detriment.

5.3.9 Guidelines

The planting and maintenance of trees and shrubs shall be conducted in accordance with standards adopted by the Planning Board.

5.4 ENVIRONMENTAL PERFORMANCE STANDARDS

5.4.1 General

No Activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, provided, however, that any activity in any district which is subject to a site plan review shall be exempt from this section. After a permit is issued in accordance with this section, continuing compliance is required. The following standards are hereby established.

5.4.2 Noise

No use shall be permitted within the town which, by reason of excessive noise generated therefrom, would cause nuisance or hazard to persons or property, as set forth in 310 CMR 7.01.

5.4.3 Solid Waste Storage

Any accessory receptacle or structure with holding capacity of at least two hundred fifty (250) cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items and similar waste items shall be located not less than ten (10) feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible in accordance with Section 5.3.5 of this by-law. Screening materials will not be attached to any structure.

5.4.4 Miscellaneous Standards

1. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties and the night sky.

2. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

3. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.

4. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

5. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

SECTION 6.0 SPECIAL REGULATIONS

6.1 EARTH REMOVAL

6.1.1 Purpose

This Section is deemed necessary to protect the public safety and property values by preventing the creation of hazards due to deep holes, steep slopes and embankments and by preventing land from becoming worthless due to removal of top soil, sand, gravel or other material. These regulations are designed to insure that land will be useable for residential, commercial or agricultural purposes following the removal of top soil, sand, gravel or other fill and to provide for the reestablishment and protection of the area by suitable cover.

6.1.2 Applicability

No person, firm or corporation shall remove in any one year more than three hundred (300) cubic yards of soil, sand, gravel, stones, or other minerals or materials from any land in the Town without first obtaining a special permit from the Planning Board as provided in the following Sections.

1. The Planning Board may appoint a subcommittee, herein referred to as the Earth Removal Advisory Committee, to advise and recommend the issuance or denial of a permit.

6.1.3 Exemptions

A special permit shall not be required for the following types of excavation:

1. Excavation incidental to the construction of all buildings for which all permits required for construction have been issued, nor to the installation of walks, driveways, septic systems, swimming pools, or other accessory uses and expansions thereto, provided the quantity of materials removed shall not exceed that displaced by the portion of the building or accessory use below finished grade;

2. Excavation in the course of normal and customary agricultural use of land,

3. Excavation in the normal use of a cemetery,

4. The By-law shall not apply to excavations lawfully in existence at the time of the adoption of this Bylaw to the extent that such excavations are protected by G.L. c. 40A, s.

6.1.4 Application

An application for an Earth Removal Permit shall be in writing and shall contain an accurate description of the portion of land in which the excavation will take place, shall state in full the purpose of the excavation, shall include a fee, and shall include plans drawn by a registered surveyor or engineer containing the following information:

1. Property lines, names and addresses of all abutters and other interested parties in interest as defined by G.L. c. 40A, s. 11;

2. Existing contours at five-foot intervals in the area from which materials are to be excavated and in the surrounding areas, together with the contours at five foot intervals below which no excavation shall take place;

3. Natural features such as wetlands, the 100-year floodplain, ground cover and surface groundwater. Water table elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make-up of the site;

4. A topographical map showing drainage facilities, final grades and proposed vegetation and trees to be planted during restoration;

5. Erosion and sediment control plan; and,

6. The amount and cost of proposed restoration materials, and where the applicant intends to get them.

6.1.5 Decision

The Board shall exercise its powers and may deny, grant or grant with exceptions, permits hereunder based upon:

1. The health, safety and general welfare of the inhabitants of the Town;

2. Derogation or detriment to the neighborhood;

3. Effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.

6.1.6 Conditions

The Board may impose on any permit conditions including but not limited to, conditions upon methods of removal, type and location of structures, fencing, hours of operation, area, location and depth of excavation, steepness of slopes, drainage, disposition of boulders and stumps, restoration and planting.

1. Bond Required. The Board shall require as a condition to the granting of the permit that the applicant shall furnish a performance bond or other security satisfactory to the Board sufficient to insure satisfactory performance of the requirements of this Bylaw and of such other conditions as may be imposed in the permit. The security shall not be released until the surveyor or engineer has filed with the Board an "as-built" plan and has also certified that the restoration has been completed in compliance with the permit and the plans.

2. Every permit shall contain the condition that inspection of the operation may be made at any reasonable hours by an Agent of the Board to determine if conditions of the permit are being adhered to.

3. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of an existing public way or an adjacent property line;

4. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of a wetland as defined under G.L. c. 131, s. 40, and the Town of Douglas Wetland Protection Bylaw or the 100-year flood elevation of any water body, except where the appropriate regulatory agency has specifically ordered such excavation as part of a compensatory-storage plan;

5. No area shall be excavated so as to cause accumulation of free standing water unless the Board shall permit creation of a pond in an area not used for drinking water. Permanent drainage shall be provided in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds.

6. No excavation shall be made at less than ten (10) feet above the annual high water table, as established from test pits and soil borings. Observation well(s) shall be monitored to verify this elevation. The Board has the right to adjust the depth of the excavation based upon well monitoring information. The information shall be shown on the topographic plan and a permanent monument shall be erected upon the property.

7. All top soil and subsoil stripped from operation areas shall be stock-piled, seeded with an erosion control seed mixture, and used in restoring the area.

8. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within sixty (60) days after they are no longer needed for work upon that site.

9. The active excavation operation shall be determined by the Board but, in no instance, shall it exceed a total of ten (10) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.

10. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.

11. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.

12. Access roads shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view.

13. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance.

14. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.

15. Operators shall immediately clean up any spillage on public ways.

6.1.7 Restoration

Every permit shall state that restoration is to be carried out according to the plans submitted, conditions of permit, and the following minimum conditions:

1. Restoration shall be carried on simultaneously with excavation, so that when any active excavation operation area, as determined in Section 6.1.6, Paragraph 9, has been excavated, at least two/thirds (2/3) of the active excavation operation acreage shall be restored before work commences, including building haul roads, on the next contiguous active excavation operation. Final restoration work shall be complete within 120 days after excavation or withdrawal of a permit or upon cessation of operations.

2. No slope shall be steeper than 2:1. 4:1 if preferred for erosion control and shall be required in sensitive areas.

3. All debris, stumps, etc. shall be removed from the site and disposed of in an approved location or, in the case of inorganic material, buried and covered with at least two (2) feet of soil.

4. Retained subsoil and topsoil shall be spread over the disturbed area to a minimum depth of four inches and treated with three tons of lime per acre (unless otherwise determined by permit conditions) and seeded with a grass of legume mixture prescribed by the Southern Worcester County Conservation District or the Massachusetts Highway Department for slope erosion control. Trees or shrubs of prescribed species will be planted to provide screening and reduce erosion during the establishment period.

5. Unless the permit conditions expressly require alteration of drainage patterns, the land shall be left so that the natural storm drainage shall leave the property at the original natural drainage points; and so that the total discharge at peak flow, and the area of drainage to any one point, is not increased, and so that the hydrography of any post-development stream is the same as that of the pre-development stream.

6. All equipment, buildings and structures shall be removed from the area covered by the permit within sixty (60) days after earth removal, pursuant to the permit, ceases.

6.1.8 Limit

No permit shall be issued for an initial period of more than three (3) years. The Board may in its discretion grant a further permit for each additional year beyond the initial period, but no such permit shall be issued unless the applicant has conformed to all requirements of the permit.

6.1.9 Revocation

The Board may revoke any permit which it has issued for good cause, including, but not limited to, violations of any terms of a permit issued hereunder. Violations shall be deemed good cause to revoke. The Board shall first offer to the operator an opportunity for a hearing prior to revocation of the permit, in order to avoid violations of due process. The Board can reserve the right to suspend the permit without a hearing in the event of an imminent danger to the public health or safety, prior to a hearing on whether to revoke the permit.

6.1.10 Special Permit Relief

Strict compliance with the requirements of this Bylaw may be waived by special permit only when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Earth Removal Zoning Bylaw. In waiving strict compliance the Board may require such alternative conditions as will serve substantially the same objective as the standards waived.

6.1.11 Survey

The Board has the right, in its discretion, to require the applicant, at this own expense, to have the site surveyed by an engineer to be specified by the Board, and to have said engineer report to the Board on a periodic basis to assure compliance with any permit issued hereunder.

6.1.12 Application to Town

This Bylaw will also apply to Agencies/Departments in the Municipality. However, the following exemptions will apply.

1. The Municipality will be exempt from the requirement of a bond; and exempt from subsections 6.1.6.10 and 11.

6.1.13 Regulations

The Board may establish rules and regulations to implement this Bylaw, including the establishment and assessment of fees for permit application.

6.1.14 Violations

Every violation of this Bylaw shall be subject to the following fines: $50.00 for the first offense; $100.00 for the second offense,- and, $150.00 for all offenses after the second offense. Each day on which a violation occurs shall constitute a separate offense.

6.2 UNREGISTERED MOTOR VEHICLES

Not more than one unregistered motor vehicle or trailer which is unfit for use, permanently disabled or has been dismantled, or are otherwise inoperative, shall be stored, parked or placed upon any land in the Town for more than thirty (30) days, unless such vehicle is kept within a building or is otherwise screened or located so that it cannot be seen from a public highway or from abutting property. Vehicles which are kept in an area properly approved for such storage by a licensed junk dealer or a licensed dealer in motor vehicles are exempted from these regulations. Farm vehicles are also exempt.

6.3 COMMON DRIVEWAYS

6.3.1 Purpose

The purpose of this by-law is to promote public safety; avoid the alteration of the physical appearance of the land; minimize the alteration of wetland resource areas and topographical characteristics, including the removal of rock outcrops, significant fill or grading, removal of trees and other vegetation, or the removal of buildings of historical or architectural merit. All driveways shall be constructed in a manner ensuring reasonable and safe access for all vehicles including, but not limited to, emergency, fire and police vehicles.

6.3.2 Applicability

1. Shared driveways, serving not more than two lots are allowed by right.

2. Common driveways serving between three and four lots may be allowed by special permit in all zoning districts. Common driveways may not serve more than four lots.

6.3.3 Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority for common driveways.

1. The Planning Board shall consider recommendations from the Police Chief, the Fire Chief, the Highway Superintendent and the Town Engineer.

2. The Planning Board may establish and assess reasonable fees for the permit application.

3. Strict compliance with the requirements of this by-law may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with this by-law. In waiving strict compliance, the Board may require such alternative conditions as will serve substantially the same objective as the standards being waived. Further, the Planning Board may adopt, and from time to time amend regulations, policies, or lend guidance in the implementation and administration of this by-law.

6.3.4 Administration

The submittal package shall include the Special Permit Application Form, a certified abutters list for all property owners within 300 feet of the properties being served, a plan showing the proposed driveway presented at a suitable scale to show the scope and intent of the proposed project, and the permit application fee as identified herein. Applicants for common driveway approval shall submit twelve (12) copies of the application package to the Planning Board office. Within three (3) days thereafter the Planning Board shall forward a copy of the application to the Police Chief, Fire Chief, Highway Superintendent, and the Town Engineer.

6.3.5 Design Requirements

1. Lots to be served shall have at least the minimum required frontage on a town way as required by the Zoning By-law in effect at the time they were created.

2. Lots to be served by a common driveway must meet the dimensional standards of the Zoning By-law in effect at the time they were created.

3. The common driveway shall be located entirely within the boundaries of the lots being served thereby.

4. The Grade of the Common Driveway shall not exceed 10% unless the Planning Board shall grant a waiver of this requirement after a determination that said driveway will provide safe and reasonable access for vehicles.

5. The Driveway Centerline intersection with the street centerline shall not be less than 45 degrees.

6.3.6 Construction and Operational Requirements

1. The Common Driveway shall have a minimum cleared width of eighteen (18) feet if less than or equal to three hundred (300) feet in length, and twenty-two (22) feet if greater than 300 feet in length.

2. Driveways shall be constructed with a durable material, graded and suitably maintained to the extent necessary to avoid any nuisance by reason of erosion or water flow onto adjoining property.

3. A paved apron of at least 20 feet in length shall be constructed at the Common Driveway – street intersection to ensure that dirt and debris is not tracked into the street.

4. No parking shall be allowed on the commonly used portion of the common driveway.

6.3.7 Required Documents

Proposed documents shall be submitted to the Planning Board demonstrating, to the satisfaction of the Planning Board, that, through easements, restrictive covenants or other appropriate legal devices, the maintenance, repair, snow removal and liability of the common driveway shall remain perpetually the responsibility of the private parties or their successors-in-interest.

1. Said documents shall be recorded at the Registry of Deeds, and a copy of said recorded documents shall be provided to the Planning Board prior to issuance of a building permit for any structure to be served by the common driveway.

2. A covenant shall be entered into between the owner or developer and the Town, in a form acceptable to the Planning Board, prohibiting the issuance of an occupancy permit for any structure to be served by the common driveway until such time as the common driveway has been constructed in accordance with this Bylaw.

6.4 LANDFILL FACILITIES

6.4.1 General

The siting or expansion of a landfill facility shall be prohibited in the following areas:

1. Recharge areas of surface drinking water supplies as shall be reasonably defined by rules and regulations of the Massachusetts Department of Environmental Protection (DEP); and

2. Areas subject to G.L. c. 131, s. 40 and the regulations promulgated thereunder by the DEP; and

3. Areas within the zone of contribution of existing or potential public supply wells as defined by DEP.

6.5 PERSONAL WIRELESS SERVICE (PWS) FACILITIES

6.5.1 Purpose

In order to conform to its responsibilities under the Federal Telecommunications Act of 1996 in a manner consistent with the protection of the health, safety and welfare of the public, and the preservation of property values in the town, this Zoning By-law is adopted to govern the establishment of personal wireless service ("PWS") facilities in the town. The Town does not intend this By-law to prohibit or have the effect of prohibiting the provision of personal wireless services in the town. For purposes of this By-law, the terms "personal wireless service" and "personal wireless service facility" shall have the same meaning as in the Telecommunications Act of 1996, 47 USC s. 332(c)(7)(C).

6.5.2 Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority (SPGA).

6.5.3 PWS Regulations

1. A PWS facility is a permitted use in all zoning districts if totally enclosed in a structure which exists for purposes other than to house wireless communications facilities.

2. A PWS facility which includes an extension of up to 20 feet in height above the height of a structure, as defined herein, on which it is mounted may be authorized by special permit granted by the Planning Board in all zoning districts provided that the Planning Board finds after review of comments from other Town boards, departments, agencies, and their staff, that reasonable measures shall be or already have been taken to:

   A. mitigate against negative impacts on visual quality affecting properties and streets by incorporating reasonable design, siting and screening methods; and

   B. protect against potential damage to properties and streets from structural failure or collapse or from falling ice.

3. A free-standing PWS facility of up to 130 feet in height may be authorized by special permit in Industrial Zoning Districts only.

6.5.3 Conditions

PWS facilities shall conform to the following standards.

1. Any PWS facility shall be located such that if it were to fall or collapse, it would fall or collapse entirely within the boundaries of the parcel on which it is to be located.

2. Any ground-level PWS facility shall be sited, designed and constructed in such a manner that existing vegetation is preserved to the maximum extent practicable.

3. Any fencing proposed shall be screened by a landscape buffer.

4. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

5. To the extent technologically feasible, all interconnections from the PWS facility shall be via land lines.

6. Lattice-style towers requiring three or more legs and/or guy wires for support are prohibited.

7. The applicant shall demonstrate that the proposed technology is the safest and least obtrusive to the landscape currently available.

8. PWS facilities proposed to be enclosed in a structure, as defined herein, shall be concealed from view and shall not significantly alter the exterior of such "existing structure within which the PWS facility is to be enclosed.

9. Freestanding PWS facilities shall be sited and designed in a manner which minimizes its visibility from properties and streets and shall not be located within three hundred (300) linear feet of a public or private way or an existing residential dwelling and must be set back a minimum of three hundred (300) linear feet from all property lines. No freestanding PWS facilities may be located less than three hundred (300) linear feet from another zoning district as measured from all property lines of the proposed use.

10. PWS facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

11. PWS facilities which are side mounted shall blend with the existing structure's architecture and, if over five (5) feet square, shall be painted or shielded with material which is consistent with the design features and materials of the existing structure.

12. The total height of a free-standing PWS structure, including attached accessories, shall not exceed 130 feet in height as measured from the ground level at the base of the structure.

13. The PWS facility shall be designed to accommodate co-location of multiple users, on the same facility, to the maximum extent technologically practicable in order to reduce the number of PWS facilities or sites which will be required to be located in the Town.

14. Proposed PWS facilities must demonstrate within the application for a special permit that existing or already approved facilities cannot accommodate the equipment planned for the new facility.

6.5.4 Waiver

The Planning Board may waive compliance with any of the above-listed standards, except subsection 5 or 14 provided it determines that such would not derogate from the intent of this By-law.

6.5.5 Application

Any application under this section shall include a plan with the following:

1. A drawing to-scale accurately depicting the proposed facility within the context of the site on which it is to be located and the surrounding area;

2. A report or reports prepared by professional engineers describing:

   A. the technical, economic and other reasons for the facility height, location and design;

   B. the capacity of the facility, including the number and type of transmitters and receivers it can accommodate and the basis for the calculation of the capacity;

   C. how the proposed facility complies with all applicable Federal and State standards;

   D. Statements of compliance with, or exemption from, the regulations of all federal and state agencies governing personal wireless service facilities or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health;

3. A demonstration of the visual impact of the proposed PWS structure by raising a balloon, or a temporary structure, on the proposed site to the height of the proposed structure for such period of time as the Planning Board determines to be necessary.

6.5.6 Review Costs

The applicant shall pay all costs for the Planning Board to have independent consultants review the application and its renewals.

6.5.7 Term

1. Special permits authorized under this section shall be limited to an initial term of two years and shall be renewed every two years thereafter provided the special permit holder has filed with the Board annual certification demonstrating continuing compliance with the special permit and with applicable federal and state regulatory requirements.

2. Any parts of the PWS facility which have not been used for one year shall be dismantled and removed at the permit holder's expense. The permit holder shall post a bond or other financial security with the Town Treasurer in an amount deemed sufficient to cover demolition and removal of PWS facilities in the event of discontinuance of use.

6.5.8 Municipal Exemption

Exempt from the provisions of this by-law are any existing or proposed municipal structures to be utilized solely by the town to promote public health and safety, which structures may be allowed in all zoning districts by special permit, issued by the Planning Board, provided that such structures shall not exceed 120' in height, and the Planning Board finds, after a public hearing, that the use of an existing structure, consistent with this by-law, is not feasible, and that the height of such structure does not exceed the minimum height required for Town use.

6.6 RESIDENTIALLY-SCALED, LAND-BASED WIND ENERGY CONVERSION FACILITIES

6.6.1 Purpose and Intent

It is the express purpose of this Section to accommodate residentially-scaled, land-based wind energy conversion facilities (RWECF) in appropriate locations within the Town of Douglas. While recognizing the nature of RWECF, including their height, width and use, the Town desires to minimize adverse visual, environmental and safety impacts, if any, associated with the same. This Section allows for site plan review of RWECF applications by the Planning Board, and allows the Planning Board to impose reasonable conditions to ensure that, in the opinion of said Board, the standards contained herein are satisfied. This Section is to be applied in conjunction with other portions of this Zoning By-law, as may be applicable, with the Town's General Bylaws and with other regulations adopted by the Town designed to encourage appropriate land use, environmental protection and the development of adequate infrastructure in the Town of Douglas. For "Commercially-scaled, Land-based Wind Energy Conversion Facilities" (CWECF), see Section 6.7 of this Zoning By-law.

6.6.2 Definitions

For the purposes of this Section, the following definitions shall apply:

Residentially-Scaled, Land-Based Wind Energy Conversion Facility (RWECF): A residentially-scaled, land-based wind energy conversion facility, being any facility with one (1) "Wind Turbine" not exceeding 150 feet in "Height," with a capacity of thirty (30) kilowatts or less and accessory to a principal use on the same site, including all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to: transmission, storage, collection and supply equipment; substations; transformers; service and access road(s); and the "Wind Turbine" itself.

Height: The height of a "Wind Turbine" measured from existing average grade to the tip of the "Rotor" blade at its highest point. The Height of a roof-mounted "Wind Turbine" shall be measured from existing average grade closest to the portion of the roof on which the "Wind Turbine" is located.

Nacelle: The frame and housing at the top of the "Supporting Tower" which encloses the gearbox and generator, and protects the same from the weather.

Rotor: The blades and hub of the "Wind Turbine," which rotate during the operation thereof.

Supporting Tower: A tower used to support the Nacelle and Rotor components of a "Wind Turbine."

Wind Monitoring/Meteorological Tower: A.k.a. "test" or "met" tower, a temporary tower used for supporting an anemometer, wind vane and/or other equipment used for assessing wind resources at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A Wind Turbine typically consists of a Rotor, Nacelle and Supporting Tower. A Wind Turbine, as part of a RWECF, may be tower-mounted or roof-mounted.

6.6.3 Applicability

1. The construction of a RWECF as accessory to any principal use shall be subject to site plan review by the Planning Board, as per Section 6.6.3.3 hereof.

2. Wind Monitoring/Meteorological Towers shall be allowed as-of-right upon the issuance of building permit by the Building Commissioner, subject to a condition that the same be removed within a reasonable number of days or months, as determined by the Building Commissioner. The location, construction and operation of Wind Monitoring/Meteorological Towers shall comply with any and all provisions of this Zoning By-law, the General Bylaws and other rules and regulations of the Town as may be applicable thereto, as well as all applicable state and federal requirements. Wind

Monitoring/Meteorological Tower(s) shall be removed from the site of a RWECF prior the commencement of construction of any Wind Turbine.

3. Site plan approval shall be granted upon determination by the Planning Board that that RWECF will be located, constructed and operated so as to satisfy all of the following objectives:

a. minimize visual impacts to the neighborhood through appropriate site selection, turbine design, buffering, lighting and cable layout;

b. minimize environmental impacts by preserving open space and natural habitat, and by satisfying applicable noise standards;

c. minimize safety impacts through compliance with the applicable dimensional requirements; and

d. ensure compliance with all applicable local, state and federal statutes, regulations, codes, bylaws, rules and standards.

Notwithstanding the foregoing, the Planning Board shall keep in mind the very nature of RWECF, including their height, width and use. The aforesaid objectives are to be considered by the Planning Board in lieu of those set forth in Section 9.4.7 of this Zoning By-law, and site plan review hereunder shall supersede any review that may otherwise be required by Section 9.4 of this Zoning By-law.

4. The Planning Board may impose reasonable conditions on its approval to promote the aforesaid objectives.

6.6.4 General Requirements

1. Site Control. At the time of application for site plan approval, the applicant shall submit documentation that it is the legal owner of the site of the proposed RWECF.

2. Proof of Liability Insurance. The applicant shall be required to provide evidence of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the use or failure of the RWECF.

3. Compliance with Laws, Bylaws and Regulations. The construction and operation of a RWECF shall be consistent with all applicable local, state and federal statutes, regulations, codes, bylaws, rules and standards, including but not limited to all applicable safety, construction, electrical, environmental, noise, communication and aviation requirements. In particular, the applicant shall provide evidence of compliance with:

a. 47 CFR § 15, the Federal Communications Commission regulations governing possible interference with radio and/or television broadcasts;

b. the Uniform Building Code, as certified by a Registered Professional Engineer;

c. applicable Federal Aviation Administration regulations governing installations in close vicinity to airports; and

d. the National Electric Code.

Such evidence is frequently supplied by the manufacturer.

4. Utility Notification. No RWECF shall be installed until evidence is provided that the utility company has been informed of the customer's intent to erect and operate an interconnected, customer-owned generator.

6.6.5 Siting, Aesthetic and Safety Standards

1. Height. Wind Turbines shall be no higher than 150 feet above existing average grade, measured to the tip of the Rotor blade at its highest point. A variance shall not be required from the otherwise-applicable maximum height limitation of Section 4.1.3 of this Zoning By-law. A Wind Turbine exceeding the aforesaid Height, with a capacity of more than thirty (30) kilowatts or being proposed as the principal use to which a property will be dedicated shall be subject to Section 6.7 of this By-law, governing "Commercially-scaled, Land-based Wind Energy Conversion Facilities" (CWECF).

2. Lot Area. Tower-mounted RWECF shall not be permitted on any lot with an area of less than 20,000 square feet.

3. Setbacks. Each RWECF, including all equipment, machinery and structures associated therewith, shall comply with the minimum yard sizes, a.k.a. setbacks, required by Section 4.1.3 of this Zoning By-law for the zoning district in which the RWECF is located. In addition, to ensure public safety and protect the interests of neighboring property owners, all tower-mounted Wind Turbines shall observe the following, additional setbacks:

a. The minimum distance from the base of the tower to any street or way, public or private, shall be 1.25 times the Height of the Wind Turbine.

b. The minimum distance from the base of the tower to any property line, unless shared with an abutting property in common ownership with that on which the RWECF is located, shall be 1.25 times the Height of the Wind Turbine. Said setback shall not be required where the owner(s) of abutting property or properties grant(s) easement(s) to the applicant for the purpose of satisfying said setback.

Wetland resources and their buffer zones may be used for the purpose of satisfying the

required setbacks.

4. Equipment Shelters. All equipment and machinery necessary for the operation and monitoring of the RWECF should be contained within the tower, where feasible. If necessary, ancillary equipment and machinery may be located outside the tower, preferably shielded from view by year-round landscaping or vegetated buffers.

5. Lighting. Wind Turbines shall be lighted only if required by the Federal Aviation Administration (FAA) and/or the Massachusetts Aeronautics Commission (MAC).

6. Signage. Signs at any RWECF shall be limited to those needed to warn of any danger. All signs shall be subject to and comply with Article 9 of the General Bylaws, the Town's Sign Bylaw.

7. Noise. All RWECF, including the Wind Turbine and associated equipment and machinery, shall conform to applicable state and local noise regulations, including the Department of Environmental Protection's (DEP) Division of Air Quality noise regulations, 310 CMR 7.10, and Section 5.4.2 of this Zoning By-law, the Town's environmental performance standard for noise. A source of sound will be considered in violation of said regulations if the source:

a. increases the broadband sound level by more than 10 db(A) above ambient; or

b. produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP.

8. Shadowing/Flicker. Wind Turbines shall be sited in a manner that does not result in significant shadowing/flicker impacts.

9. Safety. The RWECF shall be designed to prevent unauthorized access.

6.6.6 Application for Site Plan Review

A complete application for site plan review of a RWECF shall include all of the items and information set forth below. Five (5) copies of all plans, visualizations, studies and reports shall be provided.

1. General Submittal Requirements.

a. Name, address, telephone number and original signature of the applicant(s).

b. If the applicant(s) will be represented by an agent, the name, address and telephone number of such agent shall be provided, together with an original signature authorizing the agent to represent the applicant(s).

c. Documentation that the applicant is the legal owner of the site of the proposed RWECF (e.g. deed), as required by Section 6.6.4.1 hereof, and evidence of the availability of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the use or failure of the RWECF, as required by Section 6.6.4.2 hereof.

d. Any and all presentation board(s) and/or plan(s) utilized by the applicant at the public hearing on the proposed RWECF, provided in an 11" x 14" format.

2. Location Filing Requirements.

a. Identification of the site of the proposed RWECF by street address.

b. Map and lot number for the site of the proposed RWECF, available from the Town Assessor.

c. Zoning district designation for the site of the proposed RWECF.

d. A line map to scale showing the lot lines of the site of the proposed RWECF and all properties within 300 feet thereof, as well as the location of all buildings, including accessory structures, on the properties shown.

3. Site Layout Plan. A site layout plan, prepared at a minimum scale of 1"=40' by a Registered Professional Engineer or Registered Land Surveyor, showing the following:

a. Lot lines for the site of the proposed RWECF and all properties within 300 feet thereof.

b. Outlines of all existing buildings on the site of the proposed RWECF and all properties within 300 feet thereof. Distances, at grade, from the proposed RWECF to each building on the plan shall be shown.

c. Proposed location of the RWECF, including the Wind Turbine, associated equipment and machinery, accessory structure(s), security barrier (e.g. fencing) and transmission infrastructure.

d. Tree cover and the average height of trees on the site of the proposed RWECF and all properties within 300 feet thereof.

4. Elevations. Siting elevations, or views at-grade from the north, south, east and west, for a 300-foot radius around the proposed RWECF. Elevations shall be at one-eighth (⅛) inch equals one (1) foot scale, and shall show the following:

a. The Wind Turbine and other components of the proposed RWECF, with total elevation dimensions of all parts of the facility.

b. The security barrier, if any. If said security barrier will block views of the RWECF, the barrier drawing shall be cut away to show the view behind the barrier.

c. Any and all structures on the site of the proposed RWECF.

d. Existing trees at current height.

5. Materials and Colors. Specifications for the proposed RWECF shall be provided for the Wind Turbine and all equipment, machinery and other components of the facility. Materials shall be specified by type and specific treatment. Colors of the proposed RWECF shall be identified.

6. Landscape Plan. A plan indicating all proposed changes to the landscape of the site of the proposed RWECF, including identification of all existing trees, shrubs and other vegetation and those proposed to be added or removed, including species and references to size of specimen at installation.

7. Noise Impacts. A study or report evaluating existing noise levels and maximum future projected noise levels caused by the proposed RWECF, measured in decibels, as follows:

a. Ambient, being the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, measured at the property line(s), all building(s) of abutters to the site of the proposed RWECF and the nearest inhabited residence.

b. A maximum estimate of noise from the proposed RWECF plus the existing noise environment.

Such study or report shall be certified and signed by a qualified acoustical engineer, and shall include a statement verifying that noise projections are accurate and satisfy the standards set forth in Section 6.6.5.7 hereof.

8. Shadowing/Flicker Impacts. A study or report estimating the annual number of hours of theoretical shadow flicker caused by the proposed RWECF at various locations within 300 feet of the site, and assessing potential impacts on the neighborhood as a

consequence thereof. Such study or report shall be certified and signed by an entity qualified to evaluate the frequency and severity of shadowing/flicker impacts caused by wind energy conversion facilities. The applicant shall provide a summary of mitigation measures proposed to address shadowing/flicker impacts identified by such study or report, if any.

9. Operation & Maintenance Plan. A plan containing general procedures for the regular operation and maintenance of the proposed RWECF.

10. Other. Such other information as the Planning Board deems appropriate to illustrate that the proposed RWECF satisfies the objectives set forth in Section 6.6.3.3.

6.6.7 Lapse

Site plan approval hereunder shall lapse if substantial use or construction thereunder does not commence within twenty-four (24) months of the date of its filing with the Town Clerk, except for good cause.

6.6.8 Modifications

The Planning Board shall be notified of all modification(s) to a RWECF subsequent to its approval thereof, and such modification(s) shall require review by the Board in accordance with its process for modification of an approved site plan.

6.6.9 Maintenance

The applicant shall maintain the RWECF in good condition, including but not limited to painting, verifying the structural integrity thereof and maintaining buffer areas and landscaping, if present. The applicant shall be responsible for the cost of maintaining the RWECF and repairing any damage occurring as a result of the construction and operation of thereof.

6.6.10 Abandonment

A RWECF shall be considered abandoned if the facility is not operated continuously for 200 days or is designated a safety hazard. Once a RWECF is deemed abandoned or designated a safety hazard, the owner will be required to physically remove the RWECF within 100 days from the date of such abandonment or designation. In the event that the owner fails to so remove the RWECF, the Town shall have the authority to enter the site of said RWECF and physically remove the same. The Town and the owner of the site shall enter into an agreement whereby removal and associated costs, if incurred by the Town as aforesaid, will be charged to said owner as a tax lien on the property.

6.6.11 Waiver

Upon request, the Planning Board may waive the standards contained in Section 6.6.5 hereof, except those related to noise, shadowing/flicker and safety, and the submittal requirements contained Section 6.6.6 hereof in the interest of promoting the development of alternative energy sources and to allow for greater flexibility in the design of a RWECF, but only upon a finding that the requested variation is consistent with the overall purpose and intent of this Section.

6.7 COMMERCIALLY-SCALED, LAND-BASED WIND ENERGY CONVERSION FACILITIES

6.7.1 Purpose and Intent

It is the express purpose of this Section to accommodate "Commercially-scaled, Land-based Wind Energy Conversion Facilities" (CWECF) in appropriate locations within the Town of Douglas. While recognizing the nature of CWECF, including their height, width and use, the Town desires to minimize adverse visual, environmental and safety impacts, if any, associated with the same. This Section allows for the review of CWECF applications by the Planning Board, and allows the Planning Board to issue special permits authorizing CWECF where, in the opinion of said Board, the requirements and standards contained herein are satisfied. This Section is to be applied in conjunction with other portions of this Zoning By-law, as may be applicable, with the Town's General Bylaws and with other regulations adopted by the Town designed to encourage appropriate land use, environmental protection and the development of adequate infrastructure in the Town of Douglas. For "Residentially-scaled, Land-based Wind Energy Conversion Facilities" (RWECF), see Section 6.6 of this Zoning By-law.

6.7.2 Definitions

For the purposes of this Section, the following definitions shall apply:

Clear Area: The area surrounding a "Wind Turbine" required to be kept free of "Habitable Structures."

Commercially-scaled, Land-based Wind Energy Conversion Facility (CWECF): Any facility not qualifying as a "Residentially-scaled, Land-based Wind Energy Conversion Facility" (RWECF) under Section 6.6 of this Zoning By-law, including all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to: transmission, storage, collection and supply equipment; substations; transformers; service and access road(s); and one (1) or more "Wind Turbine(s)." A CWECF may be the principal use to which a property is dedicated.

Habitable Structure: Any structure containing space for living, sleeping, eating and cooking, used for or capable of being used for residential purposes.

Height: The height of a "Wind Turbine" measured from existing average grade to the tip of the "Rotor" blade at its highest point.

Nacelle: The frame and housing at the top of the "Supporting Tower" which encloses the gearbox and generator, and protects the same from the weather.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment, typically specified by the manufacturer with a "nameplate" on the equipment.

Rotor: The blades and hub of the "Wind Turbine," which rotate during the operation thereof.

Special Permit Granting Authority (SPGA): The special permit granting authority for a CWECF shall be the Planning Board. A special permit for a CWECF shall be subject to the procedural and substantive requirements of this Section 6.7.

Substantial Evidence: Such evidence as a reasonable mind might accept as adequate to support a conclusion.

Supporting Tower: A tower used to support the Nacelle and Rotor components of a "Wind Turbine."

Wind Monitoring/Meteorological Tower: A.k.a. "test" or "met" tower, a temporary tower used for supporting an anemometer, wind vane and/or other equipment used for assessing wind resources at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A Wind Turbine typically consists of a Rotor, Nacelle and Supporting Tower.

6.7.3 Applicability

1. The construction of a CWECF shall be permitted upon the issuance of a special permit by the Special Permit Granting Authority (SPGA), which is the Planning Board, and only upon satisfaction of the requirements and standards contained in this Section 6.7. Where a special permit is applied for hereunder, site plan review, as per Section 9.4 of this Zoning By-law, shall not be required. **"Any CWECF authorized pursuant to a use variance and/or other zoning relief as of the date of adoption of this Section 6.7 shall be exempt from this Section 6.7 in its entirety, including but not limited to any special permit requirement contained herein; provided that, where authorized by variance, said variance shall be exercised within one (1) year of the date of issuance thereof, pursuant to G.L. c. 40A, §10 and as may be extended in accordance therewith; and further provided that any exempt CWECF shall be subject to all other provisions of the Zoning By-law and the requirement of site plan review."**

2. Wind Monitoring/Meteorological Towers shall be allowed as-of-right upon the issuance of building permit by the Building Commissioner, subject to a condition that the same be removed within a reasonable number of days or months, as determined by the Building Commissioner. The location, construction and operation of Wind Monitoring/Meteorological Towers shall comply with any and all provisions of this Zoning By-law, the General Bylaws and other rules and regulations of the Town as may be applicable thereto, as well as all applicable state and federal requirements. Vegetation clearing required for the erection of Wind Monitoring/ Meteorological Towers shall be kept to a minimum. Where feasible, Wind Monitoring/ Meteorological Towers shall be located outside of wetland areas, protected open space and rare species habitat. Wind Monitoring/Meteorological Tower(s) shall be removed from the site of a CWECF prior

the commencement of construction of any Wind Turbine(s).

3. All CWECF shall be located, constructed and operated so as to minimize adverse visual, environmental and safety impacts, keeping in mind the very nature of CWECF, including their height, width and use. No special permit shall be granted unless the SPGA finds in writing that:

a. the use is in harmony with the purpose and intent of this Section;

b. the proposed location(s) of the Wind Turbine and other component(s) of the CWECF on the site are appropriate;

c. the use will be sited, designed and operated in a manner that appropriately addresses the impacts to the neighborhood and the community, including visual impacts, environmental impacts and impacts to public health, safety and welfare;

d. the use will not pose a hazard to pedestrians or vehicles;

e. no nuisance is expected to be created by the use; and

f. adequate and appropriate facilities will be provided for the proper operation of the CWECF.

The aforesaid criteria are to be applied by the SPGA in lieu of those set forth in Section 9.3.2 of this Zoning By-law.

4. A special permit issued hereunder may impose reasonable conditions, safeguards and limitations on time and use, and may require the applicant therefor to implement all reasonable measures to mitigate unforeseen, adverse impacts of the CWECF, should they occur.

6.7.4 General Requirements

1. Site Control. At the time of application for a special permit, the applicant shall submit documentation of the legal right to install and use the proposed CWECF. Documentation shall include proof of control over the land within the required Clear Area. Control shall mean the legal authority to prevent the use of any structure within the Clear Area for human habitation.

2. Proof of Liability Insurance. The applicant shall be required to provide evidence of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the use or failure of the CWECF.

3. Compliance with Laws, Bylaws and Regulations. The construction and operation of a CWECF shall be consistent with all applicable local, state and federal statutes,

regulations, codes, bylaws, rules and standards, including but not limited to all applicable safety, construction, electrical, environmental, noise, communication and aviation requirements.

6.7.5 Siting Standards

1. Height. Wind Turbines shall be no higher than 350 feet above existing average grade, measured to the tip of the Rotor blade at its highest point. The SPGA may allow said Height to be exceeded to a maximum of 525 feet, but only if the applicant can demonstrate that:

a. the additional benefits of a higher Wind Turbine outweigh any increased, adverse impacts resulting therefrom;

b. a higher Wind Turbine will result in significant additional benefits in terms of energy production and efficiency;

c. as shown by Substantial Evidence, such increased Height reflects the industry standard for a Wind Turbine with a similar Rated Nameplate Capacity; and

d. that the proposed Wind Turbine satisfies all other criteria for the granting of a special permit as set forth in this Section.

For CWECF approved pursuant to this Section 6.7, variance(s) shall not be required from the otherwise-applicable maximum height limitation(s) of Section 4.1.3 of this Zoning By-law.

2. Setbacks. Each CWECF, including all equipment, machinery and structures associated therewith, shall comply with the minimum yard sizes, a.k.a. setbacks, required by Section 4.1.3 of this Zoning By-law for the zoning district in which the CWECF is located. In addition, to ensure public safety and protect the interests of neighboring property owners, all Wind Turbines shall observe the following, additional setbacks:

a. The minimum distance from the base of the tower to the nearest building on the lot, or on contiguous, commonly owned lots, shall be 1.25 times the Height of the Wind Turbine.

b. The minimum distance from the base of the tower to any street or way, public or private, shall be 1.25 times the Height of the Wind Turbine.

c. The minimum distance from the base of the tower to any property line, unless shared with an abutting property in common ownership with that on which the CWECF is located, shall be 1.25 times the Height of the Wind Turbine.

Wetland resources and their buffer zones may be used for the purpose of satisfying the required setbacks.

3. Clear Area. The minimum distance from any Wind Turbine, measured from the base of the tower, to any Habitable Structure, known as the Clear Area, shall be equal to 1.5 times the Height of the Wind Turbine, measured from existing average grade to the tip of the Rotor blade at its highest point. The Clear Area shall be kept free of all Habitable Structures, but need not be cleared of trees or other vegetation. Wetland resources and their buffer zones may be used for the purpose of satisfying the required Clear Area.

4. Visual Impact. The applicant shall demonstrate through project siting and proposed mitigation that the CWECF minimizes its impact on the visual character of surrounding neighborhood(s) and the community. Such a demonstration may include, but need not be limited to, submittal of information regarding site selection, turbine design, buffering, lighting and cable layout and evidence of compliance with all special permit requirements set forth herein. Notwithstanding the foregoing, the SPGA shall keep in mind the very nature of CWECF, including their height, width and use.

5. Color and Finish. All Wind Turbines shall be painted a neutral, low-contrasting, non-reflective color that blends with the sky and clouds.

6. Equipment Shelters. All equipment and machinery necessary for the operation and monitoring of the CWECF should be contained within the tower, where feasible. If necessary, ancillary equipment and machinery may be located outside the tower, preferably contained within an underground vault, enclosed within a separate structure or shielded from view by year-round landscaping or vegetated buffers. Equipment shelters shall only be used to house equipment for the CWECF they are designed to serve.

7. Lighting. Wind Turbines shall be lighted only if required by the Federal Aviation Administration (FAA) and/or the Massachusetts Aeronautics Commission (MAC), and the applicant shall provide copies of the determinations of the FAA and/or the MAC as to the same. Lighting of equipment, machinery, structures and all components of the CWECF shall be shielded from abutting properties.

8. Signage. Signs at any CWECF shall be limited to: (i) those needed to identify the property and the owner/operator of the facility, and to warn of any danger; and (ii) educational signs providing information on the technology of the CWECF and renewable energy usage. Wind Turbines shall not be used for the display of advertising, except for reasonable identification of the manufacturer thereof or of the owner/operator of the CWECF, as aforesaid, provided the same is approved by the SPGA. All signs shall be subject to and comply with Article 9 of the General Bylaws, the Town's Sign Bylaw.

9. Utility Connections. All utility connections from the CWECF site shall be

underground to the nearest utility pole or transformer, unless: (i) the applicant demonstrates by Substantial Evidence that the construction of underground facilities would be unreasonable owing to circumstances relating to the soil conditions, shape or topography of the site; or (ii) the utility provider requires said connections to be above ground. Electrical transformer(s) for utility interconnections may be above ground if required by the utility provider.

10. Support Towers. Monopole towers are the sole type of support for CWECF permitted hereunder.

6.7.6 Environmental, Aesthetic and Safety Standards

1. Wetlands. All CWECF shall be located in a manner consistent with applicable state and local wetlands regulations, including the Wetlands Protection Act, G.L. c. 131, § 40, and Article 8 of the General Bylaws, the Town's Wetland Bylaw.

2. Land Clearing, Open Space and Natural Habitat. All CWECF shall be designed to minimize land clearing and fragmentation of open space areas, and shall be located so as to avoid significant negative impacts on rare species in the vicinity (e.g. avian species, bats).

3. Stormwater. Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable state and local regulations.

4. Noise. All CWECF, including the Wind Turbine(s) and associated equipment and machinery, shall conform to applicable state and local noise regulations, including the Department of Environmental Protection's (DEP) Division of Air Quality noise regulations, 310 CMR 7.10, and Section 5.4.2 of this Zoning By-law, the Town's environmental performance standard for noise. A source of sound will be considered in violation of said regulations if the source:

a. increases the broadband sound level by more than 10 db(A) above ambient; or

b. produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP. An analysis, prepared by a qualified acoustical engineer, shall be provided by the applicant to demonstrate compliance with said noise standard.

5. Shadowing/Flicker. Wind Turbines shall be sited in a manner that does not result

in significant shadowing/flicker impacts. The applicant has the burden of proving that shadowing/flicker effects do not have significant adverse impacts on adjacent or neighboring uses, and to propose appropriate siting and/or mitigation measures to address the same.

6. Safety. No hazardous material or waste shall be discharged on the site of any CWECF. If any hazardous materials or waste is to be used or generated by activities on the site, there shall be provisions for full containment of such material or waste. An enclosed containment area, designed to contain at least 110% of the volume of the hazardous material or waste used, generated or stored on the site may be required to meet such requirement. The CWECF shall also be designed to prevent unauthorized access (e.g. by fencing, by locked access).

7. Emergency Services. The applicant shall provide a copy of the project summary and site plan to the Douglas Police Department and the Douglas Fire Department. The applicant shall cooperate with said Departments in developing an emergency response plan.

6.7.7 Pre-application Conference

Prior to the submission of an application for a special permit hereunder, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed CWECF generally and to clarify the substantive and procedural requirements of this Section. The SPGA shall make reasonable efforts to schedule such a meeting upon receipt of a request. Because the pre-application conference is preliminary in nature, no formal filings are required in advance thereof; provided, however, that it is recommended that the applicant provide sufficient preliminary site, architectural and elevation plans so as to inform the SPGA of the location of the proposed CWECF, its scale and its overall design.

6.7.8 Application for a Special Permit

A complete application for a special permit for a CWECF shall include all of the items and information set forth below. Eight (8) copies of all plans, visualizations, studies and reports shall be provided.

1. General Submittal Requirements.

a. Name, address, telephone number and original signature of the applicant(s) and any co-applicant(s). Co-applicant(s) may include the landowner(s) of the site on which the CWECF is proposed or the operator of the CWECF. If telecommunications antennae are proposed, a telecommunications carrier should be a co-applicant.

b. If the applicant or co-applicant will be represented by an agent, the name, address and telephone number of such agent shall be provided, together with an original signature authorizing the agent to represent the applicant(s) and/or co-applicant(s).

c. Documentation of the legal right to install and use the proposed CWECF and the legal authority to prevent the use of any structure within the Clear Area for human habitation, both as required by Section 6.7.4.1 hereof, and evidence of the availability of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the use or failure of the CWECF, as required by Section 6.7.4.2 hereof.

d. Any and all presentation board(s) and/or plan(s) utilized by the applicant at the public hearing on the proposed CWECF, provided in an 11" x 14" format.

2. Location Filing Requirements.

a. Identification of the site of the proposed CWECF by street address, if any, and the name(s) of the street(s) and way(s) nearest thereto.

b. Map and lot number for the site of the proposed CWECF, available from the Town Assessor.

c. Zoning district designation for the site of the proposed CWECF.

d. A line map to scale showing the lot lines of the site of the proposed CWECF and all properties within 1000 feet thereof, as well as the location of all buildings, including accessory structures, on the properties shown and identification of those buildings which qualify as Habitable Structures hereunder.

3. Site Layout Plan. A site layout plan, prepared at a minimum scale of 1"=40' by a Registered Professional Engineer or Registered Land Surveyor, showing the following:

a. Lot lines for the site of the proposed CWECF and all properties within 300 feet thereof.

b. Outlines of all existing buildings on the site of the proposed CWECF and all properties within 1000 feet thereof, including their respective purposes (e.g. residential, commercial, accessory). Distances, at grade, from the proposed CWECF to each building on the plan shall be shown.

c. Proposed location of the CWECF, including the Wind Turbine(s), associated equipment and machinery, accessory structure(s), security barrier (e.g. fencing), transmission infrastructure and access roads. The site layout plan shall include: (i) the location of all streets and ways, public and private, on the site of the proposed CWECF and all properties within 1000 feet thereof, including road(s) and driveway(s) proposed to serve the CWECF; (ii) all proposed changes to the site, including grading, vegetation removal and temporary and permanent

roads and driveways; (iii) representations, dimensioned and to scale, of the proposed CWECF, including cable locations, parking area(s) and any other construction or development attendant to the CWECF.

d. Tree cover and the average height of trees on the site of the proposed CWECF and all properties within 1000 feet thereof.

e. Contours every two (2) feet Above Mean Sea Level (AMSL) within 1000 feet of the proposed CWECF and at five (5) foot intervals for the remainder of the site and for all properties within 1000 feet thereof.

f. Reference to the locations of the view representations required by Section 6.7.8.4 hereof.

4. Visualizations. The SPGA shall select four (4) or more sight-lines, including at least one (1) from the nearest building with a view of the proposed CWECF, for pre- and post-construction view representations. Sites for the view representations should, at a minimum, be selected from populated areas or public ways within a two (2) mile radius from the CWECF. View representations shall include the following characteristics:

a. View representations shall be in color and include actual pre-construction photographs and accurate post-construction simulations of the height, width and breadth of the proposed CWECF (e.g. by superimposing the Wind Turbine and other components of the CWECF onto photographs of existing views).

b. All view representations shall include existing or proposed buildings and tree coverage.

c. The applicant must include a description of the technical procedures and equipment utilized in producing the photographs and visualizations (e.g. distances, angle, lens).

5. Elevations. Siting elevations, or views at-grade from the north, south, east and west, for a 600-foot radius around the proposed CWECF. Elevations shall be at one-eighth (⅛) inch equals one (1) foot scale, and shall show the following:

a. The Wind Turbine(s) and other components of the proposed CWECF, with total elevation dimensions of all parts of the facility.

b. The security barrier. If said security barrier will block views of the CWECF, the barrier drawing shall be cut away to show the view behind the barrier.

c. Any and all structures on the site of the proposed CWECF.

d. Existing trees at current height and proposed trees at proposed height at time of installation, with approximate elevations dimensioned.

e. Grade changes, or cuts and fills, to be shown as original grade and new grade lines, with two (2) foot contours Above Mean Sea Level (AMSL).

6. Materials and Colors. Specifications for the proposed CWECF shall be provided for the Wind Turbine(s) and all equipment, machinery and other components of the facility. Materials shall be specified by type and specific treatment. Colors of the proposed CWECF, including all antennae, equipment shelters and security barriers, if any, shall be represented by a color board showing the actual colors proposed.

7. Landscape Plan. A plan indicating all proposed changes to the landscape of the site of the proposed CWECF, including identification of all existing trees, shrubs and other vegetation and those proposed to be added or removed, including species and references to size of specimen at installation.

8. Lighting Statement and Plan. A certification of lighting requirements for the Wind Turbine(s) from the Federal Aviation Administration (FAA) and the Massachusetts Aeronautics Commission (MAC), if applicable, and a plan indicating all proposed lighting of other components of the CWECF, including equipment, machinery and structures ancillary thereto. Lighting of such other components shall be shielded from abutting properties, so as to minimize glare and light pollution.

9. Balloon or Crane Test. Within sixty (60) days of the opening of a public hearing on an application for a special permit hereunder, the applicant shall schedule a balloon or crane test at the site of the proposed CWECF, or such other test as is approved by the SPGA, to illustrate the Height of the proposed Wind Turbine(s). The date and time (and and alternate date and time, if needed due to weather conditions) and the location of such test shall be advertised in a newspaper of general circulation in the Town of Douglas at least 14 days, but not more than 21 days, prior to the test. Such advertisement shall be made at the expense of the applicant. In addition, notice shall be provided to the Town, abutters, abutters to abutters within 300 feet of the site (as certified by the Town Assessor) and the Town Clerks of all abutting municipalities, with proof of notification provided to the SPGA.

10. Noise Impacts. A study or report evaluating existing noise levels and maximum future projected noise levels caused by the proposed CWECF, measured in decibels, as follows:

a. Ambient, being the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, measured at the property line(s), all building(s) of abutters to the site of the proposed CWECF and the nearest inhabited residence.

b. A maximum estimate of noise from the proposed CWECF plus the existing noise environment.

Such study or report shall be certified and signed by a qualified acoustical engineer, and shall include a statement verifying that noise projections are accurate and satisfy the standards set forth in Section 6.7.6.4 hereof.

11. Shadowing/Flicker Impacts. A study or report estimating the annual number of hours of theoretical shadow flicker caused by the proposed CWECF at various locations within 2000 feet of the site, and assessing potential impacts on the community as a consequence thereof. Such study or report shall be certified and signed by an entity qualified to evaluate the frequency and severity of shadowing/flicker impacts caused by wind energy conversion facilities. The applicant shall provide a summary of mitigation measures proposed to address shadowing/flicker impacts identified by such study or report, if any.

12. Operation & Maintenance Plan. A plan containing general procedures for the regular operation and maintenance of the proposed CWECF, including access roads and driveways and stormwater controls, as applicable.

13. Other. Such other information as the SPGA deems appropriate to illustrate that the proposed CWECF is consistent with the standards of this Section.

6.7.9 Independent Consultants

Upon submission of an application for a special permit, the SPGA is authorized to engage outside consultants to peer review the application, pursuant to G.L. c. 44, § 53G, whose services shall be paid for by the applicant.

6.7.10 Use by Telecommunications Carriers

CWECF may be used to locate telecommunications antennae, provided that such use shall be subject to the provisions of Section 6.5 of this Zoning By-law as well as the following, additional standards:

1. All ground-mounted telecommunications equipment shall be located within the Supporting Tower, in a shelter or otherwise screened from view year-round, either through effective landscaping or existing vegetated buffers.

2. Antennas shall be flush-mounted to be in keeping with the design of the Supporting Tower.

3. All cabling associated with the telecommunications antennae shall be contained within the Supporting Tower or enclosed within a conduit painted to match the turbine mount.

6.7.11 Term; Lapse

1. Term. A special permit issued hereunder shall be valid for twenty-five (25) years, unless extended or renewed by the SPGA upon a record of satisfactory operation of the facility and following a written request by the owner thereof. At the end of said time period, the CWECF shall be removed as required by Section 6.7.14 hereof.

2. Lapse. A special permit issued hereunder shall lapse if substantial use thereof or construction thereunder does not commence within twenty-four (24) months of the date of its filing with the Town Clerk, except for good cause.

6.7.12 Modifications

The SPGA shall be notified of all modification(s) to a CWECF subsequent to its issuance of the special permit therefor, and such modification(s) shall require approval by the SPGA in accordance with the Town's existing process for modification of a special permit.

6.7.13 Monitoring and Maintenance

1. Once a CWECF becomes operational, the applicant therefor, or its successor(s) or assign(s), shall submit to the Town at annual intervals: (i) a report detailing operating data for the facility, including but not limited to days of operation and energy production; (ii) a report of a structural engineer verifying the continued structural integrity of the Wind Turbine(s); (iii) where the Wind Turbine(s) contain fire suppression system(s), a report or testing results on the functionality of the same; and (iv) if required by the SPGA, a certification of compliance with noise standards signed by an acoustical engineer and verifying that noise measurements are accurate and satisfy the standards set forth in Section 6.7.6.4 hereof.

2. The applicant shall maintain the CWECF in good condition, including but not limited to painting, verifying the structural integrity of the foundation, support structure and security barrier, if applicable, and maintaining buffer areas and landscaping, if present. Site access shall be maintained to a level acceptable to the Douglas Fire Department. The applicant shall be responsible for the cost of maintaining the CWECF and access road(s) and driveway(s), unless the latter are accepted as public way(s), and the cost of repairing any damage occurring as a result of the construction and operation of the CWECF.

3. Notice shall be provided to the Town of any change in ownership of the CWECF.

6.7.14 Abandonment, Discontinuance of Use and Decommissioning

1. At such time that a CWECF is scheduled to be abandoned or discontinued, the applicant shall notify the Town at least ninety (90) days in advance, by certified U.S. mail, of the proposed date of abandonment or discontinuation of operations. In the event

that an applicant fails to give such notice, the CWECF shall be considered abandoned or discontinued if the facility is inoperable for 200 days or is designated a safety hazard by the Building Commissioner, based upon requested reporting. In the case of a multi-turbine facility, the SPGA shall determine in its decision granting a special permit for the same what proportion of the CWECF must be inoperable for the facility to be considered abandoned.

2. Upon abandonment or discontinuation of use, the applicant may be required to physically remove the CWECF within 100 days from the date of abandonment or discontinuation of use. Said time period may be extended at the request of the owner or operator and at the discretion of the SPGA. "Physically remove" shall include but not be limited to:

a. Removal of the Wind Turbine(s) and all machinery, equipment, equipment shelters, security barriers and appurtenant structures from the site.

b. Proper disposal of all solid and hazardous material and waste from the site in accordance with state and local disposal regulations.

c. Restoration of the site to its natural preexisting condition, except that any landscaping, grading or below-grade foundation may remain on the site. Restoration may be verified by an agent of the SPGA.

3. If an applicant fails to remove a CWECF in accordance herewith, the Town shall have the authority to enter the site of said CWECF and physically remove the same. The SPGA may require the applicant and/or subsequent owners of the property or CWECF to provide at the time of construction a form of surety (e.g. bond, letter of credit, escrow account) selected by the SPGA to cover the costs of removal in the event that the applicant fails to remove the facility as required and the Town must do so. The amount of such surety shall be equal to 150% of the cost of said removal, and shall include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years. To aid the SPGA in determining said cost, the applicant shall submit a fully-inclusive estimate of the costs associated with removal prepared by a qualified engineer.

6.7.15 Waiver

Upon request, the SPGA may waive the siting standards and submittal requirements contained herein, in Sections 6.7.5 and 6.7.8, respectively, in the interest of promoting the development of alternative energy sources and to allow for greater flexibility in the design of a CWECF, but only upon a finding that the requested variation is consistent with the overall purpose and intent of this Section. (*Adopted under Article 15 at the Annual Town Meeting held on Monday, May 3, 2010 and approved by the Attorney General on August 5, 2010 and amended under Article 1 at the Special Town Meeting held on Monday, June 21, 2010 and approved by the Attorney General on August 5, 2010.

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 CONVERSION TO TWO-FAMILY OR MULTIFAMILY DWELLING

The conversion of a structure existing at the time of the enactment of these by-laws may be so converted provided that (a) the exterior of the structure be designed in a manner that will not derogate from the general appearance of the neighborhood in which it is located, (b) that such conversion is in no way detrimental to the neighborhood and (c) that all regulations otherwise set forth herein shall apply.

7.2 FLEXIBLE DEVELOPMENT

7.2.1 Purpose

The purposes of this section, Flexible Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;

2. to preserve historical and archeological resources; to protect the natural environment, including the Town's varied landscapes and water resources;

3. to protect the value of real property;

4. to promote more sensitive siting of buildings and better overall site planning;

5. to perpetuate the appearance of the Town's traditional New England landscape;

6. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;

7. to offer an alternative to standard subdivision development;

8. to promote the development of housing affordable to low, moderate, and median income families; and

9. to promote the development of housing for persons over the age of fifty five.

7.2.2 Definitions

The following terms shall have the following definitions for the purposes of this section:

1. "Affordable to persons or families qualifying as low income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

2. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

3. “Affordable Unit” shall mean a dwelling unit reserved for occupancy affordable to persons or families qualifying as low or moderate income. Such dwelling units shall be restricted for a period not less than thirty (30) years and the restriction shall be approved as to form by the Board’s legal counsel. The restriction shall contain a right of first refusal upon the transfer of such Affordable Unit in favor of the Town or its designee for a period not less than 120 days after notice thereof.

4. "Contiguous open space" shall mean open space suitable, in the opinion of the Planning Board, for the purposes set forth herein. Such open space may be separated by the road(s) constructed within the Flexible Development. Contiguous open space shall not include required yards.

7.2.3 Applicability

In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the Town.

7.2.4 Procedures

Flexible Development may be authorized upon the issuance of a special permit by the Planning Board. Applicants for Flexible Development shall file with the Planning Board seven (7) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.

2. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.

3. Data on proposed wastewater disposal, which may be referred to a consulting engineer for review and recommendation. The cost for which shall be borne by the Applicant in accordance with MGL c. 44 s. 53G, and the Douglas Planning Board Regulations Governing Fees and Fee Schedules.

4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

7.2.5 Design Process

Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that this Design Process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

3. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.

4. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.

5. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

7.2.6 Modification of Lot Requirements

The Planning Board encourages applicants for Flexible Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitations:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood or best serves the intent of this by-law.

2. At least 50% of the required side and rear yards in the district shall be maintained in the Flexible Development.

7.2.7 Basic Maximum Number of Dwelling Units

The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

7.2.8 Density Bonus

The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty (50%) percent of the Basic Maximum Number. The required Affordable Units shall not be counted as density bonus units. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site (over and above the required forty percent) set aside as contiguous open space, a bonus of five (5%) percent of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 25% of the Basic Maximum Number.

2. For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.

3. For each transfer lot, as defined in Section 10.0, two (2) dwelling units may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.

4. For the construction of active recreation facilities that are available for public use, one (1) dwelling unit may be added per two (2) acres of recreation land or per two thousand five hundred (2,500) feet of trail meeting Planning Board Approval; however, this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number. The Planning Board shall establish minimum criteria for said recreation land and trails.

5. A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the Open Space Residential Subdivision or elsewhere in Douglas beyond those mandated pursuant to 7.2.9. When located within the Open Space Residential Subdivision, affordable units shall be developed concurrently with the market rate units.

   For each affordable dwelling unit provided under this section, one additional dwelling unit may be permitted. For Open Space Residential Subdivisions with individual lots for each dwelling unit or structure, the increase in dwelling units shall correspond with an increase in the number of lots otherwise allowed to be created in the subdivision.

A density bonus may be permitted when the proposed subdivision provides for public access to open space areas within the subdivision. For every five (5) acres of land that is donated to the municipality and open to public use, one additional building lot may be permitted, up to a maximum fifteen percent (15%) increase in the number of building lots beyond the basic maximum number. Open space that is open to public use shall be accessible from a public way and adequate parking shall be provided to meet anticipated demand for the use.

6. A density bonus unit shall be allowed for each contribution made of cash or cash equivalent for public purposes to the Town of Douglas by any developer, such as but not limited to:

   - Contribution to Douglas Public Library for purchase of books.
   - Purchase of Douglas Police or Douglas Fire equipment.
   - Contribution to a Douglas town property to update or renovate public facilities, such as Highway Garage, Skate Park, Sports field, etc.
   - For scholarships to Douglas High School Graduates.
   - To repave existing Douglas town roads, correcting drainage problem or other public preservation, purchase of open space or any other public purpose approved by the Planning Board.

   The cash or cash equivalent contribution shall be established by the Planning Board which may be amended from time to time and which shall initially be set at an amount equal to cost of a raw lot within the project locus.

   The maximum number of bonus units through this option is 4 per Flexible Development Project.

7.2.9 Affordable Units

As a condition of the grant of any special permit for a Flexible Development, Affordable Units shall be provided as follows:

1. 10% of the units shall be affordable to persons or families qualifying as low income; OR

2. 15% of the units shall be affordable to persons or families qualifying as moderate income. Right of first refusal upon the transfer of such restricted units shall be granted to the local Housing Authority for a period not less than 120 days after notice thereof.

7.2.10 Types of Buildings

The Flexible Development may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than five (5) dwelling units. The architecture of all multifamily buildings shall be residential in character.

7.2.11 Roads

The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

7.2.12 Parking

Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation.

7.2.13 Contiguous Open Space

A minimum of forty percent (40%) of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 7.2.1 and 7.2.13.2. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.

2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to ten (10%) percent of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths.

4. Underground utilities to serve the Flexible Development site may be located within the contiguous open space.

7.2.14 Ownership of the Contiguous Open Space

The contiguous open space shall, at the applicant's election, be conveyed to

1. the Town or its Conservation Commission;

2. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;

3. a corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

7.2.15 Buffer Areas

A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

7.2.16 Drainage

Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

7.2.17 Decision

The Planning Board may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of Section 7.2.1 of this Flexible Development By-Law than would a conventional subdivision development of the same locus.

7.2.18 Relation to Other Requirements

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

7.3 ASSISTED LIVING FACILITIES

7.3.1 Purpose

The purpose of this Section is to provide a mechanism for the approval of:

1. assisted living facilities (ALF) within a residential environment that offer supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and

2. the development of ALF in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and

3. the development of ALF in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

7.3.2 Definitions

Within this Section 7.3, the following terms shall have the following meanings:

Affordable Unit: A dwelling unit sold or leased at a price affordable to persons earning not more than 80% of the area median income as determined by the Massachusetts Department of Housing and Community Development. Such units shall be restricted for a period of not less than thirty (30) years.

Applicant - The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Assisted Living Facility (ALF) - A facility as defined in 651 CMR 12.02.

Bedroom - A separate room intended for, or which customarily could be used for, sleeping.

Dwelling Unit - A residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and may contain a kitchen area or combination kitchen/living area.

Land - Land, including areas covered by water.

Regulations - The rules and regulations of the Planning Board relative to subdivisions, special permits or other jurisdictions of the Board.

Thoroughfare - A street open at both ends, affording an unobstructed exit at each end into another street.

Wetlands - Land subject to the provisions of M.G.L. c. 131, ss. 40 and 40A.

7.3.3 Special Permit Required

An ALF may be constructed, in all districts except I and SFOS upon the issuance of a special permit by the Planning Board, subject to the requirements set forth herein. No other use or structures shall be permitted in conjunction with an ALF, except as specifically provided herein.

7.3.4 Special Permit Granting Authority

The Planning Board shall serve as the special permit granting authority pursuant to this section. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section. An application for a special permit shall be governed by the following rules.

7.3.5 Application

An application for a special permit shall be submitted to the Planning Board on forms furnished by the Planning Board. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of G.L. c. 41, ss. 810 and 81T as the same may be from time to time amended and the Regulations of the Planning Board and a filing fee determined in accordance with said Regulations. In addition the applicants shall submit:

1. The following plans:

    A. a plan conforming to the requirements of Section 7.3.6;

B. a plan at a scale of 1" = 40' showing the topography of the site at a minimum of two foot intervals, as well as vegetation and special features, including wetlands, perennial streams and ponds, trees of more than 8" caliper, rock outcroppings, slopes in excess of 15%, existing and proposed trails and paths, open vistas, structures of historical importance and biological or wildlife habitats, and proposed conservation and recreation easement areas;

C. a plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Planning Board;

2. The following narrative reports or data:

A. a proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;

B. a development impact statement prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services including, but not limited to, roads, police, fire, emergency services and water;

C. information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;

D. copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;

E. any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

7.3.6 Standards

In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

1. Size of Parcel. In the Residence Districts, the parcel on which the ALF will be located shall have at least five (5) acres. In all other eligible districts, the minimum lot size shall control.

2. Open Space Requirements. Maximum lot coverage by buildings in the Residence Districts shall not exceed 30%; maximum lot coverage by impervious surfaces in the Residence Districts shall not exceed 50%.

3. Buffer. In all districts, a buffer area of fifty (50) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site.

4. Removal and Replacement of Vegetation. With the site, no clear cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas.

5. Roadways. The public roadway providing access to the site shall be a thoroughfare. The principal roadway(s) within the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

6. Parking. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces provided on the site shall be 0.3 parking space per dwelling unit in an ALF. One (1) parking space shall be provided for every three (3) employees during the largest shift. The Planning Board may increase the required parking by up to 10% to serve the needs of employees, visitors and service vehicles. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width.

7. Stormwater Management. Stormwater management shall be designed in accordance with the Regulations of the Planning Board and the standards established in the Massachusetts Stormwater Policy Manual.

8. Utilities. All electric, gas, telephone, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water system.

9. Emergency Systems. The ALF shall have an integrated emergency call, telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

7.3.7 Number of Units/Bedrooms

The number of bedrooms in an ALF shall not exceed sixteen (16) per acre of parcel size.

7.3.8 Buildings - Design and Architectural Character

An ALF may consist of a single building or multiple buildings. The maximum building height and maximum number of stories shall be as set forth in the requirements for the district in which the parcel is located. Building construction and style must be distinctively residential in character.

7.3.9 Accessory Structures and Uses

Structures and uses accessory to the ALF may also be provided (with the exception of covered parking areas) within the same building, including, but not limited to, the following: beauty and barber salons; recreational, physical fitness and therapy services; nondenominational chapel; library; bank automated teller machine; management offices; adult day care or adult day health facility; hospice residence; food service; laundry and covered parking areas; provided, however, that such accessory uses and structures shall be designed for the primary use of the residents and staff of the ALF. Such accessory uses may not be designed for or used as a general business by the general public. Such accessory uses shall be wholly within a structure containing residential units, and shall not have exterior advertising display.

7.3.10 Affordable Units

Applicants are encouraged to provide affordable units. Such affordable units shall be integrated into the overall development of the ALF so as to prevent the physical segregation of such units. For every affordable unit, the applicant may add an additional two market rate units, provided that in no event shall the total number of units exceed by 20% the number of units/bedrooms prescribed in Section 7.3.7.

7.3.11 Conversion of Existing Structures

Notwithstanding any other provision(s) of this Section 7.3, the Planning Board may authorize the appropriate reuse of buildings no longer needed or suitable for their original use, and to permit reuse as an ALF when compatible with the character of the neighborhood. Applicants wishing to convert existing structures to ALFs may do so, subject to a special permit, where such building(s) is located on a lot with at least 30,000 square feet of area. The Planning Board may permit expansion of the structure to the degree reasonably necessary to construct entryways and features to comply with A.D.A. requirements and fire escape and fire protection features.

7.3.12 Action by Planning Board

The Planning Board may grant a special permit for an ALF where it makes the following findings:

1. The proposed ALF complies with the requirements of this section;

2. The proposed ALF does not cause substantial detriment to the neighborhood after considering the following potential consequences:

A. noise, during the construction and operational phases;

B. pedestrian and vehicular traffic;

C. environmental harm;

D. visual impact caused by the character and scale of the proposed structure(s).

SECTION 8.0 OVERLAY DISTRICTS

8.1 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)

8.1.1 Purpose

To promote and protect the health, safety and general welfare of the Community by preserving and protecting surface and groundwater resources of the Town. It is necessary to prevent contamination of these water supplies from any use of land or building which may reduce the quality and/or quantity of the water resources.

8.1.2 Definitions

Aquifer: Geological formation composed of rock, sand, and gravel that contains significant potable water to public or private wells.

Discharge: The accidental or intentional spilling, leaking, pumping, emitting, emptying, or dumping of toxic or hazardous materials onto or into the waters or lands; and,

Groundwater: The subsurface water present in aquifers and recharge areas.

Impervious Surface: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Maximum Groundwater Elevation: The height of the groundwater table when it is at its maximum level of elevation. This level is usually reached during the months of December through April and allowances should be made therefore at other times of the year.

Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

Recharge Areas: The area encompassing land and water surfaces through which precipitation enters the groundwater supply, and from which groundwater flows naturally or is drawn by pumping into a water supply well: This area is usually, but not always, of porous, permeable geologic deposits.

> ***Primary Recharge Area:*** Those areas surrounding municipal wells including the stratified deposits in the area which are affected by a projected cone of influence that would develop by pumping the wells continuously (24 hours a day) for 180 days.
>
> ***Secondary Recharge Area:*** Those areas of stratified drift outside, but upgradient of the projected 180 day cone of influence. The water contained therein will eventually intersect and flow into the cone of influence thereby providing secondary recharge to the well.

Tertiary Recharge Area: The areas of adjacent and upgradient glacial till which supply groundwater to the stratified drift deposits identified in the primary and secondary recharge areas.

Toxic or hazardous materials: material including but not limited to, any material, in whatever form, which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous materials have been defined and designated under the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, General Laws, Chapter 21H, as amended and regulations promulgated thereunder.

Waste: Including but not limited to the following:

Leachable Wastes: waste materials including solid wastes, sludge, pesticides, fertilizers, agricultural wastes capable of releasing water contaminants to the environment;

Mining Waste: Any water carried or liquid waste resulting from the development or recovery of natural resources.

Process Wastewater: All wastewaters disposed on site other than sanitary wastewater;

Industrial Wastes: Any water carried or liquid wastes resulting from any process in industry, manufacturing, trade or business.

Septic Waste: Wastewaters arising from ordinary domestic water use as from toilets, sinks and bathing facilities, etc. and containing such concentrations and types of pollutants as to be considered normal wastes.

Solid Waste: Any discarded solid material consisting of combustible and non-combustible solid material including but not limited to garbage or rubbish;

Toxic or Hazardous Wastes: Any substance or mixture of substances which because of quantity, concentration, or physical, chemical, or infectious characteristics pose a substantial actual or potential hazard to water supplies; to human health, safety, or welfare; to the environment when improperly treated, stored, transported, used, or disposed of, or otherwise managed. Hazardous wastes have been defined and designated under the Massachusetts Hazardous Waste Management Act, General Laws Chapter 21C, as amended, and regulations promulgated thereunder.

Water Resource District: Regions that include primary recharge areas, and secondary recharge areas.

8.1.3 Authority

The Water Resource District as established by this Bylaw is an overlay district superimposed over other Zoning Districts. All uses, dimensional requirements and other provisions of the land in this district shall be subject to restrictions of this Bylaw in addition to those of the underlaying districts. When the Water Resource District imposes greater or additional restrictions and/or requirements, such restrictions and/or requirements shall prevail. Any uses not permitted in underlying districts shall remain prohibited.

8.1.4 Zoning Administrator

The Board of Appeals is hereby authorized to appoint a Zoning Administrator, subject to confirmation by the Board of Selectmen to serve at the pleasure of the Board of Appeals pursuant to such qualifications as may be established by the Board of Selectmen.

8.1.5 Establishment

Water Resource Districts are herein established to include all specified lands within the Town of Douglas. The intent of these districts is to include lands lying within primary and secondary recharge areas of groundwater aquifers. The map entitled "Town of Douglas Massachusetts Aquifer Study: Plate 5" and dated May 7, 2007, on file with the Town Clerk delineates the boundaries of the district. This map is hereby made part of this By-law.

1. Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. In any situation where the owner(s) of land in question doubt or dispute the delineation of a Water Resource District of any portion thereof the following procedure shall be followed:

STEP 1: Owner(s)/applicant shall file an application for a building permit with the Building Inspector for the proposed use. (Building Inspector should act within fourteen (14) days of initial request, as required by M.G.L. Chapter 40A, Section 7, as amended.) If the Building Inspector determines the proposed use is not permitted in the Water Resource District or that a Special Permit is required or fails to act within fourteen (14) days of the filing of the application for a building permit then the owner(s)/applicant may:

STEP 2: If the Zoning Board of Appeals has not appointed a Zoning Administrator then the appeal is made directly to the Zoning Board of Appeals. If the Board of Appeals has appointed a Zoning Administrator then proceed with Step 2. Appeal in writing to the Zoning Administrator within thirty (30) days of the Building Inspector's decision (or within thirty (30) days of the expiration of the fourteen (14) day period within which the Building Inspector should have acted). Then,

STEP 3: The Zoning Administrator shall issue his/her decision within thirty-five (35) days of the appeal, whose decision shall be filed with the Town Clerk's Office. If the Zoning Administrator does not issue any decision then the appeal is deemed denied. The owner(s)/ applicant then may:

STEP 4: Appeal to the Douglas Board of Appeals within thirty (30) days of the decision of the Zoning Administrator (or within thirty (30) days of the expiration of the thirty-five (35) day period within which the Zoning Administrator has to act).

STEP 5: The Board of Appeals then holds a public hearing on said appeal as provided in Chapter 40A of the General Laws, as amended.

The purpose of the above process is limited to the ministerial task of locating with precision on the ground the boundaries of the district as shown on the official Plate 5 map, but is not a means of altering the district boundaries themselves. Any modifications to the Plate 5 Map requires action of Town Meeting.

8.1.6 Use Restrictions

Any uses permitted in portions of the Zoning Districts so overlaid shall be permitted subject to all provisions of the Water Resource Districts. All activities and use within said water Resource Districts shall be restricted to the following use provisions, provided that land uses within a 400 foot radius of any public water supply well shall be limited to those uses directly related to the public water system or will have no significant adverse impact on water quality.

Use provisions are categorized as **"A" –** Permitted Uses, **"B"** Prohibited Uses, and **"C"** – Special Permit uses. A listing of use provisions within each category is as follows:

A. PERMITTED USES
These uses are permitted provided that all necessary permits, orders, and approvals required by Local, State, and Federal Laws are also obtained.

1. Conservation of soil, water, flora, and fauna.

2. Outdoor recreation such as boating, fishing, hunting where permitted, hiking, biking, horse riding and the like.

Development is permitted according to specifications of this Bylaw provided that no more than fifteen percent (15%) or 2,500 square feet, whichever is greater, of a building lot is rendered impervious unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.

4. Farming, gardening, nursery, conservation, forestry, harvesting, grazing uses provided that fertilizers, pesticides, herbicides, manure and other leachable substances are not stored improperly so as to result in groundwater contamination.

5. Residential development density within the Water Resource Districts shall be no more than one (1) single family dwelling unit or duplex dwelling with on-site septic system per lot. Dimensional requirements in this instance shall conform to those established under RA Zones.

6. Single family or duplex dwelling lost size less than those under the RA Zoning District allowed by the Zoning Bylaws shall continue to be allowed within the Water Resource Districts only if such residential development is connected to municipal sewerage. Dimensional requirements for said lots shall conform to those allowed by the Bylaws.

7. Multi-family dwelling use shall be allowed only if such development is connected to municipal sewerage and water.

B. PROHIBITED USES

These uses are prohibited regardless of principal uses to which they may be related.

1. Discharge of toxic or hazardous materials and wastes upon the ground or into surface and/or groundwater within the Town of Douglas is prohibited.

2. Business and industrial uses, not agricultural, which manufacture, process, treat, store or dispose of toxic and hazardous materials are prohibited except for storage of heating fuel for on-site use and the storage of materials for public water supply treatment for on-site use.

3. On-site disposal by any means of any waste materials other than domestic sewage wastes is prohibited.

4. Outdoor or underground storage of leachable wastes, hazardous or toxic materials, including but not limited to sludge, septage, chemicals, fertilizers, pesticides, herbicides, manure, road salt, de-icing compounds, etc., except for:

a. Installation or enlargement of subsurface waste disposal systems for residential dwellings;

b. Normal agricultural operations; and

c. Business or industrial uses involving on-site disposal systems for personal hygiene and for food preparation for residents, patrons and employees.

5. Trucking or bus terminals, motor vehicle gasoline sales, motor vehicle service and repair shops, auto body and paint shops, car washes, boat service and repair.

6. Commercial wood preserving and/or furniture stripping.

7. Solid waste landfills, dumps, junk and salvage yards. Demolition materials, brush and stump disposal is also prohibited except as authorized and regulated by the Board of Health.

8. Dry cleaning establishments, metal plating, chemical and bacteriological laboratories, or any use involving as a principal activity the manufacture, storage, use, treatment, transport, or disposal of toxic or hazardous materials and wastes, except for the following:

a. Very small quantity generators, as defined by 310 CMR 30.00;

b. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;

c. Waste oil retention facilities required by MGL Chapter 21, Section 52A; and

d. Treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

9. Commercial animal feedlots, unless said feed lots are equipped with best management practices to prevent the contamination of surface or groundwater by stormwater run-off.

10. Underground or above ground-storage and/or transmission of oil, gasoline or other petroleum products, excluding liquefied petroleum gasses and chemicals, except those uses incidental to:

a. Normal household use and outdoor maintenance or the heating of a structure;

b. Waste oil retention facilities required by MGL Chapter 21, Section 52A;

c. Emergency generators required by statue, rule or regulation; or

d. Treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters, provided that such storage listed in a-d of this subsection is either in a free standing container within a building or in a free standing container above-ground level with protection adequate to contain a spill the size of the container's total storage capacity; however, replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with State and Local requirements.

11. Treatment or disposal works for non-sanitary wastewaters that are subject to 314 CMR 5.00, except the following:

a. The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and

b. Treatment works approved by the Department designed for the treatment of contaminated ground or surface waters.

C. SPECIAL PERMIT USES

Within the Water Resource Districts the following uses shall be allowed by Special Permit only.

1. Any use involving the retention of less than thirty per cent (30%) of lot area in its natural state with no more than minor removal of existing trees and ground vegetation.

2. Rendering impervious more than twenty percent (20%) of the lot area.

3. On-site wastewater disposal of more than fifteen thousand (15,000) gallons per day regardless of lot area.

4. Expansion of on-site wastewater disposal.

5. Removal of soil, loam, sand, gravel or other earthen materials and/or mining of land except for uses incidental to permitted uses including but not limited to installing or maintenance of structural foundations, utility conduits or on-site sewage disposal systems. Any such removal requiring a Special Permit shall leave not less than ten (10) feet of material from the maximum high groundwater elevation as determined on a site-by-site basis by a qualified hydrogeologist. The cost of such determination shall be the responsibility of the applicant.

6. Campgrounds, picnic areas and commercial recreation areas.

8.1.7 Drainage

All runoff impervious surfaces shall be recharged on the site by being diverted toward areas covered with vegetation for surface infiltration to the maximum extent possible and practicable. Stormwater infiltration basins must be designed to handle a twenty-five (25) year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all retention areas and structures shall be permanently maintained in full working order by the owner.

8.1.8 Special Permit Granting Authority (SPGA)

The Special Permit Granting Authority shall be the Planning Board. A permit shall be granted if the SPGA determines that the intent of this regulation and its specific criteria are met.

8.1.9 Procedures for Issuance of Special Permits

1. This Special Permit procedure must precede the granting of any other required permit by the Town of Douglas; provided, however, that in the Priority Development Sites (PDS), as designated by Town Meeting pursuant to G.L. c. 43D and identified in the Assessor's records as Map 113, Lot 2; Map 115, Lot 5; Map 205, Lots 2-3; Map 206, Lots 1-2; Map 207, Lots 1-2; and Map 230, Lot 2, said procedure shall be commenced

and an application considered simultaneously with any other special permit or site plan review application submitted to the Board of Appeals, with all hearings on said applications held before joint session(s) of the Planning Board and the Board of Appeals." (Adopted under Article 12 of the Special Town Meeting, Nov. 27, 2007 and approved by the Attorney General, March 6, 2008)

2. Each application for a Special Permit shall be filed with the Town Clerk for transmittal to the Planning Board and shall be accompanied by nine (9) copies of the plan. The plan shall be prepared to scale by a professional architect, professional engineer, or registered land surveyor, and shall show among other things all property boundaries; all existing and proposed placement of buildings, structures, parking spaces, loading areas, driveway openings, driveways, service areas, and all facilities for surface and ground drainage and erosion controls; all landscape features denoting vegetated, non-vegetated, pervious and impervious areas and adequate information to clearly show existing and proposed topography. Such Special Permit shall be granted if the Planning Board determines that the intent of this Bylaw as well as its specific criteria are met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality that would result if the control measures failed, and shall also give consideration to the recommendation of the Board of Health, Board of Selectmen, Building Inspector(s), Conservation Commission, Water Commissioners, and Highway Department.

3. All information necessary to demonstrate compliance with this Bylaw must be submitted, including but not limited to the following and such other information as may be required by the Special Permit Granting Authority:

a. A complete list of all chemicals, pesticides, fuels and other toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures to protect from vandalism, corrosion and leakage, and to provide for control of spills.

b. A description of toxic and hazardous wastes to be generated, indicating storage and disposal method.

c. Evidence of application to the Massachusetts Department of Environmental Protection of any industrial waste treatment or disposal system or any wastewater treatment system over 15,000 gallons per day capacity, accompanied by analysis by a Professional Engineer in Sanitary or Civil Engineering registered in the Commonwealth of Massachusetts certifying Compliance consistent with this Bylaw.

4. Upon receipt of the Special Permit applicant, the Town Clerk shall transmit one (1) copy each to the Board of Health, Board of Selectmen, Building Inspector, Conservation Commission, Water Commissioner, and Highway Department for their written recommendations. Failure to respond in writing to the Planning Board within thirty-five (35) days shall indicate approval by said Agency or Board. Further, the Planning Board shall forthwith upon receipt transmit copies of any such recommendations to the applicant prior to the Public Hearing.

5. After Notice and Public Hearing, which shall be held within sixty-five (65) days after the filing of an application, and after coordinating, clarifying, and weighing the comments and recommendations of the Agencies and Boards mentioned above, the Planning Board may within ninety (90) days of receipt of the application grant, by a two thirds (2/3) vote of its members, such a Special Permit provided that it finds that the proposed use:

a. Is in harmony with the purpose and intent of this Bylaw and will not materially adversely affect the purpose of the Water Resource District;

b. Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area in the town;

c. Is appropriate to natural topography, soils, and other characteristics of the site to be developed.

6. Failure of the SPGA to act within ninety (90) days shall be deemed as a granting of the Special Permit. In the granting of any Special Permit the Planning Board may attach such conditions as they deem reasonable and appropriate in maintaining and enforcing the purpose and intent of this Bylaw.

7. The Town Building Inspector shall certify in writing to the Planning Board that any and all Special Permit conditions and/or requirements of such a Special Permit have been fully complied with prior to the granting of an occupancy permit to the applicant and/or owner(s).

8.1.10. Nonconforming Uses

Nonconforming uses which are lawfully existing, begun or in receipt of a Building or Special Permit prior to first publication of Notice of Public Hearing for this Bylaw may be continued. Such nonconforming uses may be extended or altered, as specified in Massachusetts General Laws, Chapter 40A, Section 6, as amended, and the Douglas Zoning Bylaws, provided that there is a finding that such change does not increase the danger of groundwater pollution from such use. Applicants shall follow procedures specified in Section 8.09 of this Bylaw.

8.1.11 Violation

Written notice of any violation shall be provided by the Building Inspector or its Agent(s) to the owner of the premises, specifying the nature of the violation(s) and a schedule of compliance, including cleanup of any spilled materials (which is reasonable in relation to the public health hazard involved). In no event shall more than thirty (30) days be allowed for either compliance or finalization of a plan for longer term compliance.

8.1.12 Enforcement

Evidence of non-compliance shall be reported to the Building Inspector in writing or its Agent(s) for enforcement action. The Building Inspector or its Agent(s) may enter upon the premises at any reasonable time to inspect for compliance with the provisions of this Bylaw. Evidence for compliance with approved waste treatment or disposal plans may be required by the Enforcing Agent. Upon refusal for admission to inspect premises, the Building Inspector or its Agent(s) may apply to the District Court for a search warrant based on probable cause to inspect said premises.

8.1.13 Penalty

Penalty for failure to comply with the provisions of this Bylaw shall be $200 per day of violation.

8.1.14 Conflict with Other By-laws

This Bylaw shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other Bylaw, Ordinance, Law or Regulation. Where this Bylaw and another impose differing standards for the promotion and protection of health, safety and welfare, the provisions of the more stringent Bylaw shall prevail.

8.2 ADULT ENTERTAINMENT OVERLAY DISTRICTS (AEOD)

8.2.1 Purpose and Authority

It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Establishments are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This bylaw is enacted pursuant to Massachusetts General Law Chapter 40A, Section 9A and the Massachusetts Home Rule Amendment with the purpose and intent of regulating and limiting the location of Adult Entertainment Establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Douglas.

8.2.2 Intent

The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the intent or effect of this Section to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute, or exhibit such matter or materials. Nor is it the intent or effect of this Section to legalize the distribution of obscene matter or materials.

8.2.3 Applicability

This Section applies to all Adult Entertainment Establishments, as defined herein. Any existing Adult Entertainment Establishment shall apply for an Adult Entertainment Special Permit within 90 days of the effect of this bylaw.

8.2.4 Overlay District

The Adult Entertainment Overlay Districts (AEOD) are established as overlay districts, so that any parcel of land lying in an Adult Entertainment Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-law.

8.2.5 Special Permit Grant Authority

The Special Permit granting authority shall be the Planning Board.

8.2.6 Special Permit Uses

The following uses shall required a Special Permit from the Planning Board

1. Adult Store;

2. Adult Motion Picture Theater;

3. Adult Live Entertainment Establishment.

These uses shall be known as Adult Entertainment Establishments.

8.2.7 Submittal Requirements

In addition to the submittal requirements for Site Plan Approval as detailed in Section 9.4, special permit applications for approval under this Section shall contain the following additional information:

1. Name and address of the legal owners of the establishment and the property, as well as the manager of the proposed establishment;

2. The total number of employees;

3. Proposed security precautions;

4. The external and internal physical layout of the premises;

5. Full description of the intended nature of the business.

8.2.8 Standards for Adult Entertainment

No special permit may be granted by the Planning Board for an Adult Entertainment Establishment unless the following conditions are satisfied:

1. Location Conditions. No Adult Entertainment Establishment may be located outside of an Adult Entertainment Overlay District and less than 300 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas, any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12, or another Adult Entertainment Establishment. The 300 feet shall be measured from all property lines of the proposed use.

2. Display Conditions. No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31 shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

3. Screening. All building openings, entries, and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the Adult Entertainment Establishment. A five (5) foot high solid fence or a landscaped buffer of evergreen trees or shrubs five (5) foot high at the time of planting shall be provided and maintained along the side and rear property lines.

4. Minors. No Adult Entertainment Establishment shall be allowed to disseminate adult matter to minors, cause Adult Entertainment Establishment displays to be viewed by minors, or allow minors to linger on the premises.

5. Applicant Conditions. No Special Permit shall be issued to any person convicted of violating the provisions of G.L. c. 119, s. 63 or G.L. c. 272, s. 28.

6. Parking. Parking for Adult Entertainment Establishments shall be provided only in side or rear yard areas. All parking areas shall be illuminated and such lighting shall be contained within the subject property lines.

8.2.9 Permit Conditions

A special permit issued under this Section shall lapse upon any one of the following occurrences:

1. There is a change in the location of the adult use; or

2. There is a sale, transfer or assignment of the business or the license; or

3. There is any change in ownership or management of the applicant.

8.2.10 Lapse

Failure to begin a permitted Adult Entertainment Establishment within two years of the granting of such permit, except for "good cause", including the time necessary to await a court appeal to establish an Adult Entertainment Establishment shall result in the lapse thereof.

8.3 FLOODPLAIN DISTRICT

8.3.1 STATEMENT OF PURPOSE

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.

8.3.2 Floodplain District Boundaries and Base Flood Elevation and Floodway Data

8.3.2.1 Floodplain District Boundaries

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Douglas Massachusetts Worcester County Flood Insurance Rate Map (FIRM) Issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated June 1, 1982 as Zone A, AE, AH, AO, Al-30, A99, V, Vl-30, VE and the FEMA Flood Boundary & Floodway Map dated June 1, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by

the Flood Insurance study booklet dated December 1, 1981. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Community Development Department. *The map entitled "FEMA Flood Map of Douglas, Massachusetts" and adopted at the May 7, 2007 Annual Town Meeting, on file with the Town Clerk further delineates the boundaries of the district but does not supersede the FEMA FIRM map that this bylaw applies to. It simply provides a level of clarity that may not exist on the FEMA FIRM maps. This map is hereby made part of this By-law."*

8.3.2.2 Base Flood Elevation and Floodway Data

1. Floodway Data. In Zone A, A1-30, 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.

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

8.3.3 Notification of Watercourse Alteration

- Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- NFIP State Coordinator:

  Massachusetts Office of Water Resources
  251 Causeway Street, Suite 600-700
  Boston, MA 02114-2104

- NFIP Program Specialist:

  FEMA Region I, Rm. 462
  J.W. McCormack Post Office & Courthouse
  Boston, MA 02109

8.3.4 Use Regulations

8.3.4.1 Reference to Existing Regulations

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 3107.0, "Flood Resistant Construction");

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

- Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);

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

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

8.3.5 Other Use Regulations

1) In Zones AI-3D and AE, along watercourses that have a regulatory floodway designated on the Town of Douglas Massachusetts Worcester County Flood Boundary & Floodway 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.

2) Review all subdivision proposals 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.

3) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

4) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner and Town Planner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

8.3.6 Permitted Uses

In addition to the uses allowed or allowed by special permit in the underlying districts, 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.

8.3.7 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, A1-30, AE, A99, V1-30, VE, or V.

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

COASTAL HIGH HAZARD AREA means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V, Vl-30, 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.

DISTRICT means floodplain district.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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 BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the l00-year and 500 year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

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 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.

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, bui1ding 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.

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 oh 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 CONSTRUCTION means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management,

regulation adopted by a community. For the purpose of determining insurance rates, NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD - see BASE FLOOD

REGULATORY FLOODWAY - see FLOODWAY

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM, Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as .the pouring of slab or footings; the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or 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 reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes

structures which have incurred "substantial damage", regardless of the actual repair work performed.

ZONE A means the l00-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.
ZONE Al - A30 and ZONE AE (for new and revised maps) means the l00-year floodplain-where the base flood elevation has been determined.

ZONE AH and ZONE AO means the l00-year floodplain with flood depths of 1 to 3 feet.

ZONE A99 means areas to be protected from the l00-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONES B, C, AND X are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ZONE.V means a special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE VI-30 and ZONE VE (for new and revised maps) means a special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

SECTION 9.0 ADMINISTRATION AND PROCEDURES

9.1 ADMINISTRATION

9.1.1 Permits

This By-Law shall be administered by the Building Inspector. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

9.1.2 Enforcement

The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

9.1.3 Penalties

The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be consistent with a schedule developed by the Zoning Board of Appeals and with MGL c. 40A s. 7. Each day that each violation continues shall constitute a separate offense.

9.2 BOARD OF APPEALS

9.2.1 Establishment

There is hereby established a Board of Appeals of three (3) members and two (2) associate members, appointed by the Selectmen.

9.2.2 Powers

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority.

2. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. No use variance shall be granted by the Board of Appeals in any Residential District, but the Board of Appeals may grant use variances in Commercial and Industrial Districts.

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 G.L. c. 40A, ss. 8 and 15.

4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

9.2.3 Regulations

The Board of Appeals may adopt rules and regulations for the administration of its powers.

9.2.4 Fees

The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

9.3 SPECIAL PERMITS

9.3.1 Special Permit Granting Authority

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

9.3.2 Criteria

Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Traffic flow and safety, including parking and loading;
2. Social, economic, or community needs which are served by the proposal;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

9.3.3 Procedures

An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

9.3.4 Conditions

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.

9.3.5 Plans

Unless otherwise provided by the rule or regulation of the special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9.4, herein.

9.3.6 Regulations

The special permit granting authority may adopt rules and regulations for the administration of this section.

9.3.7 Fees

The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

9.3.8 Lapse

Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

9.3.9 Associate Planning Board Members

In accordance with MGL Chapter 40A Section 9, up to two (2) associate planning board members may be appointed to the planning board to participate in matters where the planning board has been designated as the special permit granting authority. Said associate members of the planning board may be designated by the planning board chairman as necessary to sit on the board for the purpose of acting on any special permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member or members of the Planning Board or in the event of a vacancy(s) on the Board.

The Planning Board and Board of Selectmen shall jointly appoint any Associate Members by the method described in Massachusetts General Law, Chapter 41, Section 11, and all Town Bylaws and Policies, as if appointing an Associate Member were appointing to fill a vacancy on the Planning Board. (*Adopted under Article 17 at the Annual Town Meeting held on Monday, May 4, 2009 and approved by the Attorney General on June 23, 2009.)

9.4 SITE PLAN REVIEW

9.4.1 Applicability

The following types of activities and uses require site plan review by the Planning Board:

1. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure involving more than 500 square feet;

2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose;

3. Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with a approved subdivision plan, or work pursuant to an earth removal permit.

9.4.2 Procedures

1. An application for a building permit to perform work as set forth in Section 9.4.1 shall be accompanied by an approved Site Plan. Prior to the commencement of any such activity, the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit five (5) copies of the site plan to the Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Sewer Commission, applicable water district, Board of Health, Highway Department, Police Chief, Fire Chief, the Building Inspector, Zoning Board of Appeals, and the Conservation Commission for their advisory review and comments. Failure of such board or official to respond within thirty-five days of submittal shall be deemed a lack of opposition thereto. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within ninety (90) days of, the Public Hearing Date, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Building Inspector without the written approval of the site plan by the, Planning Board, or unless 90 days lapse from the date of the site plan public hearing without action by the Planning Board.

2. An application for site plan approval shall be accompanied by a fee, as set forth in the Board's Rules and Regulations.

3. The applicant may request, and the Board may grant by majority vote, an extension of the time limits set forth herein.

4. No deviation from an approved site plan shall be permitted without modification thereof.

9.4.3 Preparation of Plans

Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Board. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"=40'.

9.4.4 Contents of Plan

The contents of the site plan are as follows:

1. Five (5) separate plans prepared at a scale of one (1) inch equals twenty (20) feet or such other scale as may be approved by the Planning Board. The plans are as follows:

A. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Board.

B. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater drainage.

C. Utility and landscaping plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

D. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.

E. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures. The planting and maintenance of trees and shrubs shall be performed in accordance with the Rules, Guidelines and Regulations of the Planning Board.

2. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

3. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this by-law.

4. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Town of Douglas subdivision regulations.

5. The Planning Board may require narrative assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors. The Board may require that such narrative assessments be prepared by qualified experts.

6. Certification of compliance with the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board, if applicable.

9.4.5 Waiver of Technical Compliance

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 9.4.3 or 9.4.4 where the project involves relatively simple development plans or constitutes a minor site plan.

9.4.6 Minor Site Plan

Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 9.4.4; provided, however, that the scale of the site plan may be 1' = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.

9.4.7 Approval

Site Plan approval shall be granted upon determination by the Planning Board that new building construction or other site alteration, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, satisfies all of the following objectives.

1. Maximize pedestrian and vehicular safety both on the site and egressing from it;

2. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

3. Minimize obstruction of scenic views from publicly accessible locations;

4. 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;

5. Minimize glare from headlights and lighting intrusion and light overspill into the night sky;

6. Provide adequate access to each structure for fire and other emergency service equipment;

7. Provide adequate stormwater management consistent with the functional design standards in the Planning Board's Subdivision Rules and Regulations;

8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

9. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

10. Ensure compliance with the provisions of this Zoning By-Law and other laws, including parking, loading, sign, and landscaping requirements.

9.4.8 Conditions

The Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

9.4.9 Lapse

Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

9.4.10 Regulations

The Planning Board may adopt reasonable regulations for the administration of site plan review.

9.4.11 Fees

The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

9.4.12 Appeal

Any decision of the Planning Board pursuant to this Section shall be appealed in accordance with G.L. c. 40A, s. 17 to a court of competent jurisdiction or locally to the Zoning Board of Appeals, to the extent permitted by law.

9.5 REPETITIVE PETITIONS

No proposed change in these By-laws which have been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such unfavorable action, unless adoption of the proposed change is recommended in the final report of the Planning Board. No application for a special permit or petition for a variance which has been unfavorably acted upon by the Board of Appeals or the Planning Board as the case may be shall be considered on its merits by said Board(s) within two (2) years after the vote of such unfavorable action, except as set forth in G.L. c. 40A, s. 16.

SECTION 10.0 DEFINITIONS

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this by-law.

Accessory building: A subordinate building located on the same lot as the main, or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

Accessory use: A use customarily incidental to that of the main or principal building or use of the land.

Adult day care facility: A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

Adult live entertainment establishment: Any establishment, including but not limited to a nightclub, bar, restaurant, tavern, dance hall, stage or other performance venue, which displays live entertainment, including but not limited to persons or entertainers appearing in a state of nudity or other live performance distinguished by an emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31.

Adult motion picture theater: An enclosure or building, or any portion thereof, used for presenting visual media material distinguished by an emphasis on matter depicting, describing or

relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31.

Adult store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, videos, movies, devises, objects, tools, toys or other materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31.

Agricultural use, nonexempt: Agricultural use of property not exempted by G.L. c. 40A, s. 3. Such use shall not include mink or fur farms, or pig farms, and shall comply with all applicable regulations of the Board of Health.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

Animal clinic or hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

Bed and breakfast establishment: Accommodations with not more than five bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guest on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

Boarding house: A dwelling or part thereof in which lodging is provided by the owner or operator to more than four (4) boarders. Where four (4) or more unrelated individuals rent a dwelling, it shall be considered a boarding house.

Building: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains on open air or natural character.
Child Care Facility: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Commercial amusement or recreational facility, indoor: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit, unless more specific reference is provided herein.

Commercial amusement or recreational facility, outdoor: Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this By-Law.

Contractor's yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

Dwelling: A building designed and occupied as the living quarters of one (1) or more families. Single- and two-family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively. A multifamily dwelling shall be one designed for and occupied by three (3) or more families.

Educational use, nonexempt: Educational facilities not exempted from regulation by G.L. c. 40A, s. 3.

Erect: To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Family: Any number of related individuals, or not more than four unrelated individuals, living and cooking together on the premises as a single housekeeping unit.

Family day care home: Any private residence operating a facility as defined in G.L. c. 28A, s. 9.

Farm stand, nonexempt: Facility for the sale of produce, wine and dairy products on property not exempted by G.L. c. 40A, s. 3 and not open for more than eight (8) months in any calendar year..

Funeral home: Facility for the conducting of funerals and related activities such as embalming.

Home occupation: An occupations, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof.

Junk: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning cannot be used for its original purpose as readily as when new shall be considered junk.

Junkyard or automobile graveyard: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

Kennel, commercial: A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold located on at least five (5) acres of land.

Light manufacturing: Fabrication, assembly, processing, finishing work or packaging.

Lot: A continuous parcel of land with legally definable boundaries.

Lot area: The horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

Lot, corner: A lot with two (2) adjacent sides abutting upon streets or other public spaces.

Lot, depth of: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

Lot, frontage of: A lot line coinciding with the sideline of a street which provides rights of vehicular access said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120) degrees.
Lot line: A line dividing one lot from another, or from a street or any public place.

Lot, width of: The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

Manufacturing: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products; provided that no such use shall be permitted which would be detrimental or offensive or reduce property values by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive siltation or danger or explosion or fire.

Medical center or clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Mobile home: A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

Motel or hotel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor vehicle body repair: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

Motor vehicle general repairs: Premises for the servicing and repair of autos, but not to include fuel sales.

Motor vehicle light service: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Municipal facilities: Facilities owned or operated by the Town of Douglas. Such facilities are exempt from all use and dimensional regulations of this by-law.

Nursing or convalescent home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.
Parking garage: A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

Personal service establishment: A facility providing personal services such as hair salon, barber

shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Residential Compound: A subdivision of land approved as a definitive plan by the Planning Board pursuant to its Residential Compound rules and regulations as adopted pursuant to G.L. c. 41, s. 81Q.

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

Restaurant, fast-food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Retail: A facility selling goods but not specifically listed in the Table of Use Regulations.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located.

Street: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law and built to specification, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like.

Temporary structure: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the building inspector.

Transfer Lot: A parcel of land with not less than 80,000 square feet in the RA District or 20,000 square feet in the VR District used to establish a density bonus in a Flexible Development, as set forth in Section 7.2. Such Transfer Lot shall be (1) determined by the Planning Board to be of special importance because of its visual prominence or potential vista blockage, ecological significance or fragility, value as agricultural or recreational land, critical relation or proximity to the Town's drinking water supply, or because it is identified in the Town's open space plan; (2) not wetlands, as defined in G.L. c. 131, s. 40, or not land used to satisfy dimensional requirements in any other development of land; (3) subject to a permanent conservation or

agricultural restriction pursuant to G.L.. 184, ss. 31-33, or conveyed to the Town, or conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or other appropriate purpose.

Transport terminal: Terminal facilities for handling freight with or without maintenance facilities.

Warehouse: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

Yard: A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

Yard, front: A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

Yard, rear: A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot.

Yard, side: A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	**R-A**	**RC-1**	**RC-2**	**VR**	**VB**	**Comm**	**Ind**	**SFOS**
A. Agriculture								
1. Use of land for the primary purpose of agriculture, horiculture, floriculture or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y	N
2. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y	N
3. Nonexempt farm on less than five acres	BA	BA	BA	BA	BA	BA	BA	N
4. Nonexempt farm stand	BA	BA	BA	BA	BA	BA	BA	N
B. Residential								
1. Single family detached dwelling	Y	Y	Y	Y	Y	N	N	N
2. Two-family dwelling	N	N	PB*	PB	PB	N	N	N
3. Temporary use of a trailer or mobile home because of loss of dwelling by fire or some other catastrophe for not more than one year	Y	Y	Y	Y	Y	Y	Y	N
4. Conversion of a structure existing at the enactment of these Bylaws into a two-family or multi-family dwelling, subject to Section 7.1	N	N	N	PB	PB	PB	N	N
5. Flexible Development	PB	PB	PB	PB	N	N	N	N
6. Residential Compound	PB	PB	PB	PB	N	N	N	N
7. Group residence or home	BA	BA	BA	BA	BA	BA	BA	N
8. Assisted Living Facility	PB	PB	PB	PB	PB	N	N	N
9. Nursing home	PB	PB	PB	PB	PB	N	N	N
C. Commercial								

Y - Allowed Use
BA - Allowed by Special Permit from the Zoning Board of Appeals
PB - Allowed by Special Permit from the Planning Board
N - Not Allowed

APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	**R-A**	**RC-1**	**RC-2**	**VR**	**VB**	**Comm**	**Ind**	**SFOS**
1. Retail establishment for the sale of merchandise to the general public, not otherwsie set forth herein	N	BA	BA	BA	Y	Y	BA	N
2. Sales and service of motor vehicles, marine, farm or recreational vehicles or equipment	N	BA	BA	N	Y	Y	BA	N
3. Craft, consumer, professional or commercial service establishment	N	BA	BA	BA	Y	Y	BA	N
4. Funeral home	N	BA	BA	BA	Y	Y	N	N
5. Veterinary hospital	N	BA	BA	N	N	N	N	N
6. Boarding or breeding kennel for small domestic animals	N	BA	BA	N	N	N	N	N
7. Motor vehicle light service or repair establishment	N	BA	BA	N	Y	Y	BA	N
8. Restaurant	N	BA	BA	N	Y	Y	Y	N
9. Restaurant, fast food	N	BA	BA	N	BA	BA	Y	N
10. Business or professional office	N	BA	BA	BA	Y	Y	Y	N
11. Medical or dental office or clinic	N	BA	BA	BA	Y	Y	Y	N
12. Bank or other financial institution	N	BA	BA	BA	Y	Y	Y	N
13. Insurance, real estate office	BA	BA	BA	BA	Y	Y	Y	N
14. Commercial indoor amusement or recreational facility	N	BA	BA	N	BA	BA	BA	N
15. Commercial outdoor amusement or recreational facility, not including drive-in movie theater	N	BA	BA	N	BA	BA	BA	N
16. Contracting business and equipment storage yard	N	BA	BA	N	N	Y	Y	N
17. Recycling of glass and metal materials	N	N	N	N	N	N	BA	N
18. Bed and Breakfast	BA	BA	BA	BA	BA	BA	N	N
19. Private, non-profit club or fraternal organizatonal use	N	BA	BA	N	Y	Y	N	N
20. Public or private outdoor recreation use	BA	BA	BA	N	N	N	N	Y
C. Commercial								
21. Family campground	BA	BA	BA	N	N	N	N	N

Y - Allowed Use
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PB - Allowed by Special Permit from the Planning Board
N - Not Allowed

APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	**R-A**	**RC-1**	**RC-2**	**VR**	**VB**	**Comm**	**Ind**	**SFOS**
22. Hotel, motel	N	BA	BA	N	Y	BA	N	N
23. Golf course	BA	N	N	BA	N	N	N	N
D. Industrial								
1. Any manufacturing use, including processing, fabrication and assembly conducted inside a building	N	BA	BA	N	N	BA	Y	N
2. Wholesale, warehouse, distribution or storage facility, including mini-storage warehouse	N	BA	BA	N	N	BA	Y	N
3. Saw mill or lumber producing facility, including incidental sales of wood products produced at the site	BA	BA	BA	N	N	N	BA	N
4. Commercial timber harvest with temporary sawmill for not more than 60 days	BA	BA	BA	N	N	N	Y	N
5. Junkyard or salvage yard	N	N	N	N	N	N	N	N
6. Storgage, disposal, or transport of medicial or biological waste	N	N	N	N	N	N	N	N
E. Exempt/Public/Institutional								
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y

Y - Allowed Use
BA - Allowed by Special Permit from the Zoning Board of Appeals
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APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	**R-A**	**RC-1**	**RC-2**	**VR**	**VB**	**Comm**	**Ind**	**SFOS**
3. Family day care home, small	Y	Y	Y	Y	Y	Y	Y	N
4. Family day care home, large	BA	BA	BA	BA	BA	BA	BA	N
5. Adult day care facility, small	Y	Y	Y	Y	Y	Y	Y	N
6. Adult day care facility, large	BA	BA	BA	BA	BA	BA	BA	N
7. Child care facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y
8. Child care facility in new building	BA	BA	BA	BA	BA	BA	BA	N
9. Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y
10. Municipal waste disposal area operated by the town or under contract to the town handling waste produced within the town	BA	BA	BA	BA	BA	BA	BA	N
11. Cemetery	BA	BA	BA	BA	BA	BA	BA	N
12. Forestry and conservation	Y	Y	Y	Y	Y	Y	Y	Y
F. Other Uses								
1. Drive-through or drive-up window or facility at otherwise authorized use or as free-standing structure or kiosk	BA	BA	BA	BA	BA	BA	BA	N

Y - Allowed Use
BA - Allowed by Special Permit from the Zoning Board of Appeals
PB - Allowed by Special Permit from the Planning Board
N - Not Allowed

Town of Douglas
Dimensional Regulations
APPENDIX B

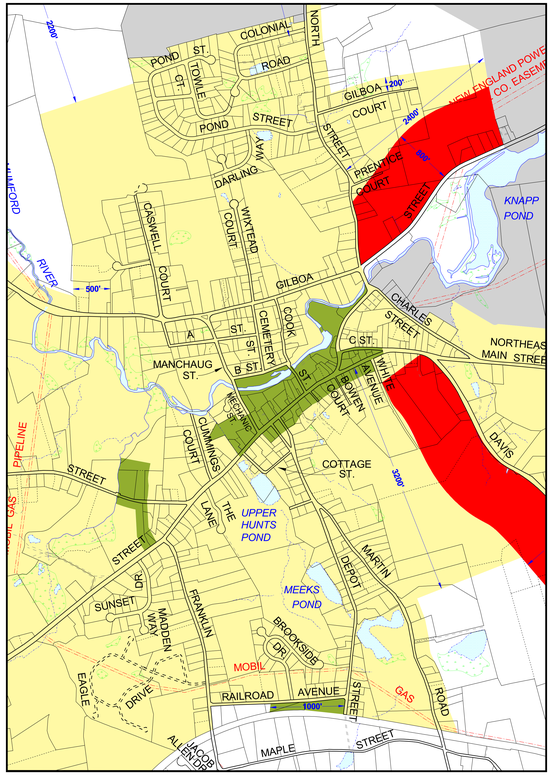
ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
R-A	Single-family dwelling	90,000	200	50	25	25	35	2 1/2
	Exempt religious or educational use	4 acres	300	100	25	25	35	2 1/2
	Any municipal use	4 acres	300	75	25	25	35	2 1/2
	Private, non-profit club or fraternal organization	4 acres	300	75	25	25	35	2 1/2
	Public or private outdoor recreation use	3 acres	300	75	25	25	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
VR	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Exempt religious or educational use	90,000	100	50	15	20	35	2 1/2
	Any municipal use	90,000	100	50	15	20	35	2 1/2
	Multi-family dwelling	5,000 sq. ft. per bedroom	150	50	15	20	35	2 1/2
	Duplex dwelling	20,000	100	50	15	20	35	2 1/2
RC-1	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Exempt religious or educational use	90,000	100	50	15	20	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
	Retail establishment for public sale, funeral home, veterinary hospital, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, private club, fraternal organization	45,000	300	50	25	25	35	2 1/2
	Sawmill	2 acres	150	150	50	50	35	2 1/2
	Single-family dwelling	90,000	200	50	25	25	35	2 1/2
	Exempt religious or educational use	4 acres	300	100	25	25	35	2 1/2

Town of Douglas
Dimensional Regulations
APPENDIX B

ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
RC-2	Any municipal use	4 acres	300	75	25	25	35	2 1/2
	Retail establishment for public sale, funeral home, veterinary hospital, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, private club, fraternal organization	45,000	300	50	25	25	35	2 1/2
	Sawmill	2 acres	150	150	50	50	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
~~CB~~**VB**	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Multi-family dwelling	No Min.	No Min.	No Min.			35	2 1/2
	Two-family dwelling	20,000	100	50	15	20	35	2 1/2
	Retail establishment for public sale	No Min.	No Min.	No Min.	No Min.	15	35	2 1/2
	Funeral home	20,000	100	15	15	25	35	2 1/2
	Motor vehicle repair shop	20,000	100	25	15	15	25	2 1/2
	Restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility	20,000	100	No Min.	15	25	35	2 1/2
Comm	Retail establishment for public sale, funeral home, veterinary hospital and kennels, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility	30,000	100	50	15	15	35 but up to 60 by special permit	2 1/2 or as authorized by special permit
	Commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, exempt religious or educational use	35,000	150	50	15	15	35 but up to 60 by special permit	2 1/2 or as authorized by special permit

Town of Douglas
Dimensional Regulations
APPENDIX B

ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
Ind	Retail establishment for public sale, motor vehicle repair shop, contracting business, recycling business, manufacturing plant, warehouse or wholesale facility, exempt religious or educational use, municipal use, sawmill	35,000	150	50	15	15	60	n/a
SFOS	Public recreation, conservation land, forestry	4 acres	300	75	25	25	35	2



INSET SCALE: 1" = 600'

ZONING MAP OF DOUGLAS MASSACHUSETTS

SCALE 1:12000

1000	0	1000	2000	3000	4000	5000	Feet
300	0	300	600	900	1200	1500	Meters
0.25	0	0.25	0.5	0.75	1	Miles	

LEGEND

- ROAD
- PRIVATE ROAD
- TRAIL
- RIGHT OF WAY
- STATE FOREST
- TOWN LINE
- STATE LINE
- PROPERTY LINE
- COMMON OWNERSHIP
- IN CONTENTION
- TRACT LINE
- UTILITY EASEMENT
- WATER
- WETLAND

ZONING

- COMMERCIAL
- INDUSTRIAL
- RURAL AGRICULTURAL
- RESIDENTIAL COMMERCIAL - ONE
- RESIDENTIAL COMMERDIAL - TWO
- STATE FOREST OPEN SPACE
- VILLAGE BUSINESS
- VILLAGE RESIDENTIAL
- ADULT ENTERTAINMENT OVERLAY DISTRICT

NOTES

THIS MAP IS BASED ON THE TOWN OF DOUGLAS PROPERTY MAPS PREPARED IN 2000 BY CARTOGRAPHIC ASSOCIATES, INC. IT IS INTENDED FOR REFERENCE AND PLANNING PURPOSES ONLY.

PROPERTY LINES CURRENT TO JANUARY 1, 2006

ZONING DATA SOURCE:
"ZONING MAP, DOUGLAS, MASSACHUSETTS, MAY 1979", PREPARED BY CENTRAL MASSACHUSETTS REGIONAL PLANNING COMMISSION. AMENDMENTS CURRENT TO MAY 1, 2006.

PRODUCED IN 2006 BY
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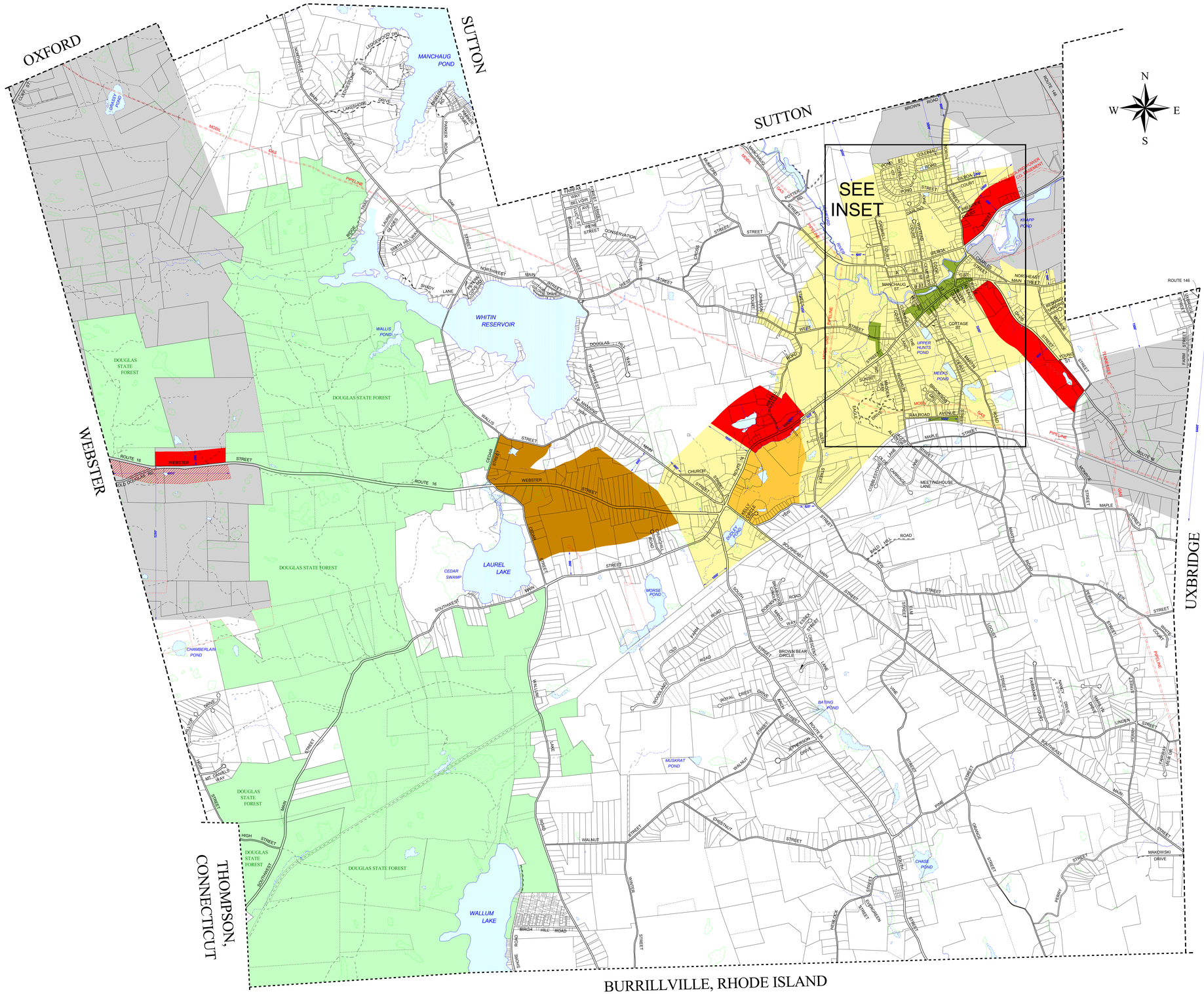

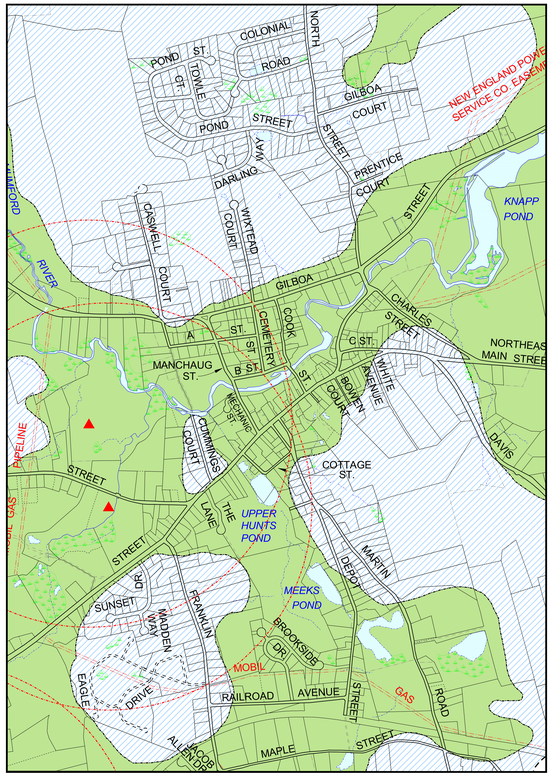

INSET SCALE: 1" = 600'

AQUIFER STUDY MAP OF DOUGLAS MASSACHUSETTS

SCALE 1:12000

1000 0 1000 2000 3000 4000 5000 Feet

300 0 300 600 900 1200 1500 Meters

0.25 0 0.25 0.5 0.75 1 Miles

LEGEND

- ROAD
- PRIVATE ROAD
- TRAIL
- RIGHT OF WAY
- STATE FOREST
- TOWN LINE
- STATE LINE
- WATERSHED DIVIDE & FLOW DIRECTION
- OTHER AQUIFERS
- PROPERTY LINE
- COMMON OWNERSHIP
- IN CONTENTION
- TRACT LINE
- UTILITY EASEMENT
- WATER
- WETLAND
- MUNICIPAL WELLHEAD & PRIMARY RECHARGE AREA
- SECONDARY RECHARGE AREA
- TERTIARY RECHARGE AREA

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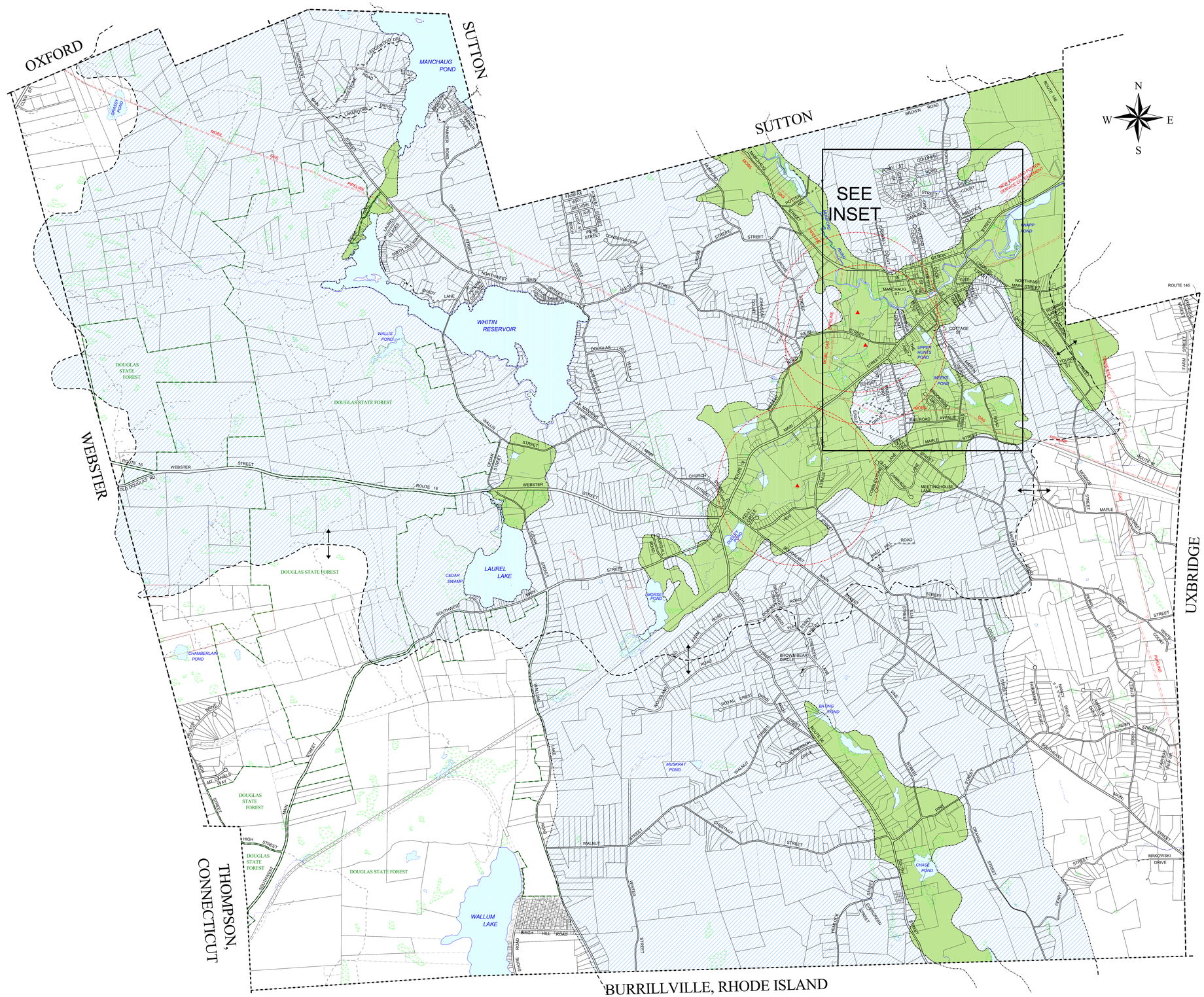
NOTES

THIS MAP IS BASED ON THE TOWN OF DOUGLAS PROPERTY MAPS PREPARED IN 2000 BY CARTOGRAPHIC ASSOCIATES, INC. AND THE TOWN OF DOUGLAS AQUIFER STUDY MAP, PLATE 5, PREPARED BY GEOSYSTEMS RESEARCH, INC. IN 1978 AND 1979. THIS MAP IS ONLY IT IS INTENDED FOR REFERENCE AND PLANNING PURPOSES ONLY.

PROPERTY LINES CURRENT TO JANUARY 1, 2006.