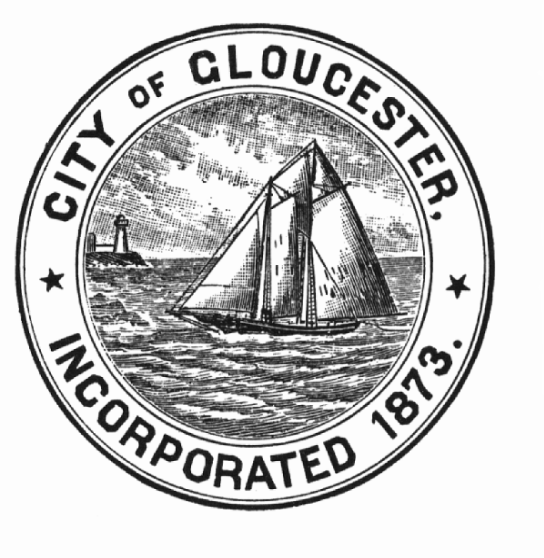
# The City of Gloucester
# Massachusetts

# ZONING ORDINANCE

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# CITY OF GLOUCESTER

## In the Year 1969

BE IT ORDAINED by the City Council of the City of Gloucester as follows: An Ordinance ordained September 27, 1950 relative to Zoning and further amended on April 17, 1969 by striking Sections 1-29 and inserting in their places Sections I-VI, and further amended on September 2, 2008 by striking Sections I-III and inserting in their places the following amended Sections I-III.

# SECTION I ADMINISTRATION AND PROCEDURES

## 1.1 TITLE

This ordinance shall be known as the Zoning Ordinance of the City of Gloucester.

## 1.2 PURPOSE, INTERPRETATION, CONFLICT, DEFINITIONS

### 1.2.1 Purpose

The purpose of the Zoning Ordinance is to promote and enhance the health, safety, convenience, quality of life and welfare of the inhabitants of the City of Gloucester. In furtherance of this purpose, this ordinance shall have the following specific objectives, as identified by the Massachusetts legislature in enacting the Zoning Act, MGL Chapter 40A:

> to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city, including consideration of the recommendations of the comprehensive plan adopted by the Planning Board, and the comprehensive plan, if any, of the Metropolitan Area Planning Council; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Section 2A of Chapter 808 of the Acts of 1975.

### 1.2.2 Interpretation

In interpreting the Zoning Ordinance, its provisions shall be deemed the minimum requirements for effectuation of the purposes and objectives set forth in Section 1.2.1.

### 1.2.3 Conflicts with Other Regulations, Rules, etc.

Where application of the Zoning Ordinance results in the imposition of greater restrictions than those imposed by any other regulation, permit, restriction, easement. covenant or agreement the provisions of this ordinance shall control.

### 1.2.4 Relation to MGL Chapter 40A

While many of the provisions of MGL Chapter 40A are set forth in this ordinance, other provisions of less common application have been omitted. In either case, the provisions of Chapter 40A shall control.

### 1.2.5 Definitions

Where a word or phrase in the text of this ordinance appears in boldface, it is defined in Section VI, Definitions. [Note: this section is presently inoperative and shall only become operative upon completion of the redraft of Sections IV through VI of the Zoning Ordinance]

## 1.3 POWERS AND DUTIES OF THE INSPECTOR OF BUILDINGS

### 1.3.1 Enforcement of Zoning Ordinance; Appeals of Zoning Decisions

(a) The Inspector of Buildings shall administer and enforce the provisions of this ordinance.

(b) To aid the Inspector of Buildings in enforcement of this ordinance, every police officer shall notify his or her superior officer, for referral to the Inspector of Buildings, of any building or structure on which construction work is being done without the display of a duly issued building permit. At the request of the Inspector of Buildings, the Police Department shall assist in the enforcement of this ordinance.

(c) The Inspector of Buildings shall institute, in the name of the city, the appropriate civil or criminal action, to prevent, correct, restrain, abate or punish violations of this ordinance.

(d) Upon conviction, any person, corporation or other entity violating or refusing to comply with the provisions of this ordinance may be fined up to three hundred dollars ($300) for each offense. Each day that such violation continues shall constitute a separate offense.

(e) The Inspector of Buildings shall respond within fourteen (14) days of receipt of a written request to enforce the provisions of this ordinance against any person alleged to be in violation thereof. Such response shall be in writing, shall specify the action taken or declined to be taken, and shall set forth the reasons for the Inspector of Buildings' decision.

(f) The Inspector of Buildings shall maintain a record of all permits issued by the Building Department, and shall make a monthly report of such to the Board of Assessors and a yearly report to the City Council.

(g) Any action, suit, or proceeding to enforce the provisions of this ordinance shall be commenced in the manner of and within the time limitations set forth in MGL, Chapter 40A, Section 7.

### 1.3.2 Building, Occupancy and Use Permits Required

(a) No building or structure shall be constructed, altered, expanded or moved without a building permit. No use of a building, structure or land shall be begun or changed without a use permit. No building or structure shall be occupied without an occupancy permit.

(b) Unless a variance or other relief has been duly granted by the Zoning Board of Appeals pursuant to Section 1.7, or unless otherwise allowed as a nonconforming use or structure pursuant to Section 2.4, no permit shall be issued for the construction, alteration or expansion of any building or structure, or for the use or change in use of any land, building or structure, unless the plans, specifications and other information submitted to the Building Department indicate that said use, land, building or structure will conform in all respects to the provisions of this ordinance, as well as the State Building Code, 780 CMR 1.00 et seq., and any other relevant statute, ordinance or regulation.

(c) The form of all applications for building, occupancy and use permits, and the form of the said permits, shall be as prescribed by the Inspector of Buildings.

(d) Construction or operations under a building or use permit shall conform to any subsequent amendment of this ordinance, unless such construction, occupancy or use is commenced within six (6) months of issuance of said permit, and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

(e) If construction under a building permit is not commenced within six (6) months of the issuance of the permit, or is discontinued for a period of six (6) months or more, said permit shall be void and no further construction shall be allowed without the issuance of a new permit or without a written extension from the Inspector of Buildings.

### 1.3.3 Procedures Relating to Building, Occupancy and Use Permits

(a) No building permit for an unsewered lot shall be issued unless the applicant has first obtained Health Department approval of the septic system design.

(b) No building permit shall be issued unless the applicant demonstrates compliance with the requirements of the Drainage and Grading Regulations of the Department of Public Works (hereinafter, "DPW").

(c) The application for a building or use permit on a lot not shown on the most recent Assessors' Map shall include certification by the Assessors' Office as to the map and lot number of said lot.

(d) The application for a building permit shall be accompanied by a site plan, which shall be drawn to scale and show (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) the dimensions (including the square footage) of all existing and proposed buildings and other structures on said lot, (3) the percentage of lot coverage of all existing and proposed buildings and other structures on said lot, (4) all setback distances, (5) all required off-street parking and loading spaces and (6) all screening, existing or proposed. The application for a building permit shall also be accompanied by a plan or sketch of all relevant elevations of the proposed construction. The Inspector of Buildings may waive one or more of the above requirements for those minor projects which will have negligible neighborhood impact**.**

(e) The application for a building, occupancy or use permit shall be accompanied by a fee as set by the City Council and amended from time to time, payable by check or money order to the order of the City of Gloucester. See Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance.

(f) The application for a building, occupancy or use permit shall be approved or disapproved by the Inspector of Buildings within twenty days of its filing. When such application is disapproved, the reasons for disapproval shall be stated in writing.

(g) At the request of the Inspector of Buildings, the DPW shall inspect any building on a lot for which a drainage and grading plan has been required pursuant to the DPW's Drainage and Grading Regulations, and provide written certification to the Building Department within ten days of such request that it complies with said plan.

## 1.4 ORGANIZATION AND ADMINISTRATION OF THE ZONING BOARD OF APPEALS

### 1.4.1 Membership

In accordance with MGL Chapter 40A there shall be a Zoning Board of Appeals, which shall consist of five members and two associate members, all of whom shall be residents of the City of Gloucester and who shall be appointed by the Mayor, subject to confirmation by the City Council. Each member and associate member shall have been a resident of the City of Gloucester for at least three years prior to his or her appointment to the board. Members shall be appointed for a term of three years; associate members shall be appointed for a term of two years. Members and associate members may be reappointed to successive terms. Vacancies on the board shall be filled in the same manner as other appointments, except that any member or associate member appointed to fill the unexpired term of a member or associate member who has resigned or who otherwise is no longer on the board shall serve only for the duration of said unexpired term, following which such member or associate member shall be eligible for reappointment as specified herein.

### 1.4.2 Duties of Associate Members

The chairperson of the Zoning Board of Appeals shall designate one of the board's associate members to act as a member of the board in the case of the absence, inability to act or conflict of interest of another member. The chairperson shall designate an associate member to act as a member in the event of a vacancy on the board, until said vacancy is filled.

### 1.4.3 Quorum

A quorum of the Zoning Board of Appeals shall consist of four members and associate members. No more than five members and associate members shall vote on any matter before the board. No member or associate member may vote on a matter before the board unless he or she has attended all board hearings at which evidence was presented on said matter. Provided, however, that a board member shall not be disqualified from voting on the matter solely due to that member's absence from a single session of the hearing at which testimony or other evidence was received. Before any such vote, the member shall certify in writing that he or she has examined all testimony or other evidence received at the missed session, by review of an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing in accordance, with MGL Chapter 39 Sec 23D.

### 1.4.4 Conflict of Interest

No member or associate member of the Zoning Board of Appeals shall appear before the board on behalf of any party in any matter pending before it.

### 1.4.5 Officers

The members of the Zoning Board of Appeals shall annually elect one member as chairperson, who shall preside at all meetings. The members shall also elect a vice chairperson to act in the absence of the chairperson, and a secretary, and shall prescribe rules for the conduct of board affairs.

### 1.4.6 Removal for Cause

A member or associate member of the Zoning Board of Appeals may be removed by the Mayor, but only for cause, and only after written charges have been filed and a public hearing held.

### 1.4.7 Minutes

The Zoning Board of Appeals shall keep minutes of its meetings, which shall show the vote of each member upon each question. All such minutes shall be public records, and shall be filed with the City Clerk.

## 1.5 GENERAL PROCEDURES RELATING TO APPEALS, VARIANCES AND SPECIAL PERMITS

### 1.5.1 Procedures and Fees for the Filing of Applications

**(a) City Council:** An application to City Council for a special permit may be submitted at any time to the City Clerk, who shall time-stamp it. Copies of said application, with the City Clerk's time-stamp, shall forthwith be filed by the applicant with the Building Department and the Planning Department and shall be accompanied by an application fee in the amount as set forth at Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance, payable by check or money order to the order of the City of Gloucester.

**(b) Zoning Board of Appeals:** An application for a special permit or variance may be submitted at any time. An application for appeal from the decision of the Inspector of Buildings must be submitted within thirty (30) days of

(i) the date of a written decision, ruling or order of the Inspector of Buildings; or

(ii) the date by which the Inspector of Buildings was required by this ordinance to have issued a written decision but failed to do so.

All applications must be submitted to the City Clerk, who shall time-stamp it. Said application, with the City Clerk's time-stamp, shall forthwith be filed by the applicant with the Building Department and shall be accompanied by an application fee in the amount as set forth at Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance, payable by check or money order to the order of the City of Gloucester.

**(c) Planning Board:** An application for a special permit may be submitted at any time to the City Clerk, who shall time-stamp it. Said application, with the City Clerk's time-stamp, shall forthwith be filed by the applicant with the Community Development Department and shall be accompanied by an application fee in the amount of as set forth at Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance, payable by check or money order to the order of the City of Gloucester.

### 1.5.2 Certification of Completeness

No application to the Zoning Board shall be time-stamped by the City Clerk unless the Inspector of Buildings has certified that it is complete. No application to the City Council shall be time-stamped by the City Clerk unless both the Inspector of Buildings and the Planning Director have certified that it is complete. No application to the Planning Board shall be time-stamped by the City Clerk unless the Planning Director has certified that it is complete.

### 1.5.3 CITY COUNCIL: Application Form and Content

**(a) In General:** An application to the City Council for a special permit shall be in writing, on forms prescribed by the council and issued by the City Clerk. The original application shall be accompanied by 11 copies thereof. The City Clerk shall advise the applicant of the information and documentation necessary to complete the application, including those requirements set forth in Appendix A, Rule 25 of the City Council Rules of Procedure, Special Permit Procedures. The application shall refer to the pertinent provisions of this ordinance and all other applicable statutes, ordinances and regulations, and set forth (1) the name, address and telephone number of the applicant, (2) the name, address and telephone number of the record

owner of the lot, if different, (3) the street address of the lot, (4) theassessors map and lot number of the lot, (5) the zoning district in which the lot and all abutting property is located, (6) a list of the names and addresses of all property owners identified in Section 1.5.6, as certified by the Assessors Office, and (7) such other information as the City Council may require in its Special Permit Procedures. If the applicant is not the owner of the subject property, the application shall include a signed statement by the owner(s) thereof, authorizing the applicant to represent said owner(s) before the City Council. In addition, applications for special permits contain the following information:

**(b) "CC" Special Permits:** Where so indicated by "CC" in Section 2.3, Use Tables, an application for a special permit pursuant to Sections 2.2.1 and 2.3 shall be accompanied by five (5) full-sized sets and eleven (11) 11"x17" sets of

(i) a site plan, drawn to scale and showing (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) the dimensions (including the square footage) of all existing and proposed buildings and other structures on said lot, (3) the percentage of lot coverage of all existing and proposed buildings and other structures on said lot, (4) all setback distances, (5) all required off-street parking and loading spaces and (6) all screening and landscaping, existing or proposed; and

(ii) building and floor plans, drawn to scale and showing exterior elevations of all proposed buildings or structures.

**(c) "CCS" Special Permits:** Where so indicated by "CCS" in Section 2.3, Use Tables, an application for a special permit pursuant to Sections 2.2.1 and 2.3 shall be accompanied by five (5) full-sized sets and eleven (11) 11"x17" sets of

(i) a site plan, stamped by a professional surveyor or engineer, drawn to scale and showing (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) the dimensions (including the square footage) of all existing and proposed buildings and other structures on said lot, (3) the percentage of lot coverage of all existing and proposed buildings and other structures on said lot, (4) all setback distances, (5) all required off-street parking and loading spaces, (6) all screening and landscaping, existing or proposed, (7) the use, zoning, buildings and parking lots of adjacent parcels, (8) existing and proposed topography, (9) all existing and proposed drives, (10) all nearby parks and recreation areas, and (11) water service, sanitary sewers and storm drainage; and

(ii) building plans, floor plans and architectural elevations of all proposed buildings at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building and site.

**(d) Major Projects:** An application for a Major Project, as defined in Section 5.7.1, shall include all of the information and documentation required for a CCS special permit and the additional information and documentation required by Sections 5.7.2 and 5.7.5

**(e) Personal Wire Service Facilities:** An application for a Personal Wireless Service Facility, as defined in Section 5.13, shall include all of the information and documentation required for a CCS special permit and the additional information and documentation required by Section 5.13.5.

**(f) Assisted Living Facilities:** An application for an Assisted Living Facility, as defined in Section 5.14.3, shall include all of the information and documentation required for a CCS special permit and the additional information and documentation required by Sections 5.7.5 and 5.14.4.

**(g) Drive-Through Facilities:** An application for Drive-Through Facility, as defined in Section VI, shall include all of the information and documentation required for a CCS special permit and the additional information and documentation required by Section 5.17.

**(h) Commercial Land-based Wind Energy Conversion Facilities:** An application for a Commercial Land-based Wind Energy Conversion Facility, as defined in Section 5.22.2, shall include all of the information and documentation required for a CCS special permit and the additional information and documentation required by Section 5.22

**(i) Protein Recovery Plants:** An application for a Protein Recovery Plant (see Section 2.3.4, Use No. 14) shall include all of the information and documentation required for a CCS special permit and a full environmental impact study. Said study shall be performed at the applicant's expense, and prior to the public hearing on said application the Board of Health and the Conservation Commission shall review said study and shall submit their respective comments thereon to the City Council

**(j) Miscellaneous Special Permits:** An application for a miscellaneous special permit pursuant to Section 1.10.1 (a) shall be accompanied by the plans and other data required for CC special permits; see Section 1.5.3(b) above.

### 1.5.4 ZONING BOARD OF APPEALS: Application Form and Content

**(a) General:** Applications for appeals, special permits or variances shall be in writing, on forms prescribed by the Zoning Board of Appeals and issued by the Building Department. The original application shall be accompanied by seven copies thereof. The application shall refer to the pertinent provisions of this ordinance and all other applicable statutes, ordinances and regulations, and shall set forth (1) the name, address and telephone number of the applicant, (2) the name, address and telephone number of the record owner of the lot, if different, (3) the street address of the lot, (4) the assessors map and lot number of the lot, (5) the zoning district in which the lot and all abutting property is located, (6) a list of the names and addresses of all property owners identified in Section 1.5.6, as certified by the Assessors Office, and (7) such other information as the board may specify in the prescribed form. In addition, applications for appeals, special permits and variances shall contain the following information:

**(b) Appeals:** An application for appeal shall set forth in detail the grounds upon which the appeal is taken. If the appellant is not the owner of the property that is the subject of the appeal, the appellant shall also submit certification that a copy of the appeal notice has been sent to said owner by certified mail, postage prepaid.

**(c) "SP" Special Permits:** Where so indicated by "SP" in Section 2.3, Use Tables, an application for a special permit pursuant to Sections 2.2.1 and 2.3 shall be accompanied by two (2) full-sized sets and seven (7) 11"x17" sets of

(i) a site plan, drawn to scale and showing (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) the dimensions (including the square

footage) of all existing and proposed buildings and other structures on said lot, (3) the percentage of lot coverage of all existing and proposed buildings and other structures on said lot, (4) all setback distances, (5) all required off-street parking and loading spaces and (6) all screening and landscaping, existing or proposed; and

(ii) building and floor plans, drawn to scale and showing exterior elevations of all proposed buildings or structures.

Provided, however, that the Inspector of Buildings may waive one or more of the above requirements for those minor projects which are deemed to have negligible neighborhood impact**.**

**(d) "SPS" Special Permits:** Where so indicated by "SPS" in Section 2.3, Use Tables, an application for a special permit pursuant to Sections 2.2.1 and 2.3 shall be accompanied by two (2) full-sized sets and seven (7) 11"x17" sets of

(i) a site plan, stamped by a professional surveyor or engineer, drawn to scale and showing (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) the dimensions (including the square footage) of all existing and proposed buildings and other structures on said lot, (3) the percentage of lot coverage of all existing and proposed buildings and other structures on said lot, (4) all setback distances, (5) all required off-street parking and loading spaces, (6) all screening and landscaping, existing or proposed, (7) the use, zoning, buildings and parking lots of adjacent parcels, (8) existing and proposed topography, (9) all existing and proposed drives, (10) all nearby parks and recreation areas, and (11) water service, sanitary sewers and storm drainage; and

(ii) building, floor plans and architectural elevations of all proposed buildings at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building and site.

**(e) All Other Types of Special Permits:** Applications for all other types of special permits shall be accompanied by the plans and other data required for SP special permits; see Section 1.5.4(c) above.

**(f) Variances:** An application for a variance pursuant to Section 1.7 shall be accompanied by the plans and other data required for SP special permits; see Section 1.5.4(c) above.

### 1.5.5 PLANNING BOARD: Application Form and Content

**(a) General:** An application to the Planning Board for a special permit shall be made in writing, on forms prescribed by the Planning Board and issued by the Community Development Department. The original application shall be accompanied by 11 copies thereof. The Community Development Department shall advise the applicant of the information and documentation necessary to complete the application, including those requirements set forth in the Planning Board's Rules and Regulations Governing the Subdivision of Land in Gloucester. The application shall refer to the pertinent provisions of this ordinance and all other applicable statutes, ordinances and regulations, and set forth (1) the name, address and telephone number of the applicant, (2) the name, address and telephone number of the record owner of the lot, if different, (3) the street address of the lot,

(4) the assessors map and lot number of the lot, (5) the zoning district in which the lot and all abutting property is located, (6) a list of the names and addresses of all property owners identified in Section 1.5.6, as certified by the Assessors Office, and (7) such other information as the Planning Board may require in its rules. If the applicant is not the owner of the subject property, the application shall include a signed statement by the owner(s) thereof, authorizing the applicant to represent said owner(s) before the Planning Board.

**(b) "PB" Special Permits:** Where so indicated by "PB" in Section 2.3, Use Tables, an application for a special permit pursuant to Sections 2.2.1 and 2.3 shall be accompanied by five (5) full-sized sets and eleven (11) 11"x17" sets of

(i) a site plan, stamped by a professional surveyor or engineer, drawn to scale and showing (1) the dimensions of the lot to be built upon, including boundaries and lot area, (2) all setback distances, (3) all required off-street parking and loading spaces, (4) all screening and landscaping, existing or proposed, (5) the use and zoning of adjacent parcels, (6) existing and proposed topography, (7) all existing and proposed drives, (8) all nearby parks and recreation areas, and (9) water service, sanitary sewers and storm drainage; and

(ii) all additional information required by the applicable provisions of Sections 5.9, 5.10, 5.15, 5.16, 5.19 and 5.20.

### 1.5.6 Notice

Neither the City Council, the Zoning Board of Appeals nor the Planning Board shall take any action on an application until proper notice has been given and a public hearing held. For purposes of this section, proper notice shall consist of notice of the time and place of said hearing and of the subject matter thereof, published once in each of two successive weeks in the Gloucester Daily Times or other newspaper of general circulation in the city, the first publication to be not less than fourteen (14) days prior to the date of the hearing. Such notice shall also be posted in a conspicuous place in City Hall for a period of not less than fourteen (14) days prior to the date of such hearing, and notice shall be sent by mail, postage prepaid, to the appellant or applicant, as the case may be, abutters to the property that is the subject of the appeal or application, owners of property directly opposite the subject property on any public or private street or way and abutters to the above-mentioned abutters within 300 feet of the property line of the subject property. Notice shall also be sent by mail, postage prepaid, to the Planning Board and the planning boards of Rockport, Essex and Manchester. Where the mailing address of any person entitled to notice is a bank or other lending institution, written notice shall also be sent to the street address of the property owned by such person. The notice required pursuant to this section shall be given notwithstanding the fact that the abutting property is located in another town. Nothing herein shall be deemed to prevent the City Council, Zoning Board of Appeals or Planning Board from postponing consideration of the merits of an appeal or application for the purpose of giving notice to other parties deemed materially affected by the matter.

### 1.5.7 Identification of those Persons Entitled to Notice; Failure to Receive Notice

For purposes of the preceding section, the term "owners of property" and "abutters" shall mean those persons appearing on the most recent applicable tax list, as certified by the Assessor's Office, which certification shall be conclusive for all purposes. The failure of a person identified in the preceding section to receive actual notice of the public hearing shall not invalidate any action taken at said hearing and shall not require another hearing.

### 1.5.8 Referral to Other Boards, Commissions and Departments

**(a) Zoning Board of Appeals:** The Zoning Board of Appeals may request the Planning Board, the Board of Health, the Conservation Commission, the City Engineer, the Building Inspector or any other city agency, commission or board to review and comment upon an appeal or application. Any response to such request shall be sent to the applicant or appellant and the board, and shall be made within thirty-five (35) days of receipt of the request, but in any case no later than at the public hearing on such appeal or application. Failure to reply within said thirty-five (35) day period or prior to the public hearing shall be deemed a statement of no opposition. Reviews under this section may be conducted jointly by two or more city agencies, commissions or boards.

**(b) City Council:** On all Major Projects, as defined at Section 5.7.1, departmental and Planning Board reviews shall be conducted in accordance with Sections 5.7.3 and 5.7.4.

### 1.5.9 Endorsement of Plans and Sketches

Upon approval of an application the plans and sketches upon which said approval was given shall be stamped and endorsed by the presiding officer. The stamped and endorsed plans and sketches shall be transmitted directly from the ZBA to the Building Department.

### 1.5.10 Time Limits for Holding a Public Hearing and Issuing a Written Decision; Filing with the City Clerk; Consequences of Rendering a Decision in an Untimely Manner

**(a) Appeals and Variances:** The Zoning Board of Appeals shall hold a public hearing on an appeal or application for a variance within sixty-five (65) days of the date of filing of a complete appeal or application with the City Clerk. The board shall render a decision in writing on such appeal or application for a variance within one hundred (100) days of the date of filing of said complete appeal or application; provided, however, that either of said periods may be extended by written agreement between the appellant or applicant and the board, a copy of which agreement shall be filed with the City Clerk. Pursuant to MGL Chapter 40A, Section 15, and provided that the appellant or applicant complies with the procedures set forth therein, the board's failure to act within said one hundred (100) day period or said extended period shall be deemed a constructive grant of the relief requested.

**(b) Special Permits:** A public hearing on an application to the City Council, the Zoning Board of Appeals or the Planning Board for a special permit shall be held within sixty-five (65) days of the date of filing of a complete application with the City Clerk. A decision in writing on such application shall be issued within ninety (90) days of the close of said hearing provided, however, that either of said periods may be extended by written consent of the applicant, a copy of which shall be filed with the City Clerk. Pursuant to MGL Chapter 40A, Section 9, and provided that the applicant complies with the procedures set forth therein, the failure to issue a decision act within said ninety (90) day period or said extended period shall be deemed to be a constructive grant of the special permit.

**(c) Filing with City Clerk:** Within fourteen (14) days of the issuance of a written decision, a copy thereof shall be filed with the City Clerk, who shall time-stamp it.

### 1.5.11 Notice of Decision

A copy of the time-stamped decision on an appeal, an application for a special permit or an application for a variance shall be transmitted to the Planning Department and the Inspector of Buildings, and shall be mailed, postage prepaid, to the appellant or the applicant, as well as the

owner of the subject property if other than the appellant or applicant. Notice of said decision shall also be sent to each of the parties designated in Sections 1.5.6 and 1.5.7, and to any person present at the hearing who requested such notice and provided his or her name and address. Each such notice, as well as the copy of the decision sent to the applicant, appellant or owner, shall specify the time limits and procedures for judicial appeal of the decision, as set forth at Section 1.5.16.

**1.5.12 Effective Date of Special Permit or Variance**

No special permit or variance shall take effect, nor shall any building permit be issued, until all of the following have occurred:

1. twenty (20) days have elapsed after the filing of the decision with the City Clerk pursuant to Section 1.5.10(c); and
2. the City Clerk certifies that no appeal has been taken from said decision, and
3. both the decision and certification have been recorded in the Essex County Registry of Deeds.

**1.5.13 Compliance with Approved Plans; Modification of Plans**

Failure to comply with any of the approved plans, or with any of the conditions, safeguards or limitations imposed on any special permit, variance or favorable ruling on appeal, shall be deemed sufficient grounds for revocation thereof, following due notice and a public hearing. The Inspector of Buildings (and, in the case of permits issued by the City Council and the Planning Board, with the consent of the Planning Director) may authorize minor, non-substantive changes to said plans in order to correct clerical errors or address conditions discovered after issuance of a special permit or variance; provided, however, that such changes are consistent with the original decision and do not detract from the protection provided to the neighborhood and the city by said decision. At the request of the applicant, the City Council, Zoning Board of Appeals or Planning Board may make substantive changes to the plans it has approved or the conditions, safeguards or limitations it has imposed, provided that the interests of the neighborhood and the city are not impaired, and only after due notice and a public hearing, and only for good cause shown.

**1.5.14 Withdrawal of Applications**

An appeal pursuant to Section 1.6 may be withdrawn at any time; provided, however, that such withdrawal will not toll the time limit within which such appeal may be taken. An application for a special permit or variance may be withdrawn without prejudice at any time prior to the first publication of notice of the public hearing. Thereafter, and until such time as a vote is taken thereon, such application may be withdrawn without prejudice only at the discretion of the City Council, Zoning Board of Appeals or Planning Board.

**1.5.15 Repetitive Applications**

**(a) City Council**: No application for a special permit which has been denied by the City Council shall be resubmitted within two years of the date of said denial unless:

(i) such resubmission is allowed by a vote of two-thirds of the members of the council, upon a finding that there have been specific and material changes in the conditions upon which the previous denial was based, which changes shall be described in the record of the council's proceedings; and

(ii) such resubmission is subsequently consented to by all but one member of the Planning Board, after written notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

**(b) Zoning Board of Appeals**: No appeal or application for a variance or special permit which has been denied by the Zoning Board of Appeals shall be resubmitted within two years of the date of said denial unless:

(i) such resubmission is allowed by a vote of four members of the board, upon a finding that there have been specific and material changes in the conditions upon which the previous denial was based, which changes shall be described in the record of the Board's proceedings; and

(ii) such resubmission is subsequently consented to by all but one member of the Planning Board, after written notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

**(c) Planning Board**: No application for a special permit which has been denied by the Planning Board shall be resubmitted within two years of the date of said denial unless such resubmission is allowed by a vote of all but one of the members of the board, after written notice is given to parties in interest of the time and place of the proceedings, and upon a finding that there have been specific and material changes in the conditions upon which the previous denial was based, which changes shall be described in the record of the board's proceedings.

### 1.5.16 Appeal from the Decision of the City Council, Zoning Board of Appeals or Planning Board

Any person aggrieved by a decision of the City Council, Zoning Board of Appeals or Planning Board, whether or not previously a party to the proceedings, or any municipal officer or board of the city, may appeal to the Essex County Land Court Department, the Essex County Superior Court Department, the Essex County Division of the Housing Court or the Essex County District Court, as appropriate, by bringing an action within twenty (20) days after said decision has been filed with and time-stamped by the City Clerk, and by otherwise complying with the provisions of MGL Chapter 40A, Section 17**.**

## 1.6 APPEALS FROM A DECISION OF THE INSPECTOR OF BUILDINGS

### 1.6.1 Who May Appeal

Pursuant to MGL Chapter 40A, Section 15, the Zoning Board of Appeals shall hear and vote upon appeals taken by

any person or entity aggrieved by reason of a decision by the Inspector of Buildings to either issue or not issue a building permit or other permit authorized by MGL Chapter 40A or this ordinance; or

any person or entity aggrieved by reason of a decision by the Inspector of Buildings to either issue or not issue an order enforcing the provisions of MGL Chapter 40A or this ordinance.

For purposes of this section the term "person or entity" shall include the Metropolitan Area Planning Council, an officer or board of the City of Gloucester or an officer or board of any abutting town. An appeal pursuant to this section may be taken by any of the foregoing persons or entities, whether or not previously a party to the order or decision in question.

### 1.6.2 Time Limit for Appeal

Within thirty (30) days of (a) the date of any written decision, ruling or order of the Inspector of Buildings, or (b) the date by which the Inspector of Buildings was required by this ordinance to

have issued a written decision but failed to do so, an aggrieved person may submit a notice of appeal to the City Clerk, subject to the procedure set forth at Sections 1.5.1(b), 1.5.2, and 1.5.4(b).

### 1.6.3 Modification of the Decision of the Inspector of Buildings

In acting on an appeal the Zoning Board of Appeals may modify the order or decision of the Inspector of Buildings and impose such conditions, safeguards and limitations as it deems necessary to protect the neighborhood and the city. Any such condition, safeguard or limitation so imposed may thereafter be modified by the board, in the interests of the appellant, the neighborhood and the city, but only after due notice and a public hearing, and only for good cause shown.

### 1.6.4 Vote of the Zoning Board of Appeals

The order or decision of the Inspector of Buildings may be reversed or modified only upon a vote of at least four members or associate members of the Zoning Board of Appeals.

## 1.7 VARIANCES

### 1.7.1 Jurisdiction of the Board of Appeals

Pursuant to MGL Chapter 40A, Section 10, the Zoning Board of Appeals shall hear and vote upon applications for variances from the terms and requirements of this ordinance, including variances for use.

### 1.7.2 Standard to be Applied

Variances are to be granted only upon a written determination by the Zoning Board of Appeals that

literal enforcement of the provisions of this ordinance would involve substantial hardship to the applicant, financial or otherwise; and

said hardship arises from circumstances relating to the soil conditions, shape or topography of the land or structure(s) in question, which circumstances particularly affect such land or structure(s) but which do not generally affect the zoning district in which they are located; and

the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance; and

in the case of a requested variance from the requirements of Section 2.3, Use Tables, that no other feasible and economic use of the subject property can be made, either as of right or by special permit.

### 1.7.3 Conditions, Safeguards and Limitations

A variance may contain such conditions, safeguards and limitations as the Zoning Board of Appeals deems necessary to protect the neighborhood and the city, including conditions, safeguards and limitations relating to time, use and the continued existence of any particular

structure or structures; provided, however, that the board may not impose conditions, safeguards or limitations based upon the continued ownership, by the applicant or any other person, of the land or structure to which the variance pertains.

### 1.7.4 Modification of Variance

At the request of the applicant, a variance may be subsequently modified by the Zoning Board of Appeals, provided that the interests of the neighborhood and the city are not impaired, and only after due notice and a public hearing, and only for good cause shown.

### 1.7.5 Lapse of Variance

If the rights authorized by a variance are not exercised within one year of the issuance thereof, such rights shall lapse; provided, however, that if written request is made prior to the expiration of said one-year period the board, the Zoning Board of Appeals, in its discretion, may extend said period for up to six (6) months.

### 1.7.6 Vote of the Zoning Board of Appeals

A variance, and any modification thereof, shall require the affirmative vote of at least four (4) members or associate members of the Zoning Board of Appeals.

## 1.8 USE TABLE SPECIAL PERMITS

### 1.8.1 Jurisdiction

Pursuant to MGL Chapter 40A, Section 9, and Sections 2.2.1 and 2.3 of this ordinance, the City Council shall hear and vote upon applications for a special permit for those uses identified as "CC" and "CCS" in the Use Tables set forth at Section 2.3; the Zoning Board of Appeals shall hear and vote upon applications for a special permit for those uses identified as "SP" and "SPS" in the Use Tables; and the Planning Board shall hear and vote upon applications for a special permit for those uses identified as "PB" in the Use Tables.

### 1.8.2 Title

When acting pursuant to this Section 1.7, the City Council, the Zoning Board of Appeals and the Planning Board shall each be referred to as the Special Permit Granting Authority (hereinafter, "SPGA")

### 1.8.3 Standard to be Applied

A special permit pursuant to this section shall be granted only upon a written determination by the SPGA that the proposed use will be in harmony with the general purpose and intent of this ordinance, and that it will not adversely affect the neighborhood, the zoning district or the city to such an extent as to outweigh the beneficial effects of said use. In reviewing special permit applications, SPGA shall consider, but not be limited to, the following six factors:

(a) the social, economic and community needs that will be served by the proposed use;
(b) traffic flow and safety;
(c) adequacy of utilities and other public services;
(d) neighborhood character and social structure;
(e) qualities of the natural environment;
(f) potential fiscal impact.

### 1.8.4 Additional Standards to be Applied in Certain Cases

In addition to the above-referenced general factors, the SPGA shall consider the supplementary standards set forth at Section V for each of the following uses:

**(a) City Council:**

Earth Fill and Removal Regulations, see Section 5.2

Lowlands Regulations, see Section 5.5.

Major Projects, as defined at Section 5.7.1, see Section 5.7.5.

Personal Wireless Service Facilities (cell towers), see Section 5.13.

Assisted Living Residences, see Section 5.14.

Drive-through facilities, see Section 5.17.

Any use proposed in the Marine Industrial (MI) District which is within 200 feet of the water's edge, see Section 5.18.

Gas Stations and Other Motor Vehicle Services in certain zoning districts, see Section 5.21.

Commercial Land-based Wind Energy Conversion Facilities, see Section 5.22

**(b) Zoning Board of Appeals:**

Home Occupations, see Section 5.3.

Any use in the Marine Industrial (MI) District which is within 200 feet of the water's edge, see Section 5.18.

Gas Stations and Other Motor Vehicle Services in the GI District, see Section 5.21.

Residential Land-based Wind Energy Conversion Facilities, see Section 5.23.

Accessory In-Law Apartments, see Section 5.24

**(c) Planning Board:**

Cluster Developments, see Section 5.9.

Certain uses in the Watershed Protection Overlay District, see Section 5.10.

Uses in the Village Development Overlay District, see Section 5.16.

Pork Chop Lots, see Section 5.19.

Common Driveways, see Section 5.20.

### 1.8.5 Conditions, Safeguards and Limitations; Modification

A special permit granted pursuant to this section may contain such conditions, safeguards and limitations as the SPGA deems necessary to protect the neighborhood and the city. At the request of the applicant, a special permit granted pursuant to this section may be subsequently modified by the SPGA, provided that the interests of the neighborhood and the city are not impaired, and only after due notice and a public hearing, and only for good cause shown.

### 1.8.6 Lapse of Special Permit

Except for good cause found by the SPGA after due notice and a public hearing, or except as provided by MGL Chapter 40A, Section 9**,** if construction or use under a special permit is not substantially commenced within two (2) years of the issuance of said permit, or if said construction or use is discontinued for a period of two (2) years or more, said permit shall lapse.

### 1.8.7 Compliance with Subsequent Amendment of Zoning Ordinance

Construction or operations under a special permit granted by the City Council, Zoning Board of Appeals
or Planning Board shall conform to any subsequent amendment of this ordinance, unless such use or construction is commenced within six months of the issuance of said permit, and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### 1.8.8 Vote of the SPGA

A special permit granted pursuant to this section, and any modification thereof, shall require the affirmative vote of at least two-thirds of the members of the City Council, or at least four (4) members or associate members of the Zoning Board of Appeals, or at least two-thirds of the members of the Planning Board.

## 1.9 SPECIAL PERMITS FOR THE ALTERATION OR EXPANSION OF NONCONFORMING USES AND STRUCTURES

### 1.9.1 Jurisdiction

Pursuant to MGL Chapter 40A, Section 6 and Section 2.4 of this ordinance, and subject to the special procedures, exemptions and standards set forth at Section 2.4, the Zoning Board of Appeals shall hear and decide upon applications for a special permit for

the change, extension or alteration of a pre-existing nonconforming use;

the change, extension or alteration of a pre-existing nonconforming structure;

the alteration of a pre-existing nonconforming structure to enable it to be used for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent; or

the change, extension, alteration or reconstruction of a single or two-family dwelling in those cases under Section 2.4.4 where a determination is made that the proposed work will increase the nonconforming nature of the building.

### 1.9.2 Standard to be Applied

A special permit pursuant to this section shall only be granted upon a written determination by the Zoning Board of Appeals that such change, extension, reconstruction or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure; provided, however, that in the case of a single or two-family dwelling the board (or, in certain cases, the Inspector of Buildings) may decide that a special permit is not required because the proposed change, extension, reconstruction or alteration of said dwelling does not increase its nonconformity. See Section 2.4.4

### 1.9.3 Conditions, Safeguards and Limitations; Modification

A special permit granted pursuant to this section may contain such conditions, safeguards and limitations as the Zoning Board of Appeals deems necessary to protect the neighborhood and the city. At the request of the applicant, a special permit granted pursuant to this section may be subsequently modified by the board, provided that the interests of the neighborhood and the city are not impaired, and only after due notice and a public hearing, and only for good cause shown.

### 1.9.4 Lapse of Special Permit

Except for good cause found by the Zoning Board of Appeals after due notice and a public hearing, or except as provided by MGL Chapter 40A, Section 9**,** if construction or use under a special permit is not substantially commenced within two (2) years of the issuance of said permit, or if said construction or use is discontinued for a period of two (2) years or more, said permit shall lapse.

### 1.9.5 Compliance with Subsequent Amendment of Zoning Ordinance

Construction or operations under a special permit granted under this Section 1.8 shall conform to any subsequent amendment of this ordinance, unless such use or construction is commenced within six months of the issuance of said permit, and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### 1.9.6 Vote of the Zoning Board of Appeals

A special permit granted pursuant to this section, and any modification thereof, shall require the affirmative vote of at least four (4) members or associate members of the Zoning Board of Appeals.

## 1.10 MISCELLANEOUS SPECIAL PERMITS

### 1.10.1 Jurisdiction of the City Council and Zoning Board of Appeals

**(a) City Council:** The City Council shall hear and decide upon applications for the following miscellaneous special permits:

(1) Special permits pursuant to Section 3.1.6, authorizing an increase in building height over 35 feet in certain zoning districts, subject to the standards set forth therein;

(2) Special permits pursuant to footnote (e) of Sections 3.2.2 and 3.2.6, authorizing a decrease in the required distance between buildings used for multi-family dwellings, hotels, motels and motor inns, subject to the standards set forth therein;

(3) Special permits pursuant to footnote (a) of Section 3.2.2, authorizing a decrease in minimum lot area and minimum open space per dwelling unit for multi-family dwellings, subject to the requirements and standards set forth therein;

(4) Special permits pursuant to footnote (a) of Section 3.2.6, authorizing a decrease in minimum lot area and minimum open space per two guest unit for hotels, motels and motor inns, subject to the requirements and standards set forth therein;

(5) Special permits pursuant to Section 5.6, authorizing a decrease in the off-street parking, lot area and open space requirements for elderly housing, subject to the standards set forth therein.

**(b) Zoning Board of Appeals:** The Zoning Board of Appeals shall hear and decide upon applications for the following miscellaneous special permits:

(1) special permits pursuant to Section 3.1.5, for the division of certain lots on which more than one building exists, subject to the requirements and standards set forth therein;

(2) special permits pursuant to Section 3.1.6, authorizing an increase in building height of up to 35 feet in certain zoning districts, subject to the requirements and standards set forth therein;

(3) special permits pursuant to Section 4.1.2, authorizing a decrease in the number of required off-street parking spaces for various uses, subject to the requirements and standards set forth therein;

(4) Special permits pursuant to Section 4.4.1, authorizing exceptions from the noise, litter and smoke standards of Section 4.4, subject to the requirements and standards set forth therein.

**1.10.2 Standard to be Applied**

A special permit granted pursuant to this section shall only be granted upon a written determination by the City Council or the Zoning Board of Appeals that the proposed use will be in harmony with the general purpose and intent of this ordinance, based upon the standards and requirements set forth in the applicable section of this ordinance, as referenced above.

**1.10.3 Conditions, Safeguards and Limitations; Modification**

A special permit granted pursuant to this section may contain such conditions, safeguards and limitations as the City Council or the Zoning Board of Appeals deems necessary to protect the neighborhood and the city. At the request of the applicant, a special permit granted pursuant to this section may be subsequently modified by the City Council or the Zoning Board of Appeals, provided that the interests of the neighborhood and the city are not impaired, and only after due notice and a public hearing, and only for good cause shown.

**1.10.4 Lapse of Special Permit**

Except for good cause found by the City Council or the Zoning Board of Appeals after due notice and a public hearing, or except as provided by MGL Chapter 40A, Section 9, if construction or use under a special permit is not substantially commenced within two (2) years of the issuance of said permit, or if said construction or use is discontinued for a period of two (2) years or more, said permit shall lapse.

**1.10.5 Compliance with Subsequent Amendment of Zoning Ordinance**

Construction or operations under a special permit granted under this Section 1.8 shall conform to any subsequent amendment of this ordinance, unless such use or construction is commenced within six months of the issuance of said permit, and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**1.10.6 Vote of the City Council or Zoning Board of Appeals**

A special permit granted pursuant to this section, and any modification thereof, shall require the affirmative vote of at least two-thirds of the members of the City Council, or at least four (4) members or associate members of the Zoning Board of Appeals.

## 1.11 AMENDMENTS TO THE ZONING ORDINANCE

### 1.11.1 Authorization

The Zoning Ordinance may be amended by vote of the City Council, following hearings and the other procedures prescribed by MGL Chapter 40A, Section 5 and this ordinance.

### 1.11.2 Initiation

Amendment of the Zoning Ordinance may be initiated in any of the following ways:

(a) by submission to the City Council of a proposed amendment by the Planning Board, the Board of Appeals or the Metropolitan Area Planning Council;

(b) by submission to the City Council of a proposed amendment by the owner(s) of property that will be directly affected by the proposed change, accompanied by an application fee in the amount as set forth at Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance, payable by check or money order to the order of the City of Gloucester;

(c) by petition of ten registered voters to the City Council, such petition to be certified by the City Clerk as provided by MGL Chapter 43, Section 38, accompanied by an application fee in the amount as set forth at Appendix B, Schedule of Fees under the City of Gloucester Zoning Ordinance, payable by check or money order to the order of the City of Gloucester;

(d) by other methods provided for in the City of Gloucester Charter;

(e) by motion of the City Council on any matter it deems appropriate, including, but not limited to, amendments to this ordinance proposed in a manner other than those prescribed above.

### 1.11.3 Informal Planning Board Review

In determining whether or not to initiate formal action on a proposed amendment to this ordinance, the City Council may request informal review of the matter by the Planning Board and a recommendation thereupon. Such informal review, even if conducted at a meeting or hearing open to the general public, shall not be deemed to satisfy the requirement, of MGL Chapter 40A, Section 5 and Section 1.11.4(b) of this ordinance, that the Planning Board hold a public hearing after formal submission of the proposed amendment to the board by the City Council pursuant to Section 1.11.4(a) hereof. Any meeting or hearing of the Planning Board conducted in response to the City Council's request for informal review and recommendation need not comply with the public notice requirements of MGL Chapter 40A, Section 5 and Section 1.11.5(b) of this ordinance.

### 1.11.4 Hearings and Notices

**(a) Submission to the Planning Board:** Within fourteen (14) days of receipt of a proposed amendment, the City Council shall submit it to the Planning Board for review.

**(b) Public Hearings:** The Planning Board and the City Council, or a subcommittee of the City Council appointed for the purpose by the City Council, shall each hold a public hearing on the proposed amendment, together or separately. Such hearing shall be held within sixty-five (65) days after the proposed amendment is submitted to the Planning Board by the City Council pursuant to Section 1.11.4(a). Notice of the time and place of the public hearing shall be given as provided in MGL Chapter 40A, Section 5. In addition, the Council shall give notice by mail to the owners of all property included in and abutting the area of the city to be affected by such

amendment, said owners being those persons against whom real estate taxes are currently assessed, as certified by the Assessors Office. Said notice shall state the general nature of the proposed amendment, as well as the text, and shall quote in full Section 1.11.5 pertaining to the vote required or passage of the proposed amendment. Provided, however, that such notice may be waived by vote of the City Council at the time of fixing the time and place of the public hearing, upon the Council's determination that the proposed amendment affects so many properties as to make such notice impracticable. A non-resident property owner may annually request that notice of public hearings under this Section 1.11.4 be sent by mail, postage prepaid, to said non-resident property owner; such request shall be made to the City Clerk before January first of each year, together with a fee of $10.00**.**

### 1.11.5 Vote of the City Council

**(a) Recommendation of the Planning Board:** No City Council vote on a proposed amendment to this ordinance shall be taken until a report and recommendations have been submitted by the Planning Board to the council, or twenty-one (21) days have elapsed after the Planning Board's hearing pursuant to Section 1.11.4(b) without submission of such report.

**(b) Action by the City Council:** After notice pursuant to Section 1.11.4(b) has been given, a report has been submitted by the Planning Board to the City Council [or after twenty-one days have elapsed since the Planning Board's hearing pursuant to Section 1.11.4(b) without submission of such report], and a public hearing has been held by the City Council, it may adopt, reject or amend and adopt a proposed amendment to this ordinance.

**(c) Failure to Vote within 90 Days of the Close of the Public Hearing:** If the City Council fails to vote on a proposed amendment to this ordinance within ninety (90) days of the close of its public hearing, it shall not act thereon until after it holds another public hearing, preceded by notice as required by Section 1.11.4(b).

**(d) Required Majority:** No proposed amendment shall be adopted except by a two-thirds vote of all members of the City Council (i.e., six members); provided, however, that no proposed amendment shall be adopted except by a three-fourths vote of all the members of the City Council (i.e., seven members) if a written protest is filed with the City Clerk prior to final action of the City Council. Such written protest shall state the reasons for the protest and shall be signed by the owners of twenty percent (20%) or more of the area of land proposed to be included in or affected by said proposed amendment, including the area of land immediately adjacent thereto and extending three hundred (300) feet outward from said adjacent land.

### 1.11.6 Repetitive Petitions

No proposed amendment to this ordinance which has been unfavorably acted upon by the City Council shall be considered again by the City Council for a period of two years from the date of such unfavorable action, unless the adoption of such proposed amendment had been recommended by the Planning Board pursuant to Section 1.11.5(a).

### 1.11.7 Incorporation of Map Amendments

Whenever a duly adopted and recorded amendment of the Zoning Ordinance requires a revision of the Zoning Map, as defined in Section 2.1.2, a notation shall be made on the appropriate page or pages of the master copy of said map, giving the date of the amendment and the grid location of the change(s); this notation shall be signed by the City Clerk. Copies of the amended map shall be kept on file as provided in Section 2.1.2.

**1.11.8 Effective Date**

The effective date of an amendment to this ordinance shall be the date of its final passage by the City Council.

**1.11.9 Appeal from the Action of City Council**

Appeal from the action of City Council pursuant to this Section 1.7 shall comply with the time limitations and other procedural requirements of MGL Chapter 40A, Section 5.

**1.11.10 Severability**

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision thereof.

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# SECTION II USE REGULATIONS

## 2.1 ZONING DISTRICTS

### 2.1.1 Enumeration of the Zoning Districts

The City of Gloucester is divided into fifteen zoning districts, the broad definitions and minimum lot area of which are set forth in this Section 2.1.1. The boundaries of the districts can be determined by reference to the Zoning Map, as described in Section 2.1.2 of this ordinance; the allowed uses in each of the districts can be determined by reference to Section 2.3, Use Tables; the dimensional requirements for each of the districts can be determined by reference to Section 3.2, Dimensional Tables. The following definitions are intended for guidance only; where there is a conflict between these definitions and the Zoning Map, the map shall control; where there is a conflict between these definitions and Sections 2.3 and 3.2, the latter sections shall control.

**R-80 (formerly R-RB) Rural Residential (minimum lot area: 80,000 sf)**
The R-80 Rural Residential District is located north of Goose Cove in North Gloucester and north of Route 128 in West Gloucester. This district is rural in character and encompasses those areas where limited services and access suggest low-intensity use, where present and anticipated future development is and will continue to be compatible with the environs of low residential density, and where those select non-residential uses identified in Section 2.3 can be accommodated without conflict with the predominant nature of the district.

**R-40 (formerly R-RA) Rural Residential (minimum lot area: 40,000 sf)**
The R-40 Rural Residential District is located north and west of the R-80 district in North Gloucester and both north and south of the R-80 district in West Gloucester. This district encompasses those areas where limited services and access suggest low-intensity use, where present and anticipated future development is and will continue to be compatible with the environs of low residential density, and where those select non-residential uses identified in Section 2.3 can be accommodated without conflict with the predominant nature of the district. This district is intended to provide a transition from the rural R-80 district to the higher density residential districts.

**RC-40 (formerly R-1) Coastal Residential (minimum lot area: 40,000 sf)**
The RC-40 Coastal Residential District consists of Eastern Point and that area on the southeast side of the middle portion of Hesperus Avenue. It encompasses those areas where limited services and access suggest low-intensity development, and where existing development consists of single family detached residential uses.

**R-30 (formerly R-2A) Low Density Residential (minimum lot area: 30,000 sf)**
The R-30 Low Density Residential District is located in West Gloucester. It is suburban in nature, and is an area where limited services and access suggest low-intensity use, and where present and anticipated future development is and will be compatible with the environs of low residential density. This district is intended to accommodate single family residential development and, where appropriate, two family and multi-family development. This district contains large portions of the watershed protection area and is intended to help protect this resource.

**R-20 (formerly R-2) Low/Medium Density Residential (minimum lot area: 20,000 sf)**
The R-20 Low/Medium Density Residential District is located east and north of downtown, along significant portions of the west side of the Annisquam River, and along the southwest (oceanside) corridor between the Annisquam River and Magnolia. This district is intended to accommodate single family residential development and, where appropriate, two family and multi-family

development. This district provides a transition from the rural districts to the high density districtsof the city.

**R-10 (formerly R-3) Medium/High Density Residential (minimum lot area: 10,000 sf)**
The R-10 Medium/High Density Residential District is located along both sides of the western portion of Essex Avenue, on both sides of the Mill River, on a portion of the Annisquam River and in that area extending in a northeasterly direction from downtown to the Rockport line. This district is characterized by suburban residential development in existing neighborhoods, and provides a transition from the suburban areas of the city to the more densely populated areas of downtown. This district is intended to accommodate single family residential development and, where appropriate, two family and multi-family development**.**

**R-5 (formerly R-4) High Density Residential (minimum lot area: 5,000 sf)**
The R-5 High Density Residential District is located in the downtown area of the city and is the highest density residential zone in the city. This district allows for a mix of single family, two-family and multi-family residential dwellings.

**CCD Civic Center (no minimum lot size)**
The Civic Center District consists of those existing civic buildings in the immediate vicinity of City Hall. This district is intended to include civic uses that serve the entire city, although limited types of commercial and residential uses are allowed

**CB Central Business (no minimum lot size)**
The Central Business District is located on either side of Main Street. A broad range of business, retail, office and institutional uses are allowed, as are residential units above retail establishments. This is the city's most intensely commercial district, and retail stores and restaurants predominate. This district is intended to include uses that serve all of Cape Ann.

**VB Village Business (minimum lot area: 5,000 sf)**
Village Business Districts are located in Lanesville, Magnolia and the area off Essex Avenue around Lower Banjo Pond. Certain business, retail, office, and institutional uses are allowed, and primarily serve the residents of the immediate neighborhood. Limited residential use is also allowed.

**NB Neighborhood Business (minimum lot area: the same as the abutting residential district with the smallest required minimum lot area)**
Neighborhood Business Districts are located throughout the city. Residential uses are allowed, as are consumer service and retail businesses serving the residents of the immediate neighborhood.

**EB Extensive Business (minimum lot area: 10,000 sf)**
Extensive Business Districts are located along collector streets in various areas of the city. Business, service and retail uses serving a regional clientele are allowed; residential uses are generally not allowed.

**MI Marine Industrial (minimum lot area: where the subject property abuts one or more residential districts, the minimum lot area is the same as the abutting residential district with the smallest required minimum lot area; otherwise, no minimum lot area)**
The Marine Industrial District is located along Gloucester's Inner Harbor, where utilities and access roads can support high-intensity industrial and commercial activities that are primarily marine-related. Residential uses are generally not allowed.

**GI General Industrial (minimum lot area: 10,000 sf)**
General Industrial Districts are primarily located along arterial and collector streets. Manufacturing, assembling, processing and other industrial uses are allowed, as are certain businesses. Residential uses are generally not allowed.

**BP Business Park (minimum lot area: 40,000 sf)**
The Business Park districts are located off Blackburn Circle and Kondelin Road, and accommodate offices, warehousing, limited service uses and light industrial uses in a business park setting. They have ready accessibility and utility capacity to accommodate the demands of business park development. Residential uses are generally not allowed.

### 2.1.2 The Zoning Map

**(a) Delineation of Zoning Districts:** The zoning districts enumerated in Section 2.1.1 of this ordinance are shown on the "Zoning Map of the City of Gloucester", adopted by the City Council and issued on July 24, 1975 (as amended from time to time, the "Zoning Map"). The Zoning Map is hereby incorporated in and made part of this ordinance.

**(b) Custody of Zoning Map:** The Zoning Map and all amendments thereto shall be endorsed by the City Clerk and shall be kept on file at the City Clerk's Office; collectively, they shall be deemed the official Zoning Map of the City of Gloucester. Current copies of the Zoning Map shall also be kept on file at the Engineering Department and the Building Department.

**(c) Drafting Masters:** The drafting masters of the Zoning Map and all amendments thereto shall be maintained by the City Engineer's Office.

**(d) Zoning Map Index; Grid System:** Each page of the Zoning Map shall include a distinctive number in the lower right hand corner thereof and by such means shall be identified on an index map. In addition, a grid system shall be superimposed on each page and shall consist of horizontal rows numbered (1) through (6), and vertical columns lettered (A) through (D).

### 2.1.3 Resolution of Ambiguities and Conflicts in Zoning District Boundaries

Where ambiguities or conflicts exist with respect to the zoning district boundary lines, the following rules of interpretation shall apply:

(a) In general, zoning district boundary lines are the center lines of streets, ways, alleys, parkways, waterways and the rights of way of public utilities and railroads.

(b) If the Zoning Map indicates that the zoning district boundary line is not a center line of a street, way, etc., it may be a line perpendicular thereto, at the location specified on said map.

(c) If the Zoning Map indicates that the zoning district boundary line is not a center line of a street, way, etc., and is not a line perpendicular to such street, way, etc., it may be a line parallel to a street, way, etc. at a distance from the side lines of such street, way, etc. specified on said map.

(d) If the Zoning Map indicates that the zoning district boundary line is not a center line of a street, way, etc. and is not a line perpendicular to such street, way, etc., and is not a line parallel to such street, way, etc., it may be a line following a lot line or lot lines.

(e) If the Zoning Map indicates that the zoning district boundary line is not a center line of a street, way, etc., and is not a line perpendicular to such street, way, etc., and is not a line parallel to such street, way, etc., and is not a line following a lot line or lot lines, it may be a line dividing

a lot or lots at such approximate location as shown on the Zoning Map. In such cases, the following rules of interpretation apply:

(1) Where a lot is divided in such manner that the frontage thereof lies entirely within one zoning district and said frontage is in the district with the smaller required minimum lot area, the provisions of this ordinance pertaining to the frontage district shall apply both to that portion of the lot lying in said district and to an area extending twenty-five (25) feet into the other district. From that point to the rear of the lot the provisions of this ordinance pertaining to the other district shall apply.

(2) Where a lot is divided in such manner that the frontage thereof is entirely within one zoning district and said frontage is in the district with the larger required minimum lot area, the provisions of this ordinance pertaining to the frontage district shall apply to the entire lot.

(3) Where the frontage of a lot lies in two zoning districts, the provisions of this ordinance pertaining to district with the larger required minimum lot area shall apply to the entire lot.

(f) Where none of the above-described rules of interpretation apply, or where other ambiguities exist, the zoning district boundary line shall be determined by the Inspector of Buildings.

## 2.2 USE REGULATIONS

### 2.2.1 Allowed, Prohibited and Conditional Uses

No building or structure shall be erected, used or changed in use, and no land shall be used or changed in use, except as set forth in Section 2.3, Use Tables, or as exempted by statute or Section 2.4. The symbols employed in the Use Tables have the following meanings:

**Y** - A permitted use

**N** - An excluded or prohibited use

**CC** - A use which may be authorized by Special Permit issued by the City Council pursuant to Section 1.8 of this ordinance, the application for which shall comply with the filing requirements of Section 1.5.3(b).

**CCS** - A use which may be authorized by Special Permit issued by the City Council pursuant to Section 1.8 of this ordinance, the application for which shall comply with the filing requirements of Section 1.5.3(c); if the proposed use is a Major Project (see Section 5.7.1), the application shall comply with the filing requirements of 1.5.3(d).

**SP** - A use which may be authorized by Special Permit issued by the Zoning Board of Appeals pursuant to Section 1.8 of this ordinance, the application for which shall comply with the filing requirements of Section 1.5.4(c).

**SPS -** A use which may be authorized by Special Permit issued by the Board of Appeals pursuant to Section 1.8 of this ordinance, the application for which shall comply with the filing requirements of Section 1.5.4(d).

**PB -** A use which may be authorized by Special Permit issued by the Planning Board pursuant to Section 1.8 of this ordinance, the application for which shall comply with the filing requirements of Section 1.5.5(b).

### 2.2.2 Resolution of Conflicts in Use Categories

Where an activity might be classified under more than one of the use categories set forth in Section 2.3, Use Tables, the more specific use category shall control; if said categories are equally specific, the more restrictive of the categories shall control.

### 2.2.3 Mixed Uses

Where a building, structure or land is proposed to be used for more than one principal use, all of which
are permitted in the zoning district in question and none of which is accessory to another, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.

### 2.2.4 Appeal

An applicant aggrieved by the interpretation or ruling of the Inspector of Building with respect to any of the provisions of this Section II may appeal said interpretation to the Board of Appeals pursuant to Section 1.6 of this ordinance.

# 2.3 USE TABLES

## 2.3.1 RESIDENTIAL USES

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | former designations: | | | | | | | | | | | | | | |
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 One-family detached dwelling | *3* | Y | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | N | N | N | N |
| 2 Conversion of one-family dwelling to two-family, without changes to the exterior dimensions of the building | *3* | Y | Y | N | Y | Y | Y | Y | Y | SP | SP | SP | N | N | N | N |
| 3 Conversion of one-family dwelling to two-family, with changes to the exterior dimensions of the building | *3* | Y | SP | N | SP | SP | SP | Y | Y | SP | SP | SP | N | N | N | N |
| 4 New two-family dwelling | *3* | Y | Y | N | Y | Y | Y | Y | Y | SP | SP | SP | N | N | N | N |
| 5 Conversion to or new multi-family or apartment dwelling, up to two dwelling units | *4* | N | N | N | CC | CC | CC | CC | CC | Y(5) | Y(5) | CC | N | N | N | N |
| 6 Conversion to or new multi-family or apartment dwelling, three dwelling units | *4* | N | N | N | CC | CC | CC | CC | CC | Y(5) | CC | CC | N | N | N | N |
| 7 Conversion to or new multi-family or apartment dwelling, four to six dwelling units | | N | N | N | CC | CC | CC | CC | CC | CC | CC | CC | N | N | N | N |
| 8 Conversion to or new multi-family or apartment dwelling, seven or more dwelling units (see Section 5.7.1) | | N | N | N | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | N | N | N | N |
| 9 Cluster Development (see section 5.9) | | PB | PB | PB | PB | PB | PB | N | N | N | N | N | N | N | N | N |
| 10 Boarding house, rooming house, lodging house or hostel, licensed by the Licensing Board | *3* | N | N | N | SPS | SPS | SPS | SPS | SPS | SPS | SPS | SPS | N | SPS | N | N |
| 11 Hotel, motel, motor inn, under 30 guest units | | N | N | N | CCS | CCS | CCS | CCS | CCS | Y | Y | N | Y | N | N | N |
| 12 Hotel, motel, motor inn, 30 or more guest units (see Section 5.7.1) | | N | N | N | CCS | CCS | CCS | CCS | CCS | CCS | CCS | N | CCS | N | N | N |
| 13 Mobile home park | | CCS | CCS | N | CCS | CCS | CCS | N | N | N | N | N | N | N | N | N |
| 14 Mobile homes, except those at mobile home parks or campgrounds (see Section 5.1) | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 15 Campground | | CCS | CCS | N | CCS | CCS | CCS | N | N | N | N | N | N | N | N | N |
| 16 Camping or tenting, except within a campground or by children in their own yard | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 17 Temporary use of mobile home following fire or other natural disaster (see Section 5.1.5) | *6* | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |

SECTION 2.3.1, RESIDENTIAL USES, CONTINUED ON NEXT PAGE

## 2.3.1 RESIDENTIAL USES, CONT.

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 18 Assisted Living Residences, up to 10 units | | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | N | N | N |
| (see Section 5.14) | | | | | | | | | | | | | | | | |
| 19 Assisted Living Residences, 11 or more units | | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | N | N | N |
| (see Sections 5.7, Major Projects, and 5.14) | | | | | | | | | | | | | | | | |
| 20 Open Space Residential Development (see Section 5.15) | | Y | Y | Y | Y | Y | Y | N | N | N | N | N | N | N | N | N |
| 21 Village Development Project (see Section 5.16) | *7* | PB | PB | N | PB | PB | PB | N | N | N | N | N | N | N | N | N |

**FOOTNOTES TO SECTION 2.3.1, RESIDENTIAL USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.
(2) See Section 5.12
(3) Not more than one principal building per lot.
(4) In CB and VB Districts, [i] a retail store or other business must be maintained on the street level floor; and [ii] unless the Board of Appeals authorizes a lesser number of off-street parking spaces pursuant to Section 4.1.2, the residential units on the upper floors and the business on the ground floor must satisfy all current and applicable off-street parking requirements.
(5) SP if exterior of the existing building is expanded
(6) Y for one year from the date of the fire or other natural disaster; if an extension of time is needed, SP
(7) Limited to Targeted Village Development Areas, as defined at Section 5.16.3.6

## 2.3.2 COMMUNITY SERVICE USES

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 Public, religious, or other non-profit school, building or use | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 2 Municipal use not elsewhere more specifically covered | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 3 Personal wireless service facility (see Section 5.13) | | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS |
| 4 Public utility facility exclusively servicing the immediate neighborhood (5 square miles or less) | | Y | Y | Y | Y | Y | Y | Y | N | Y | N | N | Y | CCS | Y | Y |
| 5 Public utility facility exclusively servicing a broader area | | N | N | N | N | N | N | N | N | SPS | N | N | Y | Y | Y | Y |
| 6 Nursing home, convalescence or rest home, hospital | | N | N | N | CCS | CCS | CCS | CCS | N | N | N | CCS | N | N | N | N |
| 7 Cemetery | | CC | CC | CC | CC | CC | CC | CC | N | CC | CC | CC | CC | N | N | N |
| 8 Club or lodge, registered as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code | | CCS | CCS | N | CCS | CCS | CCS | CCS | CCS | CC | CC | CC | CC | CC | N | N |
| 9 Animal hospital, animal shelter | *3* | CC | CC | N | CC | CC | CC | N | N | N | N | N | CC | N | CC | CC |
| 10 Nursery school, day care center | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 11 Trade school, industrial training center | | N | N | N | N | N | N | N | Y | Y | Y | Y | Y | Y | Y | Y |
| 12 Business or commercial school, other than Use Nos. 2.3.2 (1), 2.3.2 (10), 2.3.2(11) and 2.3.3(5) | | N | N | N | N | N | N | N | Y | Y | Y | Y | Y | N | N | N |
| 13 Philanthropic institution | | CCS | CCS | N | CCS | CCS | CCS | CCS | Y | Y | CCS | CCS | Y | CCS | N | CCS |
| 14 Airport, heliport | | N | N | N | N | N | N | N | N | N | N | N | CCS | CCS | CCS | CCS |

**FOOTNOTES TO SECTION 2.3.2, COMMUNITY SERVICE USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.

(2) See Section 5.12

(3) Provided that any outdoor structure or pen shall be located no closer than 100 feet from a lot line and 200 feet from a dwelling on another lot.

## 2.3.3 OPEN USES

| | | former designations: | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 |

| | | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 | Agriculture, horticulture, floriculture, including farms, greenhouse and gardens, on lots larger than five acres. | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 2 | Agriculture, horticulture, floriculture, including farms, greenhouses and gardens, on lots less than five acres | | Y | Y | Y | Y | Y | Y | Y | N | N | Y | Y | Y | N | N | N |
| 3 | Sale of products grown pursuant to Use Nos. 1 and 2 above, provided that all such items are produced on-site | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 4 | Wildlife area, reservation or similar use | | Y | Y | Y | Y | Y | Y | Y | N | N | N | N | Y | N | N | Y |
| 5 | Riding school, stable | *3* | CC | CC | CC | CC | CC | CC | N | N | N | N | N | N | N | N | N |
| 6 | Golf driving range, drive-in theater, amusement park, race track or similar commercial outdoor recreation | *4* | N | N | N | N | N | N | N | N | N | N | N | Y | N | N | N |
| 7 | Miniature golf and baseball or softball batting cages | *4* | N | N | N | N | N | N | SP | SP | N | N | N | N | N | N | N |
| 8 | Golf course, standard or par-three | *4* | Y | Y | Y | Y | Y | Y | N | N | N | N | N | N | N | N | N |
| 9 | Commercial picnic or outing area | *4* | SP | SP | N | SP | SP | SP | N | N | N | N | N | N | N | N | N |
| 10 | Supervised camping | *4* | SPS | SPS | N | SPS | SPS | SPS | N | N | N | N | N | N | N | N | N |
| 11 | Outdoor recreation, other than the above, operated by a governmental agency or authority | *4* | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | N | N |
| 12 | Boat launching, docking or docking structures | *5* | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP |
| 13 | Docking and operation of casino ships | *6* | N | N | N | N | N | N | N | N | N | N | N | N | CCS | N | N |
| 14 | Other commercial outdoor recreation activities | *4* | CC | CC | CC | CC | CC | CC | CC | CC | Y | Y | Y | Y | Y | N | N |
| 15 | Seasonal sale of Christmas trees, wreaths | | Y | Y | N | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |

**FOOTNOTES TO SECTION 2.3.3, OPEN USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.
(2) See Section 5.12
(3) Provided that any outdoor structure or corral shall be located no closer than 100 feet from a lot line and 200 feet from a dwelling on another lot.
(4) Provided that no active use area is located within required setbacks, other than the water's edge.
(5) In the MI DIstrict, boat launching and docking shall be limited to vessels that are primarily used for commercial fishing.
(6) Provided that the docking and operation of casino ships shall be limited to the following area: in the north channel of the harbor, moving easterly: Assessor's Map 10, Lot 5; Map 11, Lots 6,5,4,1; Map 53, Lots 3, 4.

## 2.3.4 BUSINESS USES

| | | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 | Office building containing less than 2500 square feet of floor area, either new or conversion of dwelling | | N | N | N | N | N | N | SPS | Y | Y | Y | Y | Y | N | Y | N |
| 2 | Office building containing more than 2500 square feet of floor area and less than 6000 square feet, either new or conversion of dwelling | | N | N | N | N | N | N | SPS | SPS | Y | Y | Y | Y | Y | Y | Y |
| 3 | Office building containing more than 6,000 square feet of floor area, either new or conversion of dwelling | | N | N | N | N | N | N | N | SPS | Y | N | N | Y | Y | Y | Y |
| 4 | Bank, automatic teller machines | | N | N | N | N | N | N | SPS | Y | Y | Y | Y | Y | CC | Y | Y |
| 5 | Funeral home | | N | N | N | N | N | N | SPS | Y | SPS | SPS | SPS | SPS | N | N | N |
| 6 | Animal daycare, animal grooming - daytime only | *3* | CC | CC | N | CC | CC | CC | N | N | N | N | N | CC | N | CC | CC |
| 7 | Animal boarding, kennel - 24 hour operations | *3* | CC | CC | N | CC | CC | CC | N | N | N | N | N | CC | N | CC | CC |
| 8 | Restaurant, without outdoor seating and with takeout constituting no more than 20% of total business. | | N | N | N | N | N | N | N | Y | Y | Y | Y | Y | CCS | Y | Y |
| 9 | Restaurant, with outdoor seating or with takeout constituting more than 20% of total business, or both | | N | N | N | N | N | N | N | SPS | SPS | SPS | SPS | SPS | CCS | SPS | SPS |
| 10 | Motor vehicle sales or rental (see Section 5.21) | | N | N | N | N | N | N | N | N | Y | N | N | Y | CCS | Y | Y |
| 11 | Motor vehicle service, fueling, storage or repair (see Section 5.21) | | N | N | N | N | N | N | N | N | CC | CC | CC | CC | CC | SP | N |
| 12 | Marine related sales or rental, limited primarily in the MI District to commercial fishing vessels | | N | N | N | N | N | N | N | N | Y | N | N | Y | Y | Y | Y |
| 13 | Marine related service, storage or repair, limited primarily in the MI District to commercial fishing vessels | | N | N | N | N | N | N | N | N | CC | CC | CC | CC | CC | SP | N |
| 14 | Protein recovery plant | | N | N | N | N | N | N | N | N | N | N | N | N | CCS | CCS | CCS |
| 15 | Building tradesman or contractor, without outdoor storage of materials or heavy equipment other than one truck with a GVW of not more than 12,000 pounds | | Y | Y | Y | Y | Y | Y | Y | Y | Y | CC | Y | Y | CC | Y | Y |
| 16 | Contractor's yard | | N | N | N | N | N | N | N | N | N | N | N | CC | Y | Y | N |
| 17 | Stone mason's yard | | N | N | N | N | N | N | N | N | N | N | N | CC | CC | Y | N |
| 18 | Fuel or ice establishment, other than gas stations | | N | N | N | N | N | N | N | N | N | N | N | CC | Y | Y | N |
| 19 | Feed or building materials establishment | | N | N | N | N | N | N | N | N | Y | CC | Y | Y | Y | Y | Y |
| 20 | Laundry, laundromat or dry cleaning establishment under 4,000 sq ft | | N | N | N | N | N | N | N | N | CC | Y | Y | Y | N | N | N |
| 21 | Laundry or dry cleaning plant over 4,000 square feet | | N | N | N | N | N | N | N | N | N | N | N | CC | N | Y | N |

SECTION 2.3.4, BUSINESS USES, CONTINUED ON NEXT PAGE

## 2.3.4 BUSINESS USES, CONT.

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 22 Shopping center (See Sections 3.2.4 and 5.7) | | N | N | N | N | N | N | N | N | CCS | N | N | CCS | CCS | N | N |
| 23 Automatic amusement devices, five or more | | N | N | N | N | N | N | N | N | CC | CC | N | N | N | N | N |
| 24 Drive-through facility | | N | N | N | N | N | N | N | N | CCS | CCS | CCS | CCS | CCS | CCS | CCS |
| 25 Retail, consumer service or other non-industrial | *4* | N | N | N | N | N | N | N | N | Y | Y | Y | Y | Y | SP | N |
| business use, other than those set forth in Section | | | | | | | | | | | | | | | | |
| Section 2.3.4, Use Nos. 1 - 24 | | | | | | | | | | | | | | | | |

**FOOTNOTES TO SECTION 2.3.4, BUSINESS USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.

(2) See Section 5.12

(3) Provided that any outdoor structure or pen shall be located no closer than 100 feet from a lot line and 200 feet from a dwelling on another lot.

(4) The following exceptions and qualifications apply to this use category:

(a) If a business use contains both a retail and a consumer service operation, for the purpose of this ordinance the use shall be classified as a consumer service establishment.

(b) Except Y in the GI District, if the use is (1) related to an industrial, manufacturing or wholesaling use located on the same lot or on a contiguous lot, or (2) is located on a lot having frontage on an arterial street.

(c) Except Y in the BP District if the use is incidental to an industrial, manufacturing, or wholesaling use.

## 2.3.5 INDUSTRIAL USES

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 Junk yard | | N | N | N | N | N | N | N | N | N | N | N | CC | N | CC | N |
| 2 Fill or removal of soil, stone or other earth products (see Section 5.2) | | N | N | N | CC | CC | CC | N | N | N | N | N | CC | N | CC | N |
| 3 Manufacturing, processing or research | | N | N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y |
| 4 Processing or cooling not conforming to the performance criteria of Section 4.4 | | N | N | N | N | N | N | N | N | N | N | N | N | Y | CCS | N |
| 5 Trailer truck park, freight or transportation terminal facilities (see Section 5.8) | | N | N | N | N | N | N | N | N | N | N | N | N | CCS | CCS | CCS |
| 6 Bulk storage, warehousing | | N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y | Y |
| 7 Storage of toxic or hazardous materials or wastes incidental to industrial operations conducted on-site, as authorized by the Massachusetts DEP pursuant to MGL Chapter 21C | | N | N | N | N | N | N | N | N | N | N | N | CCS | CCS | CCS | CCS |

**FOOTNOTES TO SECTION 2.3.5, INDUSTRIAL USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.

(2) See Section 5.12

## 2.3.6 OTHER PRINCIPAL USES

| | | former designations: | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 |

| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 Parking of motor vehicles to service a use permitted in the same district | | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC | CC |
| 2 Parking of motor vehicles to service a use located and permitted in the NB District | | N | N | N | CCS | CCS | CCS | CCS | CCS | Y | N | Y | Y | Y | N | N |
| 3 Temporary structures or temporary uses not conforming to this ordinance | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP |
| 4 Arts, crafts and sale of arts or crafts if made on the premises | | CC | CC | N | CC | CC | CC | CC | CC | Y | Y | Y | Y | Y | Y | Y |
| 5 Commercial radio transmission | | N | N | N | N | N | N | N | N | N | N | N | SP | SP | SP | SP |
| 6 Noncommercial radio transmission, with wire antenna or roof-mounted tower extending no higher than 10 feet above the roofline | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 7 Noncommercial radio transmission, with free standing tower or roof-mounted tower extending higher than 10 feet above the roof line | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP |

**FOOTNOTES TO SECTION 2.3.6, OTHER PRINCIPAL USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.

(2) See Section 5.12

## 2.3.7 ACCESSORY USES

| former designations: | | | | | | |
|---|---|---|---|---|---|---|
| R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 |

| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 1 Garage or storage shed, accesory to allowed or permitted use | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 2 Parking or storage of agriculture machinery used on the premises | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 3 Signs (see Section 4.3) | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 4 Manufacturing accessory to retailing, employing up to ten persons, with major portion of products sold on the premises | | N | N | N | N | N | N | N | N | Y | Y | Y | Y | Y | Y | Y |
| 5 Manufacturing accessory to retailing, employing more than ten persons, with major portion of products sold on the premises | | N | N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y |
| 6 Employee dwelling accessory to industry | | Y | Y | Y | Y | Y | Y | Y | Y | Y | N | Y | Y | Y | Y | Y |
| 7 Office for one professional in his or her residence (see Section 5.3 ) | | SP | SP | SP | SP | SP | SP | SP | Y | Y | Y | Y | Y | Y | N | N |
| 8 Home occupation (see Section 5.3) | | SP | SP | SP | SP | SP | SP | SP | SP | SP | Y | SP | SP | SP | N | N |
| 9 Home office, including use of computer, telephone and other such devices, but excluding employment of others, exterior signs and visits by customers, clients or other persons in conjunction with the business | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y |
| 10 In dwellings of 2,000 square feet of gross floor area or more, the renting of not more than three rooms as lodging, without separate cooking facilities, to not more than three lodgers | *3* | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | N | N | N |
| 11 In dwellings of less than 2,000 square feet of gross floor area, the renting of not more than three rooms as lodging, without separate cooking facilities, to not more than three lodgers | *3* | N | N | N | N | N | N | Y | Y | Y | Y | Y | Y | N | N | N |
| 12 Dining halls or shops, wholly within a motel or hotel | | N | N | N | CCS | CCS | CCS | CCS | CCS | Y | Y | Y | Y | N | N | N |
| 13 Automatic amusement devices, four or less | | N | N | N | N | N | N | N | N | SP | SP | N | N | N | N | N |
| 14 Recreational use accessory to a dwelling, for use of residents and nonpaying guests | *4* | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | N | N | N |
| 15 Commercial land-based wind energy conversion facilities (See Section 5.22) | | N | N | N | N | N | N | N | N | N | N | N | N | CCS | CCS | CCS |

SECTION 2.3.7, ACCESSORY USES, CONTINUED ON NEXT PAGE

## 2.3.7 ACCESSORY USES, CONT.

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | *1* | | *2* |
| 16 Commercial land-based wind energy conversion facilities on city-owned land (See Section 5.22) | | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS | CCS |
| 17 Monitoring tower for Use Number 15, above (See Section 5.22) | | N | N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y |
| 18 Residential land-based wind energy conversion facilities (See Section 5.23) | | SPS | SPS | SPS | SPS | SPS | SPS | SPS | N | N | SPS | N | N | N | N | N |
| 19 Yard sales lasting no more than two days, including set-up and take-down time, conducted no more than two times in a calendar year | | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | Y | N | N |
| 20 Acessory In-law Apartments (see Section 5.24) | | SP | SP | SP | SP | SP | SP | SP | N | N | N | N | N | N | N | N |
| 21 Customary accessory uses other than those listed in this Section 2.3.7 | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP |

**FOOTNOTES TO SECTION 2.3.7, ACCESSORY USES**

(1) In the MI District, no use of the water's edge, or of an area at ground level 20 feet back from the water's edge, shall be permitted unless such use requires access to water-borne vessels.
(2) See Section 5.12
(3) In the case of a dwelling occupied by unrelated persons (see Section VI, definition of "family"), there shall be a total of no more than five such persons and lodgers.
(4) Provided that no swimming pools or active use structures other than small children's swing sets and similar devices shall be located within required setbacks, other than the water's edge

## 2.3.8 USES PROHIBITED IN ALL DISTRICTS

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | R-RB | R-RA | R-1 | R-2A | R-2 | R-3 | R-4 | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn.* | | | | | | | | | | | | | | | |
| 1 Any building or use not expressly permitted by this ordinance, either by right or by special permit | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 2 A building or use, whether or not otherwise permitted by right or by special permit, which in the opinion of the Building Inspector may create a safety or health hazard | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| 3 Billboards (see definition at Section VI) | | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |

## 2.4 NONCONFORMING USES, STRUCTURES AND LOTS

### 2.4.1 Effect of Enactment or Subsequent Amendment of the Zoning Ordinance on Pre-existing Nonconforming Uses and Structures

**(a) Uses and Structures not affected:** Subject to the conditions and exceptions set forth in Sections 2.4.2 through 2.4.9, the enactment or subsequent amendment of the Zoning Ordinance or any portion thereof shall not apply to:

any structure which was lawfully in existence at the time of such enactment or subsequent amendment (hereinafter, a "pre-existing nonconforming structure"); or

the use of any land or structure which was lawfully ongoing at the time of such enactment or subsequent amendment (hereinafter, a "pre-existing nonconforming use"); or

a building or special permit issued before the first publication of notice of the public hearing on such enactment or subsequent amendment;

and such structure or use may be continued even though it would not be allowed under such enactment or subsequent amendment.

**(b) Uses and Structures Affected**: Subject to the conditions and exceptions set forth in Sections 2.4.2 through 2.4.9, the enactment or subsequent amendment of the Zoning Ordinance or any portion thereof shall apply to:

any change or substantial extension of a pre-existing nonconforming use; and

a building or special permit issued after the first publication of notice of the public hearing on such enactment or subsequent amendment; and

any reconstruction, extension or structural change of a pre-existing nonconforming structure; and

any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose, or for the same purpose in a substantially different manner, or to a substantially greater extent.

### 2.4.2 Discontinuance of Pre-existing Nonconforming Uses

A pre-existing nonconforming use of land which has been discontinued for a period of two years, shall lose all protection under this Section 2.4, and any future use of said land shall conform with the current provisions of this ordinance; provided, however, that this section shall not apply to land used for agriculture, horticulture or floriculture, where such nonconforming use had existed for a period of at least five consecutive years prior to its discontinuance.

### 2.4.3 Special Permit Required for the Change, Extension, Reconstruction or Alteration of a Pre-existing, Nonconforming Use or Structure

**(a) Jurisdiction of the Zoning Board of Appeals**: As authorized by Section 6 of MGL Chapter 40A and Section 1.9 of this ordinance, and subject to the exception for single and two-family residences set forth in Section 2.4.4, the following work may be allowed by special permit issued by the Board of Appeals:

the change, extension or alteration of a pre-existing nonconforming use; or

the change, extension or alteration of a pre-existing nonconforming structure; or

the alteration of a pre-existing nonconforming structure to enable it to be used for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent; or

the change, extension, alteration or reconstruction of a single or two-family residence or an accessory structure thereto, in those cases under Section 2.4.4 where a determination has been made by the Inspector of Buildings or the board that the proposed work will increase the nonconforming nature of the structure.

**(b) <u>Standard to be Applied:</u>** A special permit pursuant to this section shall only be granted upon a written determination by the Board of Appeals that the proposed change, reconstruction, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure.

**2.4.4 <u>Single and Two-family Residence Exemption</u>**

For purposes of this Section 2.4.4 the term "single and two-family residence" shall include accessory structures to such residences.

Pursuant to MGL Chapter 40A, Section 6, first paragraph, a special permit under Section 2.4.3 shall not be required to alter, reconstruct, extend or structurally change a pre-existing nonconforming single or two-family residence, if such work will not increase the nonconforming nature of said residence. This determination may be made by either the Inspector of Buildings or the Zoning Board of Appeals in the following manner:

**(a) <u>Determination By the Inspector of Buildings:</u>** The Inspector of Buildings may rely on the following presumptions in considering whether to require a Board of Appeals special permit for work on

a pre-existing nonconforming single or two-family residence on a conforming lot; or

a single or two-family residence which is on a nonconforming lot but which otherwise conforms to the dimensional requirements of Section III.

**(1) <u>Nonconforming Residence on Conforming Lot</u>**: On a lot which meets the current lot area, lot frontage and lot width requirements of the zoning district in which it is located, the following work is presumed not to increase the nonconforming nature of a pre-existing nonconforming single or two-family residence and thus does not require a special permit from the Board of Appeals:

(i) a lateral addition to such residence, provided that the addition meets all current setback, height and lot coverage requirements and is no higher than the highest point of the existing structure; or

(ii) a vertical addition to such residence, provided that the addition meets all current setback and height requirements, does not increase the footprint of the existing structure and is no higher than the highest point of the existing structure; or

(iii) the demolition and replacement of such residence, provided that the replacement structure meets all current setback, height and lot coverage requirements.

**(2) <u>Conforming Residence on Nonconforming Lot</u>**: On a lot which does not meet current lot area, lot frontage or lot width requirements of the zoning district in which it is located, the following work on a single or two-family residence which otherwise conforms to the dimensional requirements of Section III is presumed not to increase the nonconforming nature of said residence and thus does not require a special permit from the Board of Appeals:

(i) a lateral or vertical addition to such residence, provided that the addition meets all current setback, height and lot coverage requirements, is no higher than the highest point of the existing residence and does not exceed %110 of the footprint of the existing structure; or

(ii) the demolition and replacement of such residence, provided that the replacement structure meets all current setback, height and lot coverage requirements, is no higher than the highest point of the existing residence and does not exceed %110 of the footprint of the existing structure.

Based on the foregoing presumptions, the Inspector of Buildings may determine that the proposed work will not result in an increase in the nonconforming nature of the single or two-family residence and not require the applicant to apply for a special permit from the Board of Appeals for said work. In the alternative, and notwithstanding the above-referenced presumptions, the Inspector of Buildings may determine that the proposed work will result in an increase in the nonconforming nature of the residence or may decline to make any determination; in either case, the applicant may then apply for a special permit from the board pursuant to Section 1.9

**(b) <u>Determination by the Zoning Board of Appeals:</u>** In the event that the Inspector of Buildings determines that the proposed work will result in an increase in the nonconforming nature of a single or two-family residence or declines to make a determination, upon application for a special permit the Board of Appeals shall make an independent and superseding determination as to whether the proposed work will result in such increase, and shall not be bound by either the determination of the Inspector of Buildings or the above-referenced presumptions.

### 2.4.5 <u>Demolition and Replacement of a Pre-existing Nonconforming Single or Two-family Residence</u>

For purposes of Section 2.4.3 of this ordinance, the term "reconstruction" of a pre-existing nonconforming single or two-family residence or an accessory structure thereto shall include the complete demolition of the structure and construction of a replacement structure, provided that

(a) the Board of Appeals makes a written determination, as required by this ordinance and MGL Chapter 40A, Section 6, that said replacement structure is not substantially more detrimental to the neighborhood than the existing structure; and

(b) both demolition of the existing structure and the plans for the replacement structure are approved by the board in advance and in the same proceeding; and

(c) construction of the replacement structure follows demolition of the existing structure as expeditiously as practicable, unless a delay is authorized by the board upon a showing that

said delay is required by circumstances beyond the applicant's control; and

(d) unless authorized by a variance from the Board of Appeals pursuant to Section 1.7 of this ordinance, those portions of the replacement structure that constitute an increase in the footprint of the original structure comply with all provisions of this ordinance, and in particular the dimensional requirements of Section 3.2.

### 2.4.6 Exemption for Vacant Land for Single and Two-family Residential Use: MGL Chapter 40A, Section 6, Fourth Paragraph

(a) For purposes of the construction of a single or two-family residence on a vacant lot, any increase in lot area, frontage, width or setback requirements shall not apply to a lot zoned for such residences, provided that at the time of its recording at the Registry of Deeds or its ANR endorsement by the Planning Board, whichever came first, the lot conformed to the area, frontage, width and setback requirements in effect at that time, and further provided that at the time of the increase in said dimensional requirements the lot was vacant, was not held in common ownership with any adjoining lot and had at least 5,000 square feet of area and 50 feet of frontage.

(b) For the exemption of adjacent lots held in common ownership, see MGL Chapter 40A, Section 6, para. 4.

### 2.4.7 Subdivision Zoning Freeze: MGL Chapter 40A, Section 6, Paragraph 5

(a) If a definitive plan, or preliminary plan followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under the Subdivision Control Law, MGL Chapter 41, Sections 81-K through 81-GG [hereinafter, the Subdivision Control Law], and written notice of such submission has been given to the City Clerk before the effective date of this ordinance or any amendment thereto, the land shown on such plan shall be governed by the applicable provisions of this ordinance in effect at the time of such submission. If such plan, or the amendment thereof, is finally approved and endorsed by the Planning Board, the land shown on such plan shall be governed for a period of eight (8) years thereafter by the applicable provisions of this ordinance in effect at the time of such submission. See MGL Chapter 40A, Section 6, paragraph 5.

(b) If a plan is submitted to the Planning Board for endorsement of Approval Not Required (ANR) under the Subdivision Control Law, MGL Chapter 41, Section 81-P, and written notice of such submission has been given to the City Clerk before the effective date of this ordinance or any amendment thereto, the land shown on such plan shall be governed by the applicable provisions of this ordinance in effect at the time of such submission. If such plan, or the amendment thereof, is given ANR endorsement by the Planning Board, the land shown on such plan shall be governed for a period of three (3) years thereafter by the applicable provisions of this ordinance in effect at the time of such submission. See MGL Chapter 40A, Section 6, paragraph 6.

(c) The tolling of the above-referenced time periods during the pendancy of appeals is as specified in MGL Chapter 40A, Section 6, paragraphs 7 and 8.

### 2.4.8 Destruction or Damage by Fire or other Catastrophe

In the case of destruction or damage of a structure by fire or other catastrophe, the following work may be authorized by a building permit:

(a) within two years, the rebuilding of a pre-existing nonconforming structure or a conforming structure on a nonconforming lot in substantially the same form as it was

at the time of said destruction or damage; provided, however, that there shall be no increase in total floor space;

(b) within two years, the building of a replacement structure in compliance with applicable dimensional requirements but on a nonconforming lot, with no limitation as to increase in total floor space;

(c) at any time, the building of a replacement structure in compliance with applicable dimensional requirements and on a conforming lot, with no limitation as to increase in total floor space.

**2.4.9 <u>Mobile Homes</u>**

A mobile home located in any district where such homes are an allowed use, whether temporarily or permanently, but which is otherwise not in compliance with the requirements of this ordinance, may be replaced on the same site with a different mobile home, provided that there is no increase in nonconformity, but may not be relocated to another lot except in compliance with this ordinance.

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# SECTION III DIMENSIONAL REGULATIONS

## 3.1 REQUIREMENTS, SPECIAL PROCEDURES AND DEFINITIONS RELATING TO SECTION 3.2 DIMENSIONAL TABLES

### 3.1.1 Minimum Dimensional and Density Requirements

(a) Except upon a variance duly issued by the Board of Appeals pursuant to Section 1.7, or except as otherwise explicitly exempted by this ordinance or by general law, all buildings and other structure constructed in the city shall comply with the minimum dimensional and intensity requirements in effect at the time of such construction. Current minimum requirements are set forth at Section 3.2 Dimensional Tables.

(b) The dimensional and density requirements of Section 3.2 notwithstanding, in the granting of a special permit the City Council, the Board of Appeals or the Planning Board may impose such additional conditions as are deemed necessary to protect the public health and safety and to satisfy the criteria set forth at Sections 1.8.3 and 1.10.2.

### 3.1.2 Pre-existing Nonconforming Lots, Buildings and Structures

Certain pre-existing nonconforming lots, buildings and structures are exempt from certain of the minimum requirements set forth at Section 3.2; the nature of said exemptions are set forth at MGL c. 40A, s. 6 and Section 2.4 of this ordinance.

### 3.1.3 Change in Size or Shape of Lots

Except upon a variance duly issued by the Board of Appeals pursuant to Section 1.7 or as may be allowed pursuant to Section 3.1.5, or as a result of a public taking, no existing lot shall be changed in size or shape, nor shall any new lot be created, unless such changed or new lot complies with the minimum requirements set forth at Section 3.2.

### 3.1.4 State Building Code

In addition to minimum requirements set forth at Section 3.2, all buildings and other structures in the city shall conform to the requirements of the State Building Code, 780 CMR, as most recently amended.

### 3.1.5 Special Permit for the Division of Certain Lots

**(a) Grounds for Special Permit:** A lot on which more than one principal building currently exists, each of which also existed at the time of adoption by the City of Gloucester of the Subdivision Control Law, MGL Chapter. 41, Section. 81K et seq. (December 8, 1960) may be divided into lots on each of which one such building remains. Provided, however, that in the event that one or more of such resultant lots does not comply with the requirements of this ordinance, and in particular the dimensional requirements set forth at Section 3.2, such division must be authorized by special permit issued by the Board of Appeals upon a written determination that neither the proposed division of the original lot nor the proposed uses of the resultant lots will endanger public health and safety.

**(b) Change in Use:** Said special permit shall not be deemed to authorize a change in use of any of the resultant lots or of the principal buildings thereon; if such change in use is desired, it must be applied for pursuant to Section 1.3.2 of this ordinance.

**(c) New Lots Not To Be Deemed Conforming:** The issuance of a special permit pursuant to this section which creates one or more lots which do not satisfy the dimensional requirements of Section 3.2 shall not be deemed to render said lots conforming.

**(d) Principal Building Defined:** For purposes of this Section 3.1.5 only, the term "principal building" shall mean a building used for any of the principal uses identified in that version of the Zoning Ordinance in effect on December 8, 1960 and allowed at that time, either by right, by special permit or as a pre-existing nonconforming use.

### 3.1.6 Special Permit for Building Heights in Excess of Section 3.2 Limits

Building heights in excess of the limits set forth in Section 3.2 may be authorized pursuant to the following special permit procedures; provided, however, that in no case shall such increase in allowable height be greater than allowed by the State Building Code and other state and municipal regulations.

**(a) Building Heights up to 35 Feet:** Building heights up to 35 feet may be authorized by special permit issued by the Board of Appeals. Said permit shall contain such conditions as the board deems necessary, and shall only issue upon a written determination by the board that such increase in allowable height is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts.

**(b) Building Heights in Excess of 35 Feet:** Building heights in excess of 35 feet may be authorized by special permit issued by City Council. Said permit shall contain such conditions as the council deems necessary, and shall only issue upon a written determination by the council that such increase in allowable height is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts.

### 3.1.7 Visibility at Intersections

On a corner lot, as defined at Section 3.1.8, or on a lot which is located at the intersection of a street and a common driveway serving more than two lots, no visual obstruction between 2 ½ and eight feet above the lowest elevation at the curb line shall be permitted within the area of a triangle formed on two sides by the intersecting ways and on the third side by a line drawn between points on each of said intersecting ways 25 feet from the corner. For the purpose of this section, the word "visual obstruction" shall mean any shrub, tree, wall, fence, sign, temporary building, pile of material, terrace or retaining wall, but shall not include permanent buildings or structures otherwise in compliance with this ordinance.

### 3.1.8 Definitions of Terms used in Section III

**Building Height:** In the case of a flat roof, the vertical distance measured from the average grade prior tobuilding construction to the highest point of the roof assembly (including parapets). In the case of a sloping roof, the vertical distance measured from the average grade prior to building construction to the highest point of the peak or ridge.

The average grade prior to building construction is established by determining the elevation of the building at all of its corners and deriving the average thereof. Included in the determination of height are widow's walks, towers or cupolas that are more than four feet long, four feet wide and

four feet tall. Not included in the determination of height are accessory features such as chimneys, skylights, television antennae and building mechanicals in large commercial, apartment and condominium buildings.

**Corner Lot**: A lot which fronts on two or more streets at their intersection(s).

**Lot:** An area of land, all of which is in the same ownership, with definite boundaries ascertainable by recorded deed or plan.

**Lot Area:** The horizontal area of a lot, exclusive of any area in a street or way open to public use. In calculating lot area for multi-family residential dwellings, not more than ten percent (10%) of the area required by Section 3.2 shall be a brook, stream, river, pond, water-filled quarry, lake, estuary, bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined at Section 12-11 of the City of Gloucester Code of Ordinances. In calculating lot area for all other residential and non-residential buildings, and only in the case of the laying out of new lots, not more than twenty-five percent (25%) of the lot area required by Section 3.2 shall be a brook, stream, river, pond, water-filled quarry, lake, estuary, bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined at Section 12-11 of the City of Gloucester Code of Ordinances.

**Lot Coverage:** Percentage of lot area covered by structures of any kind, or otherwise roofed.

**Lot Frontage**: That portion of a lot fronting upon and having access to a street or public way, to be measured between the side property lines of a lot at their intersection with the property line adjacent to said street or way. Unless authorized by variance from the Board of Appeals, access to a lot must be over its frontage.

**Lot Width:** The horizontal distance between side property lines of a lot, measured parallel to the front property line at that side of the principal building closest to the front property line.

**Yard:** An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, except for fences, walls, low profile cellar bulkheads and other customary yard accessories; or projections of not more than three feet into required yards for such architectural features of a building as unenclosed porches, steps, chimneys, cornices, eaves or canopies, but not for bay windows; or projections allowed to extend beyond setback lines by the State Building Code. In measuring a yard for purposes of determining compliance with the front, rear and side yard setback requirements, the minimum horizontal distance between the lot line and the building in question shall be used.

**Yard, Front:** A yard extending between the side property lines of a lot and between the property line used to satisfy the Section 3.2 frontage requirement and the building in question (or any projection from said building other than those enumerated in the preceding definition of Yard). Corner lots fronting on two or more streets must comply with the front yard setback requirement for each yard adjacent to each of said streets

**Yard, Rear:** A yard extending between the side property lines of a lot and between the rear property line and the building in question (or any projection from said building other than those enumerated in the preceding definition of Yard). Corner lots fronting on two or more streets must comply with the rear yard setback requirement for each of the rear yards that is opposite each of said streets. In the event that a corner lot consists of only four sides (i.e., two front

yards and two side yards), the rear yard shall be considered that point at which the two side yards meet and the rear yard setback line shall be established by drawing an arc extended from that point and at a distance from that point along each of the side property lines equal to the minimum rear yard distance set forth in the relevant dimensional table of Section 3.2.

**Yard, Side:** A yard extending from the inner line of the minimum front yard required pursuant to Section 3.2 to the inner line of the minimum rear yard required pursuant to Section 3.2 and extending between the side property line of a lot and the building in question (or any projection from said building other than those enumerated in the preceding definition of Yard).

## 3.2 DIMENSIONAL TABLES

**R-80 = Rural Residential; R-40 = Rural Residential; RC-40 = Coastal Residential; R-30 = Low Density Residential; R-20 = Low/Medium Residential; R-10 = Medium/High Density Residential; R-5 = High Density Residential; CCD = Civic Center District; CB = Central Business; VB = Village Business; NB = Neighborhood Business; EB = Extensive Business; MI = Marine Industrial; GI = General Industrial; BP = Business Park.**

### 3.2.1 Dimensional Requirements for Single and Two-Family Dwellings

**Single and two-family dwellings are not allowed in the EB, MI, GI and BP districts; any such dwellings in these districts are nonconconforming uses governed by Section 2.4. To the extent that the dimensional requirements for such a dwelling becomes relevant, they are those of the nearest residential district.**

| | | | former designations: | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | [R-RB] | [R-RA] | [R-1] | [R-2A] | [R-2] | [R-3] | [R-4] | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB |
| | *fn* | | *e* | *f* | *g* | *g* | | | | *f* | | *h* |
| **For Principal Uses** | | | | | | | | | | | | |
| Minimum lot area (sf) | | 80,000 | 40,000 | 40,000 | 30,000 | 20,000 | 10,000 | 5,000 | 5,000 | 5,000 | 5,000 | *h* |
| Minimum lot area per dwelling unit (sf) | *a* | 80,000 | 40,000 | 40,000 | 30,000 | 10,000 | 2,000 | 1,000 | 1,000 | 1,000 | 1,000 | *h* |
| Minimum lot width (ft) | | 150 | 150 | 150 | 100 | 100 | 80 | 50 | 50 | 50 | 50 | *h* |
| Minimum frontage (ft) | | 100 | 100 | 100 | 80 | 80 | 65 | 50 | 50 | 50 | 50 | *h* |
| Minimum front yard (ft) | | 40 | 40 | 40 | 30 | 30 | 20 | 15 | 15 | 15 | 15 | *h* |
| Minimum side yards (ft each) | | 30 | 30 | 30 | 20 | 20 | 10 | 7.5 | 7.5 | 7.5 | 7.5 | *h* |
| Minimum rear yard (ft) | | 30 | 30 | 30 | 30 | 30 | 20 | 20 | 20 | 20 | 20 | *h* |
| Maximum building height (ft) | *b* | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | *h* |
| **For Accessory Uses (other than signs)** | | | | | | | | | | | | |
| Minimum distance from street (ft) | *c* | 40 | 40 | 40 | 30 | 30 | 20 | 15 | 15 | 15 | 15 | *h* |
| Minimum distance from side lot lines (ft) | | 15 | 15 | 15 | 15 | 15 | 10 | 5 | 5 | 5 | 5 | *h* |
| Minimum distance from rear lot line (ft) | | 15 | 15 | 15 | 15 | 15 | 10 | 5 | 5 | 5 | 5 | *h* |
| Minimum distance from principal building (ft) | | 20 | 20 | 20 | 20 | 20 | 10 | 5 | 5 | 5 | 5 | *h* |
| Maximum building height (ft) | *b, d* | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | *h* |
| **Maximum Lot Coverage - Total of All Structures** | | | | | | | | | | | | |
| | | 25% | 25% | 25% | 25% | 25% | 30% | 35% | 35% | 35% | 35% | *h* |

**Footnotes to Section 3.2.1 are on the next page**

## Footnotes to Section 3.2.1

a. This requirement pertains to two family dwellings only; see Section 3.2.2 for multi-family dwellings. Two family dwellings must also satisfy the general minimum lot area requirement.

b. Maximum height for buildings may be increased by special permit pursuant to Section 3.1.6.

c. The accessory building may not be closer to the street than the principal building.

d. If the accessory building complies with the front, side and rear yard setbacks for the principal building, the maximum building height for the accessory building shall be that of the principal building. If the accessory building does not comply with said setbacks, the maximum height shall be 12 feet. In either case, footnote (b) shall apply.

e. The following dimensional requirements supersede those of Section 3.2.1 for single and two-family dwellings and accessory structures thereto which were in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999:

| for principal uses | |
|---|---|
| minimum front yard (ft) | 30 |
| minimum side yards (ft each) | 20 |
| minimum rear yard (ft) | 30 |

| for accessory uses | |
|---|---|
| minimum distance from street (ft) | 30 |
| minimum side yards (ft each) | 15 |
| minimum rear yard (ft) | 15 |

f. Two-family dwellings are not allowed in RC-40 districts and single family dwellings are not allowed in the CB District; any such dwellings in these districts are nonconforming uses governed by Section 2.4. To the extent that the dimensional requirements for such dwellings become relevant, they are as set forth in this section.

g. See Appendix 3.20 at the end of this Section 3.2 for the front, side are rear yard setback distances for single and two-family dwellings and accessory structures thereto which:

(1) were in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999; and

(2) are located in those portions of R-20 and R-30 districts identified by the street lists in Appendix 3.20 at the end of this Section 3.2

h. Dimensional requirements shall be those of the abutting residential district. If the subject property abuts two residential districts, dimensional requirements shall be those of the residential district with the smaller required minimum lot area.

## 3.2.2 Dimensional Requirements for Multi-family Dwellings and Their Accessory Uses (other than signs)

**Multi-family dwellings are not allowed in the RR-80, RR-40, RC-40, EB, MI, GI and BP districts; any such dwellings in these districts are nonconforming uses governed by Section 2.4. To the extent that the dimensional requirements for such a dwelling becomes relevant, they are those of the nearest residential district in which multifamily dwellings are allowed.**

| | | former designations: | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | [R-2A] | [R-2] | [R-3] | [R-4] | | | | |
| | *fn* | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB |
| Minimum lot area (sf) | | 60,000 | 40,000 | 20,000 | 10,000 | 10,000 | 10,000 | 10,000 | *g* |
| Minimum lot area per dwelling unit (sf) | *a* | 15,000 | 10,000 | 5,000 | 2,500 | 2,500 | 2,500 | 2,500 | *g* |
| Minimum open space per dwelling unit (sf) | *a* | 7,500 | 7,500 | 3,500 | 1,250 | 1,250 | 1,250 | 1,250 | *g* |
| Minimum lot width (ft) | | 150 | 150 | 100 | 80 | 80 | 80 | 80 | *g* |
| Minimum frontage (ft) | | 125 | 125 | 80 | 65 | 65 | 65 | 65 | *g* |
| Minimum front yard (ft) | *b* | 30 *(d)* | 30 *(d)* | 20 *(d)* | 15 *(f)* | 15 *(f)* | 15 *(f)* | 15 *(f)* | *g* |
| Minimum side yards (ft each) | | 40 *(d)* | 40 *(d)* | 20 *(d)* | 7.5 *(f)* | 7.5 *(f)* | 7.5 *(f)* | 7.5 *(f)* | *g* |
| Minimum rear yard (ft) | | 40 *(d)* | 40 *(d)* | 20 *(d)* | 7.5 *(f)* | 7.5 *(f)* | 7.5 *(f)* | 7.5 *(f)* | *g* |
| Maximum building height (ft) | *c* | 30 | 30 | 30 | 30 | 30 | 30 | 30 | *g* |
| Distance between principal buildings (ft) | | *e* | *e* | *e* | *e* | *e* | *e* | *e* | *e* |

### Footnotes to Section 3.2.2:

**a. Minimum lot area per dwelling unit or minimum open space per dwelling unit, or both, may be decreased by special permit issued by the City Council, but only upon a finding that such lesser lot area or open space is in keeping with neighborhood character and structural density.**

**b. At least 65% of required front yard area shall consist of vegetative cover, to be established and maintained by the applicant or its successor in interest.**

**c. Maximum height for buildings may be increased by special permit pursuant to Section 3.1.6.**

**d. Increase by one foot for each foot by which building height exceeds 15 feet.**

**e. No principal building shall be closer to another principal building on the same site than the sum of their respective heights; provided, however, that the City Council may by special permit authorize a reduction in said distance upon a finding that such reduction is not detrimental because of view obstruction, overshadowing, service access or visual crowding.**

**f. Increase by one-half foot for each foot by which building height exceeds 30 feet.**

**g. Dimensional requirements shall be those of the abutting residential district. If the subject property abuts two residential districts, dimensional requirements shall be those of the residential district with the smaller required minimum lot area.**

## 3.2.3 Dimensional Requirements for All Uses Other than Single and Two-family Dwellings (See Section 3.2.1); Multi-family Dwellings (See Section 3.2.2); Shopping Centers (See Section 3.2.4); Assisted Living Facilities (See Section 3.2.5); and Hotels, Motels and Motor Inns (See Section 3.2.6)

| | | former designations: | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | [R-RB] | [R-RA] | [R-1] | [R-2A] | [R-2] | [R-3] | [R-4] | | | | | | | | |
| | | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
| | *fn* | | | | | | | | | | | *d* | | *e* | | |
| **For Principal Uses** | | | | | | | | | | | | | | | | |
| Minimum lot area (sf) | | 80,000 | 40,000 | 40,000 | 30,000 | 20,000 | 10,000 | 5,000 | 0 | 0 | 5,000 | *d* | 10,000 | 0 | 10,000 | 40,000 |
| Minimum lot area per dwelling unit (sf) | | 80,000 | 40,000 | 40,000 | 30,000 | 10,000 | 2,000 | 1,000 | 0 | 0 | 2,500 | *d* | na | na | na | na |
| Minimum lot width (ft) | | 150 | 150 | 150 | 100 | 100 | 80 | 50 | 0 | 0 | 40 | *d* | 80 | 0 | 80 | 100 |
| Minimum frontage (ft) | | 100 | 100 | 100 | 80 | 80 | 65 | 50 | 0 | 0 | 40 | *d* | 65 | 0 | 65 | 100 |
| Minimum front yard (ft) | | 40 | 40 | 40 | 30 | 30 | 20 | 15 | 0 | 0 | 0 | *d* | 30 | 10 | 10 | 40 |
| Minimum side yards (ft each) | | 30 | 30 | 30 | 20 | 20 | 10 | 7.5 | *f* | *f* | *f* | *d* | *f* | *f* | 15 | 25 |
| Minimum rear yard (ft) | | 30 | 30 | 30 | 30 | 30 | 20 | 20 | *f* | *f* | *f* | *d* | 15 | *f* | 15 | 40 |
| Maximum building height (ft) | *a* | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | *d* | 30 | 40 | 40 | 40 |
| **For Accessory Uses (other than signs)** | | | | | | | | | | | | | | | | |
| Minimum distance from street (ft) | *b* | 40 | 40 | 40 | 30 | 30 | 20 | 15 | 0 | 0 | 0 | *d* | 10 | 0 | 15 | 40 |
| Minimum distance from side lot lines (ft) | | 15 | 15 | 15 | 15 | 15 | 10 | 5 | *f* | *f* | *f* | *d* | 15 | *f* | 15 | 20 |
| Minimum distance from rear lot line (ft) | | 15 | 15 | 15 | 15 | 15 | 10 | 5 | *f* | *f* | *f* | *d* | 15 | *f* | 15 | 20 |
| Minimum distance from principal building | | 20 | 20 | 20 | 20 | 20 | 10 | 5 | 10 | 10 | 10 | *d* | 10 | 10 | 10 | 20 |
| Maximum building height (ft) | *a,c* | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | *d* | 12 | 12 | 12 | 12 |
| **Maximum Lot Coverage - Total of All Structures** | | | | | | | | | | | | | | | | |
| | | 25% | 25% | 25% | 25% | 25% | 30% | 35% | 100% | 100% | 75% | *d* | 50% | 100% | 50% | 50% |

**Footnotes to Section 3.2.3 are on the next page**

## Footnotes to Section 3.2.3:

**a. Except in the MI district, maximum height for buildings may be increased by special permit pursuant to Section 3.1.6.**

**b. The accessory building shall not be closer to the street than the principal building.**

**c. If the accessory building complies with the front, side and rear yard setbacks for the principal building, the maximum building height for the accessory building shall be that of the principal building. If the accessory building does not comply with said setbacks, the maximum build height shall be 12 feet. In both instances, footnote (a) shall apply.**

**d. Dimensional requirements shall be those of the abutting residential district. If the subject property abuts two residential districts, dimensional requirements shall be those of the residential district with the smaller required minimum lot area.**

**e. A building built on a lot that adjoins the harbor shall be set back from one side lot line by a distance equal to one third of the building height but not less than ten feet.**

**f. When subject property abuts a residential district, the side and rear setback distances shall be 10 feet. Otherwise, no setback distances shall be required, provided that the rear of the structure and required off-street loading or parking spaces are accessible by other means. If side or rear yards must be provided for access, they shall be no less than 10 feet wide.**

## 3.2.4 Dimensional Requirements for Shopping Centers (See Section 5.7.5[f])

| For Principal Uses | CB | EB | MI |
|---|---|---|---|
| Minimum lot area (sf) | 15,000 | 30,000 | 15,000 |
| Minimum open space per 1000sf of gross floor area (sf) | 100 | 200 | 100 |
| Minimum lot width (ft) | 30 | 100 | 30 |
| Minimum frontage (ft) | 65 | 80 | 65 |
| Minimum front yard (ft) | 0 | 50 *(a)* | 30 *(b)* |
| Minimum side yards (ft each) | 0 | 20 *(a)* | 7.5 *(b)* |
| Minimum rear yard (ft) | 0 | 20 *(a)* | 7.5 *(b)* |
| Maximum building height (ft) | 30 *(c)* | 30 *(c)* | 40 *(c)* |

### Footnotes to Section 3.2.4:

a. Increase the setback by one foot for each foot by which building height exceeds 20 feet.

b. Increase the setback by 1/2 foot for each foot by which building height exceeds 20 feet.

c. Maximum building height may be increased by special permit pursuant to Section 3.1.6 of this ordinance.

## 3.2.5 Dimensional Requirements for Assisted Living Residences (See Sections 5.7.5 and 5.14)

| | | former designations: | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | [R-RB] | [R-RA] | [R-1] | [R-2A] | [R-2] | [R-3] | [R-4] | | | | | |
| For Principal Uses | *fn* | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB |
| Minimum lot area (sf) | | 100,000 | 80,000 | 80,000 | 40,000 | 30,000 | 20,000 | 10,000 | 10,000 | 10,000 | *a* | *a* | *a* |
| Minimum lot area per dwelling unit (sf) | | 2,000 | 2,000 | 2,000 | 1,000 | 1,000 | 1,000 | 500 | 500 | 500 | *a* | *a* | *a* |
| Minimum open space per dwelling unit (sf) | | 1,000 | 1,000 | 1,000 | 500 | 500 | 250 | 100 | 100 | 100 | *a* | *a* | *a* |
| Minimum lot width (ft) | | 150 | 150 | 150 | 125 | 125 | 80 | 65 | 65 | 65 | *a* | *a* | *a* |
| Minimum frontage (ft) | | 150 | 150 | 150 | 125 | 125 | 80 | 65 | 65 | 65 | *a* | *a* | *a* |
| Minimum front yard (ft) | | 40 | 40 | 40 | 30 | 30 | 20 | 15 | 15 | 15 | *a* | *a* | *a* |
| Minimum side, rear yard (ft) | | 40 | 40 | 40 | 30 | 30 | 20 | 10 | 10 | 10 | *a* | *a* | *a* |
| Maximum building height | *b* | 35 | 35 | 35 | 35 | 35 | 35 | 35 | 35 | 35 | *a* | *a* | *a* |

### Footnotes to Section 3.2.5:

a. Dimensional requirements shall be those of the abutting residential district with the smaller minimum required lot area, as shown on this table.

b. Maximum building height may be increased by City Council special permit pursuant to Section 3.1.6 (b).

## 3.2.6 Dimensional Requirements for Hotels, Motels and Motor Inns and Their Accessory Uses (other than signs)

| | | | | former designations: | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | [R-2A] | [R-2] | [R-3] | [R-4] | | |
| | *fn* | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | EB |
| Minimum lot area (sf) | | 60,000 | 40,000 | 20,000 | 10,000 | 10,000 | 10,000 | 10,000 | 20,000 |
| Minimum lot area per two guest unit (sf) | *a* | 15,000 | 10,000 | 5,000 | 2,500 | 2,500 | 2,500 | 2,500 | 5,000 |
| Minimum open space per two guest unit (sf) | *a* | 7,500 | 7,500 | 3,500 | 1,250 | 1,250 | 1,250 | 1,250 | 3,500 |
| Minimum lot width (ft) | | 150 | 150 | 100 | 80 | 80 | 80 | 80 | 100 |
| Minimum frontage (ft) | | 125 | 125 | 80 | 65 | 65 | 65 | 65 | 80 |
| Minimum front yard (ft) | *b* | 30 *(d)* | 30 *(d)* | 20 *(d)* | 0 | 0 | 0 | 0 | 20 *(d)* |
| Minimum side yards (ft each) | | 40 *(d)* | 40 *(d)* | 20 *(d)* | 0 | 0 | 0 | 0 | 20 *(d)* |
| Minimum rear yard (ft) | | 40 *(d)* | 40 *(d)* | 20 *(d)* | 0 | 0 | 0 | 0 | 20 *(d)* |
| Maximum building height (ft) | *c* | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| Distance between principal buildings (ft) | | *e* | *e* | *e* | *e* | *e* | *e* | *e* | *e* |

### Footnotes to Section 3.2.6:

a. Minimum lot area per two guest unit or minimum open space per two guest unit, or both, may be decreased by special permit issued by the City Council, but only upon a finding that such lesser lot area or open space is in keeping with neighborhood character and structural density.

b. At least 65% of required front yard area shall consist of vegetative cover, to be established and maintained by the applicant or its successor in interest.

c. Maximum height for buildings may be increased by special permit pursuant to Section 3.1.6 of this ordinance.

d. Increase by one foot for each foot by which building height exceeds 15 feet.

e. No principal building shall be closer to another principal building on the same site than the sum of their respective heights; provided, however, that the City Council may by special permit authorize a reduction in said distance upon a finding that such reduction is not detrimental because of view obstruction, overshadowing, service access or visual crowding.

## APPENDIX TO SECTION 3.2: Identification of those properties with superseding setback distances, as established by Zoning Ordinance amendments dated March 9, 1999, April 27, 1999 and October 12, 1999.

**Please note that best efforts have been made to list all North Gloucester and West Gloucester streets affected by the 1999 zoning amendments. Any questions as to inclusion/exclusion should be resolved by reference to the master zoning map, which is available at both the Planning Department and Building Department. This map shall be final and conclusive as to whether a property falls within scope of the 1999 amendments and thereby is entitled to the benefit of the superseding setback distances.**

### *I. NORTH GLOUCESTER superseding setback distances for certain streets in the R-20 Zoning District*

| For Principal Uses | | | For Accessory Uses | |
|---|---|---|---|---|
| minimum front yard (ft) | 20 | | minimum distance from St (ft) | 20 |
| minimum side yards (ft each) | 10 | | minimum side yards (ft each) | 10 |
| minimum rear yard (ft) | 20 | | minimum rear yard (ft) | 10 |

**The above dimensional requirements supersede those of Section 3.2.1 for single and two-family dwellings and accessory structures thereto which:**

**(1) were in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999; and**
**(2) are located in the R-20 zoning district; and**
**(3) are located on one or more of the following streets:**

| | | | |
|---|---|---|---|
| Albion Ct | Costa Dr | Jussila Ln | Pigeon Ln |
| Ames Dr | Crane Way | Lane Rd | Plum Ct |
| Anchor Ln | Crowell Ave | Lane's Cove Rd | Quarry St* |
| Andrews St | Day Ave | Langsford St | Revere St* |
| Barberry Hghts Rd | Days Ave | Langsford Way | Rockwood Ln |
| Bayfield Rd | Dennison St* | Leonard St* | Rowley Shore |
| Bayview Ln | Dorset Dr | Leverett St* | Sanderson Ct |
| Bennet St* | Driftwood Ln | Linwood Pl | Ship's Bell Rd |
| Bianchini Rd | Duley St | Mason Square | Sunset Point Rd |
| Bittersweet Rd | Emerald St | McLellan St | Tucker St |
| Brierwood St | Folly Point Rd | Mechanic Pl | Vale Ct |
| Burns Way | Hesperus Ave * | Morgan Ave | Viking St |
| Butman Ave | Hesperus Cir | Mt. Locust Pl | Vulcan St |
| Butternut Ln | Hickory St* | Munsey Ln | Washington St |
| Ciaramitaro Ct | High St* | Nashua Ave* | Wishart Rd |
| Coggeshall Rd | High St Pl | Nikolane Way | Woodbury Hill |
| Colburn St | Hillside Ct | Norseman Ave | Woodbury St* |
| Cole Ave | Hilltop Rd | North Kilby St | Young Ave |
| Compass Way | Homan's Ct | Old Farm Ln | Youngs Rd* |

*** Only a portion of this street is subject to the superseding setback distances. Please consult with the Building Department as to the dividing line.**

## *II. WEST GLOUCESTER superseding setback distances for certain streets in the R-20 Zoning District*

| For Principal Uses | | | For Accessory Uses | |
|---|---|---|---|---|
| minimum front yard (ft) | 20 | | minimum distance from St (ft) | 20 |
| minimum side yards (ft each) | 10 | | minimum side yards (ft each) | 10 |
| minimum rear yard (ft) | 20 | | minimum rear yard (ft) | 10 |

**The above dimensional requirements supersede those of Section 3.2.1 for single and two-family dwellings and accessory structures thereto which:**

**(1) were in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999; and**
**(2) are located in the R-20 zoning district; and**
**(3) are located on one or more of the following streets:**

**Anchor Ln**
**Anderson Way**
**Atlantic Ave**
**Atlantic St**
**Banjo Way**
**Bayberry Lane**
**Bayfield Rd**
**Bayle Ln**
**Beachmont Ave**
**Becker Cir**
**Becker Ln**
**Bond St**
**Boulder Ave**
**Brookfield Dr**
**Brooks Ln**
**Brooks Rd**
**Bungalow Rd**
**Causeway St**
**Cedarwood Rd**
**Chickadee Rd**
**Clearview Ave**
**Cliff Ave**
**Clover Ln**
**Cole Ave**
**Concord St***
**Cononicus Rd**
**Cottage Ln**
**Cove Ledge Ln**
**Crane Way**
**Crowell Ave**
**Curlew Ct**
**Dalton Ave**
**Day Ct**
**Dolliver Neck Dr***
**Dowitcher Dr**
**Dublin Ln**
**Dune Cir**
**Dune Ln**
**Edgewood Rd**
**Elmo Ln**
**Essex Ave***
**Eveleth Rd**
**Fenley Rd**
**Ferncliff Hghts***
**Fleetwood Dr**
**Flume Rd**
**Fuller Ln**
**Fuller St**
**Gibbs Hill Dr***
**Gull Ln**
**Harbor Hghts**
**Heath Hghts**
**Hghts at Cape Ann**
**Heron Cir**
**Hesperus Ave***
**Hesperus Cir**
**Hidden Way**
**Hilltop Rd**
**Homan's Ct**
**Homestead Dr**
**Hough Ave**
**Hunter Rd**
**Julian Rd**
**Julie Ct**
**Kent Cir**
**Kent Rd**
**King Philip Rd**
**Lake Rd**
**Larose Ave***
**Lexington Ave**
**Linden Ave**
**Linden Rd**
**Linwood Ave**
**Lobster Ln**
**Longview Rd**
**Longview Ter**
**Lowe Dr**
**Lyndale Ave**
**Malcolm Rd**
**Maple Rd**
**Marshfield St**
**Massasoit Rd**
**Mt. Ann Rd**
**New Way Ln***
**Newton Rd**
**Norman Ave**
**Oakes Ave**
**Ocean Ave**
**Old Salem Path**
**Old Salem Rd***
**Park Ln**
**Pew Ave**
**Pine Rd**
**Plover Way**
**Point Rd**
**Presson Point Rd**
**Raymond St**
**Ridgewood Ln**
**Samoset Rd**
**Sandy Way**
**Saville Rd**
**Sawyer Ave**
**Shore Rd**
**Skipper Way**
**Skipper Way Ter**
**Sleepy Hollow Rd**
**Somes Ave***
**South Bend Ave***
**Stage Fort Ave**
**Stanwood Ave**
**Stanwood Point**
**Stillington Dr***
**Strawberry Cove**
**Stuart Rd**
**Thompson St**
**Tolman St**
**Treetop Ln**
**Uncas Rd**
**Valley Rd**
**Village Rd**
**Waban Rd**
**Waterman Rd**
**Waterside Ln**
**Wauketa Ln**
**West Parish Ln**
**White's Mtn Rd**
**Windsor Ln**
**Winthrop Ave**
**Woodward Ave**
**Wyoma Rd**

*** Only a portion of this street is subject to the superseding setback distances. Please consult with the Building Department as to the dividing line.**

## *III. WEST GLOUCESTER superseding setback distances for certain streets in the R-30 Zoning District*

| For Principal Uses | | | For Accessory Uses | |
|---|---|---|---|---|
| minimum front yard (ft) | 20 | | minimum distance from St (ft) | 20 |
| minimum side yards (ft each) | 10 | | minimum side yards (ft each) | 10 |
| minimum rear yard (ft) | 20 | | minimum rear yard (ft) | 10 |

**The above dimensional requirements supersede those of Section 3.2.1 for single and two-family dwellings and accessory structures thereto which:**

**(1) were in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999; and**
**(2) are located in the R-30 zoning district; and**
**(3) are located on one or more of the following streets:**

| | | | |
|---|---|---|---|
| Blossom Ln | Emily Ln | Long Hill Rd | St. Peter |
| Buena Vista Ave* | Englewood Rd | Magnolia Ave* | Story Rd |
| Butler Ave | Herd's Hill | Pinecrest Ave | Westbrook Ln |
| Carter Hill Rd | Kettle Cove Ln | Rockmoor Ter | Western Ave* |
| Chateau Hghts | Lawndale Cir | Ryan Rd | |
| Edmonds Way* | Lisa Dr | St. Joseph | |

*** Only a portion of this street is subject to the superseding setback distances. Please consult with the Building Department as to the dividing line.**

# SECTION IV GENERAL REGULATIONS

## 4.1 OFF-STREET PARKING

### 4.1.1 Intent and Application of Parking Requirements

(a) It is the intention of this Ordinance that all new structures and new building and land uses be provided with sufficient off-street parking spaces to meet the needs of persons making use of such structures and land uses. No permit shall be issued for the erection of a new structure or the enlargement or change of use of an existing structure unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Ordinance and the means of access to such space from public streets. In the event of the enlargement or change of use of an existing structure, the regulations set forth in this section shall apply only to the area added to the existing structure or to the building or part thereof having a change of use.

(b) Buildings, structures and land uses in existence on the effective date of this ordinance are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged or changed in use without becoming subject to these requirements.

(c) Except for business and municipal uses which occupy more than 10,000 square feet of space and are located in buildings constructed after February 1, 1990, business and municipal uses need not provide off-street parking if they are located within 400 feet of a Municipal Parking Lot/Facility. (Amended 3/2/99)

(d) Residential uses situated above the ground floor in a structure which existed as of February 1, 1990, contains one or more permitted non-residential uses on the ground floor, and which is located in a Central Business (CB) Zoning District, need not provide off-street parking.

### 4.1.2 The following minimum number of parking spaces must be provided except as exempted above, and except that the Zoning Board of Appeals may issue a Special Permit for a lesser number upon demonstration by the applicant that such lesser number will serve the intent of these provisions:

(a) For residential structures: at least one off-street parking space shall be provided for each dwelling unit in the CB, VB, R-5 or CCD district and at least one and one-half off-street parking spaces shall be provided for each dwelling unit located in other districts. Such spaces shall be located on the same lot as the dwelling they serve. When the off-street parking space is in the form of a private garage, its location on the lot shall conform with the provisions of this Ordinance governing the erection of a structure intended for an accessory use.

(b) For hotels, motels, motor inns, boarding, lodging, or tourist homes: one space per guest unit plus one space per three employees. For dormitories or similar group living quarters, one space per bed.

(c) Places of assembly, not including churches and places of worship, but including all other places customarily involving assembly, such as, but not in limitation thereof, auditoriums, theaters, assembly halls, funeral homes, bowling alleys, fraternal quarters, and other places of assembly, shall provide for each 100 square feet of floor area exclusive of basement or for each four seats, whichever shall be greater, one off-street parking space.

(d) For every retail store, professional and public building, and private educational building, one off-street parking space shall be provided for each 200 square feet of ground floor area not used for bulk storage, and one off-street parking space for each 400 square feet of floor area not used for bulk storage above the ground floor. For restaurant or food-service uses, one additional off-street parking space shall be provided on or adjacent to the site for every three (3) persons that may be served by the establishment at one time.

(e) For industrial establishments, one off-street parking space shall be provided for each motor vehicle in connection with the operation of such establishment, and in addition, one off-street parking space for each three (3) employees on the largest shift.

(f) For Schools, Hospitals, Sanitaria, Nursing Homes, and similar places, one off-street parking space shall be provided for each 500 square feet of floor space exclusive of basements.

(g) Casino boat water uses: one off-street parking space required for every four passengers (including crew) based on the maximum allowable occupant load of the vessel. (Adopted 7/6/99)

### 4.1.3 Location of Parking Facilities

(a) Required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve, with the following exceptions:

1) Required parking facilities for office buildings may be located on other lots if all spaces are within five hundred (500) feet of the entrance to the building to be served.

2) Industrial districts and in the case of institutional uses in any district, the required parking facilities may be provided on other lots within a reasonable distance from the building to be served. The reasonable distance to be determined by the Building Inspector.

3) In the case of a dormitory of a non-profit educational institution, the required parking facilities may be provided on other lots not more than three thousand (3,000) feet away from the dormitory to be served.

### 4.1.4 Design and Layout of Required Parking Facilities

(a) General Provisions

1. The following are not subject to the design and layout standards set forth in this Section 4.1.4:

a) parking spaces required for single-family and two-family dwellings;

b) parking spaces required for the expansion of a building in existence on April 1, 1991 if:

i) the expansion is less than 50% of the floor area of the existing building, or

ii) the expansion would require the creation of no more than ten additional spaces.

2. No accessory off-street parking space shall be permitted within the required front yard of a lot in any residential district.

3. Parking areas shall be designed so as to allow each vehicle to enter and leave each parking space without requiring the moving of any other vehicle (except for an area providing valet parking or a parking lot in which spaces are assigned to occupants of the building served by that lot) and so as not to require the backing of a vehicle onto a collector street.

4. Required off-street parking facilities may be enclosed or may be open. If such facilities are open, they shall be graded, surfaced with bituminous concrete, cement concrete or other non-dusting all weather surface, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion or excessive water flow onto public ways or adjoining property.

5. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or the servicing of vehicles of any kind.

6. Any light fixture used to illuminate parking areas shall be shielded so as not to shine on streets or adjacent properties.

7. No parking stall, except those contained in a parking structure that is below the mean original grade of the lot (determined at the street line), shall be located within one foot of a sidewalk, street, or external property line.

8. Parking areas which contain more than five off-street parking spaces and which are located within ten feet of the boundaries of the property shall be equipped with a barrier, curbing, fence or low wall sufficient to confine vehicles entirely within the property and to protect any plantings and landscaping.

9. Parking areas containing more than five off-street spaces shall be marked so as to clearly indicate the space to be occupied by each motor vehicle, in accordance with the dimensions specified in 4.1.4(b). Such markings shall be maintained so as to be plainly visible.

(b) Parking stall dimensions:

| | Parallel Parking | | Angle & Perpendicular Parking | |
|---|---|---|---|---|
| | Width | Length | Width | Length |
| Standard | 8 | 22 | 9 | 18 |
| Compact | 7 | 20 | 8 | 16 |
| Handicapped | 10 | 22 | 12 | 18 |

Parking spaces for compact automobiles shall be permitted only in parking lots or garages having 10 spaces or more, shall be appropriately and clearly marked, and shall comprise not more than 30% of the spaces provided.

(c) Parking Aisle Dimensions:

For one-way traffic, the minimum width of aisles providing access to stalls shall be 12 feet for parallel and angle parking, and 14 feet for perpendicular parking. For two-way traffic, the minimum width of aisles providing access to stalls shall be 20 feet for parallel and angle parking, and 24 feet for perpendicular parking.

(d) Access:

1. The minimum width for entrance and exit drives to parking areas shall be the same as required for parking aisles, per 4.1.4 (c) of this section. The maximum width for entrance and exit drives is 25 feet.

2. No portion of any entrance or exit driveway to or from a parking area shall be closer than 20 feet to the curb line of an intersecting street, and all such driveways shall be separated from each other by at least 30 feet.

## 4.2 OFF-STREET LOADING

### 4.2.1 Intent

(a) All new business and industrial buildings and all enlargements of existing buildings requiring the delivery of goods as a substantial part of their function must be provided with necessary space for off-street loading as hereinafter set forth. No application for a permit for the erection of such new buildings shall be approved unless it includes a plan for off-street loading facilities in accordance with the regulations set forth in this Ordinance.

(b) Buildings, structures and land uses in existence on the effective date of this Ordinance, are not subject to these off-street loading requirements, and such buildings may be rebuilt, altered or repaired, but not expanded, without becoming subject to these requirements.

(c) Where a building existing on the effective date of this Ordinance is altered or extended in such a way as to increase or enlarge the gross floor area, only the additional gross floor area shall be counted in computing the off-street loading requirements.

(d) Where the computations of required loading bays result in a fractional number only the fraction of one-half or more shall be counted as one.

### 4.2.2 Table of Loading Requirements

Off-street loading facilities shall be provided for the following specified uses:

| Types of Uses | Number of Bays |
|---|---|
| (a) Retail, wholesale and industrial operations except freezers, cold storage holding buildings, and warehouses with gross floor area of more than 5000 square feet but not more than 40,000 square feet. | One Loading Bay |
| Hospitals, institutions and similar buildings requiring delivery and with a floor area of 30,000 square feet or less. | One Loading Bay |
| For each additional 50,000 square feet of floor area in each case | One Loading Bay |

(b) Freezers, cold storage holding buildings and Warehouses shall provide off-street loading bays as follows: One bay for buildings of less than 5,000 square feet of storage space; two bays, from 5,000 to 10,000 square feet; three bays; 10,001 to 18,000 square feet; four bays, 18,001 to 35,000 square feet; and one bay for each additional 50,000 square feet. Loading bays shall conform to the following minimum measurements: 15 feet by 50 feet on the ground with a clear height of 14 feet.

### 4.2.3 Location and Layout of Loading Facilities

(a) Each loading bay, except as above specifically provided, shall have a minimum dimension of not less than 10 feet in width, 25 feet in length, 12 feet in height and may be located either within a building or outside and adjoining an opening in the building.

(b) In case trucks, trailers, or other vehicles larger than the dimensions of the minimum requirements habitually serve freezers, warehouses, or other commercial buildings, additional parking spaces shall be provided so that such vehicles park or stand completely off the street while waiting to be loaded or unloaded.

(c) All accessory driveways and entrance ways shall be graded, surfaced, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or excessive water flow across public ways.

(d) Loading facilities shall not be reduced in total extent or usability after their installation, except when such reduction is in conformity with the requirements of this Ordinance. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance or hazard or unreasonable impediment to traffic.

## 4.3 SIGN REGULATIONS

The purpose of this ordinance is to provide for a wide range of signage by right; to encourage safe, effective, informative signage; to protect property values, and to minimize the visual impact of signage.

### 4.3.1 Administration

1. Sign Permits. Except as otherwise herein provided, no person shall erect, alter, modify or move any signs as herein defined without first applying for and obtaining a sign permit from the Building Inspector.

2. Prohibited Signs. All signs not expressly permitted under this section or exempted from regulations under this section are prohibited. Billboards and signs painted on roofs are prohibited in all Districts.

3. Nonconforming Signs. All signs lawfully existing at the time of passage of this section that do not conform to the terms of this section may be continued subject to the following requirements:

(a) Determination of Conformance. In the event of a dispute whether a sign was lawful at the time of passage of this section, the Building Inspector shall determine the facts and the law governing use of such sign, which written determination shall be final.

(b) Maintenance and Repair of Existing Nonconforming Signs. No sign existing at the time of passage of this ordinance shall be substantially altered or enlarged in any way, except for routine maintenance or repair of damage or minor change permitted by the Building Inspector. Routine maintenance or repair of damage shall not include replacement of the entire sign, which shall be treated as a substantial alteration prohibited under this subsection. The changing of letters on nonconforming signs designed for changeable messages shall not be considered an alteration as long as no other change is made to the sign.

(c) Conformity or Removal of Nonconforming Signs. Nonconforming signs shall be made to conform or shall be removed whenever a Major Project Review is sought for a property to which the nonconforming signs are appurtenant.

4. Maintenance of Signs. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe conditions so as not to be detrimental to the public health or safety; or constitute a distraction or obstruction that may contribute to traffic accidents.

5. Illumination. Signs that are internally illuminated or externally illuminated or whose light source is part of the sign display, as is the case with exposed-tube, gaseous-type signs and signs with letters or decorations comprising rows of incandescent bulbs are regulated as follows:

(a) Signs shall be illuminated only by steady, stationary light without causing harmful glare for motorist, pedestrians, or neighboring premises.

(b) Except for indicators of time and temperature, no sign or part of any sign shall either be illuminated more than one hour after the premises is closed, or 11:00 p.m., whichever is later, nor shall any illuminated sign flash, move or make noise.

(c) An illuminated sign is allowed to have an average face brightness not to exceed thirty (30) feet. The applicant may be required to provide an engineer's report to verify the average face brightness.

6. Awning Signs. An awning shall be made of solid or opaque woven material which does not consist of fluorescent or transparent material. The awning may be indirectly illuminated in a manner not distractive to motorist or pedestrian.

7. Off-Premise Signs. A business is allowed to advertise an off premise activity, event or business pursuant to the sign provisions required in a district or for any business.

8. Roof Signs. A roof sign shall not have a vertical dimension exceeding three (3) feet, shall not project above the highest part of the roof ridge line and shall not exceed the maximum permitted area for a single sign in the zoning district.

9. Detached Sign Setbacks. Signs shall be located within the required front yard, but not within a required side yard, rear yard or within or over any street either public or private.

### 4.3.2 Regulations Applicable to Signs in Nonresidential Districts

| | CCD | CB | NB | EB | VB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|
| 1. Single-tenant Building or Single Use Lot. | | | | | | | | |
| a. Maximum Sign Area (sf) for a single sign, one attached and one detached for each street orientation. | 16 | 30 | 16 | 30 | 16 | 30 | 30 | 30 |
| b. Maximum Total Sign Area (sf). | 32 | 60 | 32 | 60 | 32 | 60 | 60 | 60 |
| c. Maximum Detached Sign Height (sf). | 12 | 20 | 12 | 20 | 12 | 20 | 20 | 20 |
| | | | | | | | | |
| 2. Multi-tenant Building or Multiple Use Lot. | | | | | | | | |
| a. Maximum Sign Area (sf) for a single sign, attached or detached. | 16 | 30 | 16 | 30 | 16 | 30 | 30 | 30 |
| b. Maximum Total Sign Area (sf), one detached sign for each street orientation, attached signs not to exceed ten (10%) of the total surface area of the building facade parallel to the front yard. | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% |
| c. Ladder Sign for each tenant or use, attached to the main permitted detached sign, Maximum Sign Area (sf). | 6 | 6 | 6 | 6 | 6 | 6 | 6 | 6 |
| d. Maximum Detached Sign Height (f). | 12 | 20 | 12 | 20 | 12 | 20 | 20 | 20 |
| | | | | | | | | |
| 3. Illumination. | | | | | | | | |
| a. Maximum Sign Area (sf) for a single sign, internally illuminated sign | N | 12 | N | 12 | N | 12 | 12 | 12 |
| b. Maximum Sign Area (sf) for a single sign, externally illuminated sign | 16 | 30 | 16 | 30 | 16 | 30 | 30 | 30 |

### 4.3.3. Signs and Murals Permitted in Addition to the Total Maximum Signage allowed in Nonresidential Districts

| | CCD | CB | NB | EB | VB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|
| 1. Bulletin or Message Sign, one attached. Maximum Sign Area (sf). | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| 2. Gloucester Harbor or waterfront orientation, one attached sign. Maximum Sign Area (sf). | N | 30 | 16 | 30 | N | 30 | N | N |
| 3. Temporary Sign, allowed with permission of Building Inspector up to thirty consecutive days. Maximum Sign Area (sf). | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| 4. Mural, one painted or attached to a building wall, intended for advertising. Maximum Area (sf). | 32 | 32 | 32 | 32 | 32 | 32 | 32 | 32 |

### 4.3.4 Regulations Applicable to Signs in Residential Districts

| | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 |
|---|---|---|---|---|---|---|---|
| 1. Maximum Sign Area (sf) for a single sign. | | | | | | | |
| a. Residential Use. | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| b. Non-residential Use. | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| 2. Maximum Total Sign Area (sf). | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| 3. Maximum Detached Sign Height (f). | 12 | 12 | 12 | 12 | 12 | 12 | 12 |

### 4.3.5. Other Permitted Signs and Devices

| | All Districts |
|---|---|
| 1. Federal, state, county, or municipal flags or insignias of any government, public safety, identification not to exceed one square foot. Historical markers. | Yes |
| 2. On or in rolling stock, on fuel pumps. | Yes |

### 4.3.6 Appeals

Appeals of the Building Inspector's decision and provisions of this section are referred to the Zoning Board of Appeals.

## 4.4 NOISE, LITTER AND SMOKE STANDARDS

**4.4.1** No activity shall be permitted in any district unless it can be demonstrated that its operation will be so conducted that the following standards will be met, or unless specifically exempted from some of the standards by Section 2.3 or elsewhere in this Ordinance.

Where future compliance with these standards is questionable, the Building Inspector shall require a report on probable compliance, to be furnished at the expense of the applicant. Estimates of compliance shall be based upon engineering analysis, example of similar facilities or other acceptable method prepared and certified by a qualified professional engineer. Where indicated by such report, permits may be issued subject to conditions limiting operations and equipment.

However, the Board of Appeals may grant a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

**4.4.2** No noise, sound from public address or other amplification systems, vibration, odor or flashing shall be normally perceptible more than 400 feet from the premises if in the GI or BP district, more than 200 feet from the premises if in the CB, VB or EB districts, and more than forty (40) feet from the premises if in a NB, CCD or Residential District. Interferences originating in business or industrial districts shall not normally be perceptible more than 100 feet within a residential district.

**4.4.3** Cinders, dust, fumes, gases, radiation or trash, or other waste, shall be effectively confined to the premises or disposed of.

**4.4.4** Smoke density shall not exceed #2 on the Ringelmann scale for more than 10% of the time, and at no time shall exceed #3 on that scale.

**4.4.5** No process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

**4.4.6** Operation at any time such that these standards are violated, subsequent to issuance of a permit on the grounds that they would be met, shall constitute a zoning violation.

## 4.5 SCREENING REQUIREMENTS

4.5.1 The following uses shall be screened from any adjacent residential district or use or public way from which they would otherwise be visible.

(a) Junk Yards
(b) Contractor's Yards
(c) Mobile Home Park or Campground

4.5.2 The following uses shall be screened from any adjacent residential district or use or State Highway from which they would otherwise be visible:

(a) Parking area for four or more automobiles, or two or more commercial vehicles, except for retail sale of such vehicles.

(b) Open storage, whether as principal or accessory use of premises.

(c) Loading or service areas.

4.5.3 The following uses shall be screened from any adjacent residential district or use from which they would otherwise be visible:

(a) Outdoor sales display area.

(b) Commercial outdoor recreation, such as golf driving ranges or drive-in theaters.

4.5.4 "Screening" in this context shall mean a wall, sightly fence, or an area four feet wide or more, densely planted with trees or shrubs five feet or more in height.

# SECTION V SPECIAL REGULATIONS

## 5.1 MOBILE HOMES, TRAILERS AND CAMPERS

### 5.1.1 Placement and occupancy of mobile homes, trailers and campers shall be in accordance with Section 2.3 and with the following:

Mobile Home

| | |
|---|---|
| May be stored: | In Mobile Home Park |
| May be occupied: | In mobile home park or for a period not to exceed 30 days in any 12 months, either accessory to a residence, observing yard requirements for accessory structures, or in conjunction with a carnival, blood bank or like function. |
| Minimum space lease term: | One month |

Travel Trailer Camper

| | |
|---|---|
| May be stored: | In campground, or accessory to a residence, observing yard requirements for accessory structures; or in a public area designated for such use. |
| May be occupied: | In campground; or in a public area designated for such use; or for a period not to exceed 30 days in any 12 months, residence, observing accessory structures, or in conjunction with a carnival, blood bank, or like function. |
| Minimum space lease term: | None |

Boat Trailer, Horse Trailer & Utility Trailer

| | |
|---|---|
| May be stored: | In a public area designated for such use; or accessory to a residence, observing yard requirements for accessory structures. |
| May be occupied: | Not applicable |
| Minimum space lease term: | Not applicable |

Boat

| | |
|---|---|
| May be stored: | In a public area designated for such use; or accessory to a residence, except that no boat over twenty-five feet (25') in length may be stored within the front yard setback for a residential lot. |
| May be occupied: | Not applicable |
| Minimum space lease term: | Not applicable |

### 5.1.2 Mobile Home Parks

Mobile home parks shall be operated only under license from the Board of Health and shall conform to the following minimum requirements:

(a) Parcel minimum area to be ten acres.

(b) Each plot shall be serviced with electricity, water, and sanitary drainage suitable for permanent connection.

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

(d) The development shall comply with all requirements of "An Ordinance to Regulate Trailer Coaches and Trailer Coach Parks," ordained May 21, 1959.

**5.1.3 Camp grounds shall be operated only under license from the Board of Health, and shall conform to the following minimum requirements:**

(a) Parcel minimum area to be ten acres.

(b) If each plot is not serviced with water and sanitary drainage, common sanitary facilities meeting all requirements of the Gloucester Board of Health shall be provided.

(c) No unit for overnight occupancy shall be placed within 200 feet of a street line, or 60 feet of any other lot line.

(d) The development shall comply with all requirements of Article VIII of the Sanitary Code for the Commonwealth of Massachusetts.

**5.1.4 Mobile Home Parks and Camp Grounds shall be reachable via right-of-way not less than 40 feet in width. Pavement widths within a Mobile Home Park or Camp Ground shall be not less than 20 feet in width.**

**5.1.5 This Ordinance shall not prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a mobile home for a period not to exceed twelve (12) months, while the residence is being rebuilt, subject to the provisions of the State Sanitary Code.**

## 5.2 EARTH FILL AND REMOVAL REGULATIONS

### 5.2.1 General

The removal or filling of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be allowed only by special permit from the City Council in accordance with sections 5.2.2 through 5.2.8, except under the following circumstances:

(a) When such removal or placement is necessarily incidental to or in connection with the following:

i) construction on the same site of a structure for which a building permit has been issued within the past six months, or

ii) for grading or otherwise improving the premises of which such building is a part, or

iii) for construction pursuant to an approved subdivision;

(b) When such removal or placement involves the removal from the premises or redistribution within the premises of less than 50 cubic yards during any twelve month period; or a greater amount if, in the opinion of the Building Inspector, the nature of the activity is such that it will not pose a detriment to the abutting properties; in no instance, however, shall the amount of material be greater than 200 cubic yards;

(c) When such removal or placement is in accordance with the terms of an Order of Conditions or Determination of Applicability issued by the Conservation Commission pursuant to M.G.L. Ch. 131, s.40, and Article 12 of the Gloucester Code of Ordinances;

(d) When placement is for landscaping or gardening purposes and the material to be placed consists of peat moss, tree bark, wood chips, or other vegetative mulch, loam, or crushed stone or gravel in a walkway, driveway, or parking area.

All fill and removal operations shall conform to the national standards for the stabilization of slopes and materials (Soil & Water Conservation guidelines), a copy of which is available in the office of the Community Development Department and the Building Inspector's Office.

### 5.2.2 Permit from the City Council

Written application for a Special Permit must be made to the City Council. The following shall be conditions for such issuance:

(a) The application shall be accompanied by a plan describing the premises and the proposed operation. If involving more than three acres or 1,000 cubic yards, the plan shall be prepared by a registered Land Surveyor or Engineer, showing all man-made features, property lines, names and addresses of all abutters, topography at 5 foot contour intervals of the site and all land within 100 feet of the area from which the above material is to be removed, together with the grades below which no excavation shall take place, and above which no filling shall take place, and the proposed cover vegetation and trees. The application shall also be accompanied by a soils engineering report.

(b) A performance bond in an amount determined by the City Council has been posted in the name of the City assuring satisfactory performance in the fulfillment of the requirements of this Ordinance and such other conditions as the City Council may impose as conditions to the issuance of its permit.

(c) Before granting a permit, the City Council shall give due consideration to the location of the proposed earth removal or fill operation, to the general character of the neighborhood surrounding such location and to the general safety of the public on the public ways in the vicinity.

### 5.2.3 Fill

Temporary stockpiling of fill may be allowed prior to the issuance of a special permit, upon the finding of the Building Inspector that such temporary stockpiling will not be detrimental to the abutting properties; in no instance, however, will such stockpiling be allowed for a period exceeding ninety (90) days.

During fill operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

### 5.2.4 Removal

Removal operations shall be subject to the following conditions:

(a) Earth removal shall take place at the grades specified on the plan accompanying the permit application.

(b) During removal operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge.

(c) Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

(d) Soil shall not be disturbed within one hundred (100) feet of the boundaries of the premises, excepting at the conclusion of operations if required in order to improve the overall grading.

(e) All trucking routes and methods will be subject to approval by the Chief of Police.

(f) All roads leading from earth removal areas to City streets shall be treated with oil, stone, or other suitable material to reduce dust and mud for a distance of 200 feet from said street. Roads leading from earth removal areas to City streets shall be constructed with a curve so as to help screen the operation from view.

### 5.2.5 Restoration

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal in a substantial area, that entire area shall be restored as follows:

(a) All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to safely provide for drainage without erosion.

(b) All boulders larger than one-half cubic yard shall be removed or buried.

(c) The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of good quality loam, which shall be planted with cover vegetation adequate to prevent soil erosion, using either grasses or ground cover, depending upon conditions.

(d) Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

### 5.2.6 Additional Conditions

The City Council may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, and trees to be planted.

### 5.2.7 Renewal or Renovation of Permit

Permits will be issued for one year periods only, but a permit may be renewed upon application without a public hearing. Prior to renewal, inspection of the premises shall be made by the Building Inspector to determine that the provisions of this Ordinance are being complied with. The City Council, after hearing and proof of violation of this Ordinance, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with Section 5.2.5.

### 5.2.8 Removal Activities Prior to this Ordinance

Earth removal activities in lawful operation at the time this Ordinance is adopted may continue until abandoned for more than 12 consecutive months, provided that within 60 days after the effective date of this Ordinance the owners of such premises shall submit to the City Council a plan and application as required in Section 5.2.2.

## 5.3 HOME OCCUPATIONS

Customary home occupations are permitted if conforming to the following conditions:

5.3.1 No more than 25% of the floor area of the residence shall be used for the purpose of the home occupation or the professional use.

5.3.2 Not more than one person, not a member of the household, shall be employed on the premises in the home occupation.

5.3.3 There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation except for an identification sign not in excess of two (2) square feet in area, nor shall there be any other variation from the residential character of the principal building.

5.3.4 No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced. (See Section 4.4)

5.3.5 Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

5.3.6 Parking generated shall be accommodated off-street, other than in a required front yard.

5.3.7 A Special Permit shall be required and may be issued only by the Zoning Board of Appeals after Public Hearing and with such restrictions as the Board deems proper.

## 5.4 DUMPING AND FILLING

No garbage, rubbish, refuse or other waste material shall be dumped or incinerated in any District, home incineration excepted, and no land shall be used as a dump or fill area, without authorization for any use covered by the provisions of Section 150A of Chapter III of the General Laws, as inserted by Chapter 310 of the Acts of 1955, with respect to any site unless it has been assigned by the Board of Health to such use in accordance with the provisions of said Section.

## 5.5 LOWLAND REQUIREMENTS

5.5.1 Sections 5.5.2 and 5.5.3 shall not apply to lands bordering Gloucester Harbor north and east of a line from the mouth of Blynman Canal to the intersection of Farrington Avenue and Eastern Point Boulevard.

5.5.2 No building permit for a principal building shall be issued for construction on land less than 10 feet elevation above U.S.G.S datum except on approval of a Special Permit for an exception by the City Council. Such Special Permit shall be issued only if it is demonstrated by the applicant that the proposed development will pose no hazard to the health or safety of the occupants thereof.

5.5.3 Without limiting the generality of the foregoing, the following are presumed to be hazardous to health or safety:

(a) Floor level of any structure for human occupancy less than 12 feet elevation.

(b) Individual sewage disposal systems subject to inundation in the event of coastal flooding to ten feet elevation.

(c) Methods of filling or excavation subject to displacement by coastal flooding to ten feet elevation.

(d) Water supplies subject to interruption or contamination in the event of coastal flooding to ten feet elevation.

5.5.4 No person shall remove, fill, dredge or build upon any bank, marsh, swamp, or flat bordering on coastal or inland waters or any other land subject to tidal action or coastal storm flowage without a Special Permit from the City Council. Such permit shall be issued only upon determination that the requirements of the Hatch Act (G.L. Ch. 131, Sec. 40) has been satisfied, and that such removal, filling, dredging or construction will not pose a hazard to health or safety, and will be so executed as to conserve the shellfish and other wildlife resources of the City. (Amended 10/26/99)

**(Adopted April 25, 1970)**

## 5.6 HOUSING FOR THE ELDERLY

On Special Permit from the City Council, the requirements of this Ordinance may be reduced as follows for multi-family dwellings in which two-thirds or more of the units are reserved through contract, covenant or other binding legal device for occupancy by persons 62 years or older, and where construction provides features specifically designed for the elderly, including all public areas and entrances and at least 5% of all units designed to accommodate wheel chairs and provision of special function rooms such as clinics or social rooms. Reductions shall apply only to units having two or fewer bedrooms, equipped with bathtub and toilet grab bars, emergency signals, out-swinging doors and other features for the elderly.

5.6.1 Parking requirements per elderly dwelling unit may be reduced to not less than one-third that otherwise required by Section 4.1.

5.6.2 Required lot area and open space shall be reduced to (1 - .65 E/T) times that required by Section 3.2, where E is the number of dwelling units reserved and equipped for the elderly and T the number of dwelling units.

## 5.7 MAJOR PROJECTS

### 5.7.1 Applicability.

Any application for a multi-family dwelling is required on a Special Permit and involving 21 or more bedrooms, or 11 or more dwelling units, or if abutting a parcel for which a permit for multi-family dwelling has been issued in the past 36 months, shall be considered a Major Project, and shall comply with all requirements below. Any application for a hotel, motel, or motor inn resulting in 30 or more guest units (existing plus proposed) shall also be considered a Major Project, and shall comply with all requirements below. A Shopping Center (as defined herein) shall be considered a Major Project and shall comply with all requirements below. Assisted Living projects of 11 dwelling units or greater shall be considered a Major Project and shall comply with all requirements in Section 5.7 [except 5.7.5(f)] and Section 5.14.

### 5.7.2 Application

Major Project applications shall be submitted in conformance with the requirements of Section 1.5.3.

(a) In addition to the information required under that Section, the developer shall submit photographs of the premises in relation to adjoining structures and to natural features, and for projects involving 50 or more dwelling units a simple block model of proposed buildings and topography. For projects not to be connected to municipal sewerage, percolation test reports shall be submitted. Required plans shall have been prepared by a registered Engineer, bear their respective seals and signatures, and also bear certifications by each that the materials were prepared by them or under their supervision for the site in question, and comply with all state statutes and local ordinances and regulations. Eight copies of the application and plans shall be submitted, plus a reproducible copy of the site plan.

### 5.7.3 Departmental Reviews

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Clerk for approval shall be transmitted by the City Clerk to the following for their review and report:

| | |
|---|---|
| City Building Department | Public Works Department |
| Public Health Department | Fire Department |
| Engineering Department | Conservation Commission |

The above shall report in writing to the Council regarding compliance of the proposal to existing state statutes and local rules, regulations, and ordinances, and regarding relationship of the proposal to matters within the Department or Commission's area of concern. No Special Permit shall be decided upon within twenty-one days of forwarding such plans without receipt of an advisory report thereon from all of the above Departments or Commissions.

### 5.7.4 Planning Board Review

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Council for approval shall be transmitted by the City Clerk to the Planning Board for their review and report regarding the Special Permit criteria below. The Planning Board may, when they deem it advisable, engage professional assistance, at the applicant's expense, for such review and report.

No Special Permit shall be decided upon within thirty-five (35) days of forwarding such plans without receipt of an advisory report thereon from the Planning Board. The Planning Board may require of the developer submission of sufficient data on hydrology, traffic, or other environmental impacts to allow determination of compliance with the Special Permit criteria of Sections 1.8.3 and 1.8.4.

### 5.7.5 Special Permit Criteria

The following criteria shall be considered as guidelines by the Council in addition to those of Sections 1.8.3 and 1.8.4 in acting upon Major Projects:

(a) Major Projects should have access from an arterial or collector street via ways serving not more than ten single-family homes.

(b) Where not connected to municipal sewerage, assisted living facilities, multi-family or hotel, motel or motor inn major projects should be so located that there is minimal danger of pollution, evidenced by reasonable grades at leaching areas, a percolation rate of ten minutes per inch drop or less, maximum ground water table at least four feet below the bottom of the disposal field, and location not less than 100 horizontal feet distant from the bank of any pond, stream, river, swamp, or marsh or from the Mean High Water line of adjoining tidal waters. All projects must comply with Gloucester Board of Health regulations and meet Massachusetts Title V Requirements.

(c) The site plan shall include the following: Access, drainage and utilities serving each structure meet functional standards equivalent to those established in the Gloucester Planning Board's adopted Subdivision Regulations; access via minor streets servicing single-family homes is avoided; parking areas are screened from public ways by building location, grading, or screening; lighting of parking areas avoids glare on adjoining properties; egress does not require backing onto any public way; major topographic changes or removal of existing trees are avoided. (Amended 6/20/00)

(d) All other requirements of the Zoning Ordinance and of all applicable building codes must have been satisfied. Specific attention is drawn to the requirements of the Subdivision Control Law, and the necessity of obtaining occupancy permits prior to occupancy of any building or portion thereof.

(e) Where a multi-family residential or assisted living facility use is proposed in a non-residential district a Special Permit will only be granted if the Council finds that:

1. The public good will be served;

2. The non-residentially zoned area would not be adversely affected; and,

3. That the uses permitted in the zone would not be noxious to the multi-family or assisted living use.

(f) The following criteria, in addition to the above, shall apply to Shopping Centers:

1. Shopping Centers should be so located that not more than ten residential structures existing at the time of application shall be within 300 feet of the proposed buildings, parking areas, and access drives.

2. Shopping Centers should be so located that annual average daily traffic is not increased 50% or more above current levels at any point more than 1000 feet from an expressway interchange, current levels as determined by the Gloucester Department of Public Works; and should be so located that resultant traffic is not above the capacity of roads and interchanges at level of service "C" at any point within one (1) mile of the premises using definitions and methods of estimation as outlined by the Highway Research Board Highway Capacity Manual, 1935, or later editions.

3. No part of any parking area or structure of a Shopping Center shall be built within 100 feet of the right-of-way line of Route 128 (but not ramps) or within 30 feet* of any other street. At least 75% of these reserved areas shall be planted or retained in vegetative cover. *Except in CB district, none required.

4. Storm water leaching (recharge) basins, retention basins, or other devices as necessary should be employed in order that peak flows through existing drainage structures or channels are not in a 15 year storm increased more than 15% above current flows or caused to exceed design capacity of structures or channel capacity of streams or to cause flooding.

5. No egress onto an existing street shall be within 250 feet (centerline to centerline) of any other egress on the same side of street is serving 20 or more parking spaces or within 250 feet of the nearest point of an expressway interchange right-of-way or within 100 feet of the intersection of sidelines of intersecting streets. Egressing vehicles should have at least 400 feet visibility in each travel direction.

6. Outdoor lighting fixtures shall not be higher than 20 feet. No light overspill shall be bright enough to create discernible shadows off the premises.

7. All banks exceeding 15 degrees in slope resulting from site grading shall either be retained with a non-bituminous retaining wall, or covered with loam to a depth of four inches and planted with vegetative cover reasonably sufficient to initially prevent erosion.

8. The requirements of Section 5.2 Earth Removal Regulations and Section 5.5 Lowlands Requirements shall be met.

9. Parking shall conform to the requirements of Section 4.1 Off-Street Parking.

10. All open storage, parking, and loading or service areas shall be screened in accordance with the requirements in Section 4.5.

11. Shopping Center parking areas shall contain or be bordered within five feet by a least one tree per eight cars, trees to be of two inch caliper or larger, and if within the parking area to be planted in curbed soil plots allowing not less than 36 square feet of unpaved soil area per tree.

12. On the shopping center premises there shall be not more than one freestanding sign, plus not more than one building sign per business. All signs must comply with the requirements of Section 4.3. No sign shall be located within required setbacks from Route 128.

(g) In addition to the above-stated criteria, except 5.7.5(f), the following criteria shall apply to Assisted Living Facilities: (Adopted by City Council 6/20/00)

1. Twenty (20)% of the units of all assisted living facilities, twenty (20) units or greater in size, shall be designated for low to moderate income persons. Low and moderate income persons shall be defined by the most recent income guidelines established by the U.S. Department of Housing and Urban Development.

2. The developer/manager of the Facility shall annually certify to the Gloucester Community Development Director that the income of the residents meets the U.S. Department of Housing and Urban Development qualifications.

At the discretion of the SPGA, this requirement will be fulfilled in one of the following ways:

(A) 20% of the units on-site shall be designated for low to moderate income persons;

(B) The equivalent value of these units will provide for housing services for low to moderate income persons offsite.

3. Gloucester residents or their relatives shall be given priority in admission so long as all federal, state or local rules, laws, regulations, or ordinances are satisfied.

4. Parking Requirements: One off-street parking space for every two dwelling units, one visitor parking space for every ten units, plus one parking space for each two hundred square feet of nonresidential area.

5. Assisted Living Residences shall comply with the dimensional requirements as shown in Sections 2.3.1 Residential Use No. 19 and 3.2.5 Dimensional Requirements for ALR.

### 5.7.6 Council Action

Indication of City Council approval shall be placed upon approved Special Permits and upon all supporting documentation on which such approval is based. The Special Permit shall be made conditional upon project execution not deviating from supporting documentation without explicit Council authorization, which may be granted without further public hearing if deviations are minor.

**(Subsections 5.7.1, 5.7.5(e) & (g) amended June 20, 2000)**

## 5.8 FREIGHT, TRANSPORTATION TERMINAL FACILITIES

No trailer truck park shall be located within 1000 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment.

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## 5.9 CLUSTER DEVELOPMENT

### 5.9.1 Purpose

The cluster development is intended to accomplish all of the following:

(a) Encourage the efficient and creative use of land in harmony with its natural features;

(b) Minimize the consumption of open space by limiting the network of streets and utilities;

(c) Preserve natural topography and wooded areas within developed areas;

(d) Provide usable open space and, where appropriate, recreational facilities;

(e) Preserve the visual character of the neighborhood;

(f) Ensure high-quality design and site planning of developments to enhance the neighborhoods in which they occur and the city as a whole;

(g) Preserve sites and structures of historical importance.

### 5.9.2 Applicability

The Planning Board may grant a special permit for a Cluster Development on a parcel of land of a size equivalent to five times the minimum lot size in the District, but no less than three acres of contiguous land not separated by a roadway or utility easement at the time of application, in the R-80, R-40, RC-40, R-30, R-20 and R-10 residential districts, subject to Section 5.11 and the following regulations and conditions.

### 5.9.3 Preliminary Cluster Development Plan

5.9.3.1 Submittal Requirements

To facilitate the review process, applicants are encouraged to submit a Preliminary Cluster Development Plan and application to the Planning Board. Such submittal shall include the following information:

(a) A plan prepared in accordance with the requirements for a preliminary subdivision plan, as described in Section 3.1.2 and 3.1.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.

(b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.

5.9.3.2 Review By Other Boards

Upon its receipt of the Preliminary Cluster Development Plan, the Planning Board shall transmit one copy each to the Board of Health, Conservation Commission, Fire Department, and the Building Inspector for review and comment.

5.9.3.3 Approval or Disapproval

The Board shall act on the Preliminary Cluster Development Plan within forty-five (45) days of the date of submission. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with section 3.1.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

### 5.9.4 Definitive Cluster Development Plan

5.9.4.1 Submittal Requirements

An applicant seeking approval of a Definitive Cluster Development shall submit a plan and application to the Planning Board. Such submittal shall include the following:

(a) A plan prepared in accordance with the requirements for a definitive subdivision plan, as described in Section 3.2.2, 3.2.3, and 3.2.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.

(b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.

(c) All materials required by Section 3.2.1 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

(d) A program for the permanent maintenance of all open space.

(e) A development schedule which, at minimum, describes the phases of construction, proposed commencement dates, and the anticipated completion date for all road and utility improvements.

5.9.4.2 Review By Board of Health

At the time of filing the Definitive Cluster Development Plan, the applicant shall also file two copies of the Plan with the Board of Health. In accordance with the requirements of Section 3.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, the Board of Health shall, within 45 days of the Plan's filing, report to the Planning Board its approval or disapproval of the Plan.

5.9.4.3 Review By Other City Officials

The Planning Board shall transmit copies of the Definitive Cluster Development Plan to the Department of Public Works, Fire Department, Building Inspector, and the Conservation Commission, in accordance with section 3.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.4.4 Approval or Disapproval

The Board shall hold a public hearing and act on the Definitive Cluster Development Plan within ninety (90) days of the date of submission, or within one hundred thirty-five (135) days if such Plan did not properly evolve from a Preliminary Cluster Development Plan. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with Sections 3.5 and 3.6 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

### 5.9.5 Design Criteria

(a) The Planning Board, in order to grant a special permit for a Cluster Development, must find that the proposed design and layout of the development is superior to a conventional one in preserving open space for conservation and recreation; in preserving natural features of the land; and in allowing more efficient provision of streets, utilities and other public services.

(b) In its consideration of a Cluster Development, the Planning Board shall give particular attention to, and shall use as a basis for its decision, all of the following:

1. Lots, streets, off-street parking, sidewalks, pathways and buildings which achieve the harmonious integration of the proposed development with surrounding properties;

2. The overall layout and design that achieves the best possible relationship between the proposed development and the land;

3. Appropriately sized and configured open spaces for active or passive recreation;

4. Protection of natural features such as streams, mature trees or clusters of trees, rock outcrops, bluffs, slopes, and historic or archeological features;

5. Provision of access to open spaces for the physically handicapped, elderly, and children;

6. Use of open spaces for preserving, enhancing, or providing scenic vistas;

7. Preservation and protection of historic resources;

8. Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.

### 5.9.6 Allowable Uses

A Cluster Development may include any residential use permitted in that zoning district. The Planning Board may grant special permits required for any such structures located in a Cluster Development. These structures may be situated on separate lots, or situated on a single lot together with open space. Lots created under this provision with more than one dwelling unit under separate ownership thereon shall be in compliance with applicable M.G.L. c. 183A, or with the charter and by-laws of a land trust whose purpose is the provision of affordable housing. Cluster Developments that do not involve the subdivision of land shall comply with all of the design criteria and improvement requirements of the Rules and Regulations Governing the Subdivision of Land in Gloucester, MA.

### 5.9.7 Development Density

(a) The maximum number of dwelling units allowed in a Cluster Development shall be derived by dividing 90% of the Applicable Land Area by 90% of the required minimum lot area in that district. Applicable Land Area equals the total area encompassed by the Cluster Development, minus land defined as resource areas in Article 12 of the Gloucester Code of Ordinances, and minus land otherwise prohibited from development by other local ordinances or regulations which shall not include any protion of the buffer zone as defined in Article 12 of the Gloucester Code of Ordinances. Applicable Land Area shall be calculated by a registered land supveyor. Such density calculation shall not apply to approved Cluster Development Plans filed within seven (7) months prior to the adoption of this amendment.

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

### 5.9.8 Density Bonus

The Planning Board may authorize an increase in lots or dwelling units up to 20% above that allowed under Section 5.9.7 of this Ordinance, if either of the following conditions are met:

(a) The applicant deeds to the city or restricts under a conservation restriction a portion of the Applicable Land Area, if that land is determined by the Planning Board to be of critical importance for the public good.

(b) The applicant sets aside a portion of the dwelling units on the site as affordable units, as defined by Section 5.11.4 of this Ordinance. For each affordable unit the applicant shall receive a density bonus of one added lot or dwelling unit for each 1.5 permanently affordable dwelling units built.

### 5.9.9 Dimensional Requirements

(a) The minimum size of lots in a Cluster Development shall be 10,000 square feet for a single or two-family house, and 20,000 square feet for a multi-family dwelling.

(b) The Planning Board may waive up to fifty percent of the minimum requirements for frontage and/or yard requirements of each lot in the Cluster Development in order to achieve maximum open space area.

(c) More than one single or two-family dwellings may be located on a lot in a Cluster Development, provided that the minimum lot area per dwelling unit is no less than 10,000 square feet.

(d) Clusters of housing shall contain no more than ten single-family or two-family dwellings, and no more than four multi-family dwellings.

(e) The minimum width of open space between clusters of dwellings, and between the Cluster Development and adjacent property, shall be fifty feet in each case.

(f) Except as noted above, each lot in a Cluster Development shall comply with the dimensional requirements of the district within which it is located.

### 5.9.10 Common Open Space

(a) Common open space is that land so designated by the applicant and approved by the Planning Board.

(b) Common open space shall comprise not less than 30% of the **Applicable Land Area** within the Development Plan.

(c) Such open space may be in one or more parcels of a size and shape appropriate for its intended use as determined by the Planning Board and shall be within easy access to its intended users.

(d) Common open space land shall be used only for the following purposes:

1. Conservancy in its natural, undisturbed state. At least fifty percent of the common open space must be used in this manner;
2. grazing and agriculture;
3. walking, horseback riding and/or bicycle riding;
4. playing fields and courts;
5. swimming pools and other recreational facilities and structures for the use of the owners of the building lots; or
6. any combination of the above.
7. structures and parking specifically for the maintenance and use of the open space, provided that they occupy no more than five percent of said open space.

(e) The common open space shall be conveyed in one of the following ways, as approved by the Board:

1. To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and

shall grant a conservation restriction to the city of Gloucester over such land to insure that it be kept in an open state and not be built upon for residential use or developed for accessory uses such as parking or roadways.

2. To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant a conservation restriction as set out above.

3. To the city for park or open space use, subject to the approval of the City Council, for management by the Conservation Commission, with a trust clause insuring that it be maintained as open space.

(f) The removal of material, including groundwater, minerals and trees over four inches basal diameter, except as necessary to comply with conditions of the Planning Board's approval, is prohibited.

### 5.9.11 Future Change

Any Cluster Development approved by the Planning Board under the provisions of this Section shall incorporate by reference the Cluster Development Plan and development schedule submitted by the developer with application. Minor amendments to such Cluster Development may be approved by the Planning Board, upon application and for good cause shown, but without necessity of public hearing; provided, however, that any of the following shall be considered a major amendment, and shall be acted upon only under the procedures applicable to the initial approval for a Cluster Development:

(a) Reduction in the amount or change in the use of common open space, or any change in the general location of the common open space as provided in the permit; or

(b) Any change in the general layout of the ways as provided in the permit; or

(c) Any increase in the number of lots or dwelling units as provided in the permit; or

(d) Altering the location of any building or structure by more than ten feet.

### 5.9.12 Changes Not Permitted

Lots and dwelling units created under this provision shall not be modified in any manner other than as indicated in Section 5.9.11.

**(Adopted May 27, 1986; amended December 3, 1991; August 22, 2006)**

## 5.10 WATERSHED PROTECTION OVERLAY DISTRICT

### 5.10.1 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the City from any use of land or buildings which may reduce the quality of its water resources.

### 5.10.2 Scope of Authority

The Watershed Protection Overlay District is considered as overlaying other zoning districts. Uses not permitted in the portions of the districts so overlaid shall also be prohibited in this district.

This district does not limit the existing authority of the Conservation Commission pursuant to Section 40 of Chapter 131 of the General Laws and Article 12 of the Local Code of Ordinances.

### 5.10.3 Establishment and Definition of District

(a) The Watershed Protection Overlay District includes all lands lying adjacent to water courses and surface water bodies which contribute to the city's water supply, and which create the catchment or drainage areas of such water courses and bodies, as part of their natural drainage system. The map defining the Watershed Protection Overlay District boundaries, entitled "Public Water Supply Watershed Boundary Maps, City of Gloucester" drawn at a scale of 1 inch to 100 feet, are hereby adopted by the City Council and are incorporated herein by reference and are on file in the City Planning Office.

(b) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. If the property owner can prove, to the satisfaction of the Planning Board, the Board of Health, and the City Engineer, that his property does not drain into the watershed of the public water supply, then this district shall not apply. At the request of the owner the city may engage a geologist, hydrologist or other qualified professional to determine more accurately the location and extent of a watershed or recharge area, and may charge the owner for all or part of the cost of the investigation.

### 5.10.4 Prohibited Uses

The following land uses, activities, devices, structures, and/or substances are prohibited within the Watershed Protection Overlay District:

(a) Dry cleaning establishments.

(b) Junk and salvage yards.

(c) Car washes, except when located on public water and sewer.

(d) Boat and motor vehicle service, storage and repair establishments.

(e) Any industrial use that discharges processed wastewater.

(f) Commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock.

(g) Any animal feedlots or pastures less than 5 acres in size lying within 100 feet of the center line of all brooks, streams and rivers or within 100 feet of the normal highwater line of lakes, ponds, marshes, swamps and bogs.

(h) Landfills and the storage of salt and road de-icing chemicals.

(i) The outdoor storage of fertilizers, herbicides, and pesticides and outdoor uncovered storage of manure.

(j) Burial in any cemetery or other place within 100 feet of the high water mark of a course of public water supply or tributary thereto. Lands shall not be taken or used for cemetery purposes until a plan and sufficient description of the lands is presented to the DEQE and until such taking or use is expressly approved in writing by the DEQE.

(k) The disposal of solid wastes other than brush or stumps.

(l) The disposal of leachable wastes.

(m) The dumping of snow contaminated by de-icing chemicals which is brought in from outside the district.

(n) The storage or disposal of hazardous materials, as defined by the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, and Water Resources Commission, and the Division of Water Pollution Control, except for the storage of chemicals for use associated with the operation of public water supply facilities.

(o) The storage and/or sale of petroleum and other hydrocarbons other than that normally associated with residential use, except for the storage of fuel for use associated with the operation of public water supply facilities. Heating oil shall be stored within the buildings which it will heat. Underground storage of any petroleum product is expressly prohibited.

(p) Any discharge of water which has been used for washing, cooking or otherwise altered and devices for the collection, storage and disposal of said wastes, unless that water is of household origin and is processed, prior to discharge, through a treatment system that satisfies the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.

(q) Privy, dry well, or other place for the collection, storage or disposal of human excrement that does not satisfy the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.

(r) Public or private hospital or other establishment intended for the treatment of persons afflicted with a contagious or infectious disease.

(s) Hitching or standing place for horses, cattle or other animals.

(t) Storage or disposal of any human excrement or compost containing human excrement, or any municipal, commercial or industrial refuse or waste product or polluting liquid or any substance which in the opinion of the Massachusetts DEQE is of a nature that is poisonous or injurious either to human beings or animals, or other putrescible organic matter whatsoever, at any place from which such liquid or substance may flow or be washed or carried into said source of water supply or tributary thereto.

(u) Manufacturing or processing plant producing wastes which are toxic or injurious either to human beings or animals, unless the location thereof has been expressly approved in writing by the DEQE.

(v) Any building or structure lying within 50 feet of the banks of all brooks, streams and rivers or within 50 feet from the normal highwater line of lakes, ponds, marshes, swamps and bogs.

### 5.10.5 Special Permit Uses

The Planning Board, under the authority of Section 3.4.2 of this ordinance, may allow the following uses within the Watershed Protection Overlay District, upon issuance of a special permit in accordance with Section 5.10.6 hereof and subject to any additional conditions the Board may impose.

(a) Those business and industrial activities permitted in the underlying district and not specifically prohibited in Section 5.10.4 of this ordinance, provided that a plan to prevent compaction and siltation, loss of recharge, seepage from sewer pipes and contamination by oil, chemicals, nutrients, etc. is submitted and determined to be satisfactory.

(b) The incidental removal of gravel, sand, loam or other earth material from new and existing excavations.

### 5.10.6 Procedures for Issuance of Special Permits

(a) Each application for a special permit shall be filed with the Planning Board and shall be accompanied by 3 copies of the plan. In addition to submittal requirements listed in section 1.5.5, the following additional information should be provided:

i) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
ii) Drainage recharge features and provisions to prevent loss of recharge.
iii) Amount of impervious surface proposed for the lot.

(b) Said application and plan shall be prepared in accordance with the data requirements of the proposed development (e.g., site plan review, erosion and sedimentation control plan, etc.).

(c) The Planning Board shall refer copies of the application to the Board of Health, the Conservation Commission and the City Engineer, which shall review, either jointly or separately, the application and shall submit their recommendation to the Planning Board within 35 days of the referral of the application.

(d) The Planning Board shall hold a hearing, in conformity with the provision MGL Chapter 40A Section 9, within 65 days after the filing of the application, in accordance with the procedures defined in section 1.5.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties in interest" as defined in MGL Chapter 40A, Section 11. The decision of the Planning Board and any extension, modification or renewal thereof, shall be filed with the Planning Board and City Clerk within 90 days following the closing of the public hearing. Failure of the Board to act within 90 days shall be deemed a granting of the permit. However, no work shall commence until a certification is recorded as required by Section ll.

(e) After notice and public hearing, and after due consideration of the reports and recommendations of the Board of Health, the Conservation Commission, and the City Engineer, the Planning Board may grant a special permit provided that it finds that the proposed use is consistent with the criteria set forth in 1.8.3 and further meets the following criteria:

i) is consistent with the purpose and intent of this ordinance;

ii) is appropriate to the natural topography, soils, and other characteristics of the site to be developed;

iii) will not have a significant adverse effect, during construction or thereafter, on the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;

iv) is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

### 5.10.7 Application of Fertilizers, Pesticides and Herbicides

For any use involving the application of fertilizers, pesticides, or herbicides, the applicant must obtain a report from the Board of Health Agent stating that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the district as a result of such application and submit it to the permit granting authority. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redeposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides. The application of fertilizers for non-domestic or non-agricultural uses will be approved only if the applicant can prove that such application shall be made in such manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation.

**(Adopted January 10, 1989)**

## 5.11 INCLUSIONARY HOUSING REQUIREMENTS

### 5.11.1 Purpose

The purpose of this section is to enhance the public welfare by increasing the production of housing affordable to income-eligible households. Accordingly, the provisions of this section are designed:

(1) To increase the supply of rental and ownership housing in the City of Gloucester that is permanently available to income-eligible households;
(2) To meet and exceed the 10% affordable housing threshold established by the Commonwealth in MGL Chapter 40B, Section 20;
(3) To encourage a greater diversity and distribution of housing to meet the needs of families and individuals.

To achieve the above-stated goals and to encourage utilization of the city's developable land in a manner consistent with local housing policies and needs, the City requires newly created housing developments to include a proportion of housing units that shall be affordable to income-eligible households.

### 5.11.2 Definitions

***Affordable Housing*:** Housing available to those earning at or below 80% of the area median income, and for which income-eligible households will spend no more than 30% of their income on annual housing costs as indicated in the annual U.S. Department of Housing and Urban Development (HUD) Income Guidelines. For owners the aggregate annual charges shall include mortgage and interest, real estate taxes, homeowner's insurance, and condominium fees if applicable. For tenants the aggregate annual charges shall include rent, utilities (except telephone and other telecommunications), and renter's insurance.

***Area Median Income (AMI):*** Income for the Boston-Cambridge-Quincy Metropolitan Statistical Area (BCQMSA) with adjustments for household size, as reported by the most recent information from the U.S. Department of Housing and Urban Development (HUD) or by a similar federal agency created to replace it, as adopted by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD).

***Deed Restriction:*** A provision, acceptable in form and substance to City General Counsel of Gloucester, in a deed of real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. The Deed Restriction shall limit the resale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with DHCD regulations and guidelines under MGL Chapter 40B.

***Eligible Household:*** Household whose total income does not exceed 80% of the area median income (AMI).

***Gloucester Affordable Housing Trust Fund:*** Pursuant to the Gloucester Code of Ordinances, Article VI, Division 4, Section 2-601, the Gloucester Affordable Housing Trust Fund shall be administered by a Board of Trustees appointed by the Mayor and approved by the City Council. The Board shall dedicate its objective to maintaining continuity and consistency in managing and monitoring funds, deed restrictions and covenants.

***Granting Authority:*** The City Council grants special permits for multi-family dwellings, and the Planning Board grants permits for cluster developments and approvals for conventional subdivisions and Open Space Residential Developments.

### 5.11.3 Applicability

The Inclusionary Housing Requirements shall apply to all residential developments involving eight (8) or more dwelling units whether rental or ownership.

**(a) Location**: The provisions of this Section shall apply to all residential developments in the R-80, R-40, RC-40, R-30, R-20, R-10, R-5, CB, CCD, NB, VB zoning districts.

**(b) Types of Developments:** Residential developments shall include single, two-family and multi-family dwelling units, Cluster Developments (Section 5.9), Open Space Residential Developments (OSRD, Section 5.15), and conventional subdivisions.

### 5.11.4 Requirements for Developments

**(a) Number of Units to be Provided**: All residential developments involving 8 or more dwelling units shall set aside a minimum of fifteen percent (15%) of the total number of units as affordable. In conventional subdivisions, the number of affordable units to be provided shall be based upon the maximum number of dwelling units allowed by this Zoning Ordinance.

**(b) Fractions**: If the resulting number of affordable units includes a fraction of a unit, which is three-fourths (3/4) or greater it shall be rounded up to the next whole number, and if less than three-fourths (3/4), the fraction shall be rounded down to the next whole number.

**(c) Compliance:** As a condition of granting special permits or approvals for any residential development, the City Council or the Planning Board shall require Applicants for any such permits/approvals to comply with the obligation to provide affordable housing pursuant to this ordinance. The requirements of this ordinance shall be satisfied prior to the issuance of 50% of the occupancy permits for market-rate units requiring the creation of an affordable unit in a multi-family development or prior to the issuance of 50% of the building permits for market-rate units requiring the creation of an affordable unit in a conventional subdivision, OSRD or cluster development, to in accordance with a written agreement approved by the City Council or Planning Board as a condition of a special permit or approval.

**(d) Preference for City Residents and Persons Employed within the City*:*** Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable dwelling units within the development shall be offered to eligible households who are current residents of the City of Gloucester or who are currently employed in Gloucester.

**(e) Segmentation:** Developments may not be intentionally segmented or phased to avoid compliance with the requirements of this ordinance: subdividing a large tract into smaller tracts, each of which will contain fewer than eight (8) units, or phasing a development such that each phase will contain fewer than eight (8) units.

### 5.11.5 Requirements for Eligible Households

**(a) Selection and Marketing Plan:** The affordable units must be rented or sold to eligible households, whose total income does not exceed 80% of the Area Median Income, using HUD Selection Guidelines and DHCD Affirmative and Fair Housing Marketing Guidelines, including but not limited to marketing and advertising, as administered and monitored by the Gloucester Housing Authority. Such guidelines shall be in compliance with all other applicable city, state and federal housing assistance programs.

**(b) Maximum Rent**: As defined in Section 5.11.2, rents for the affordable units, including utilities, shall not exceed 30% of the annual income of eligible households.

**(c) Maximum Mortgage:** As defined in Section 5.11.2, Housing costs, including monthly housing payments, principal and interest payments, and insurance and condo fees, shall not exceed 30% of the annual income of eligible households.

### 5.11.6 Provisions of Affordable Units

**(a) On-site:** Unless otherwise provided in this ordinance, affordable units shall be provided on-site of the development.

**(b) Sale or Rental of Units to Eligible Households:** Dwelling units set aside for sale, lease or rental shall be restricted for occupancy by income-eligible households.

**(c) Duration of Affordability:** The affordable units shall be subject to deed restrictions providing that they shall be conveyed subject to restrictions, which to the extent allowed by applicable laws shall guarantee the affordability of units to eligible households in perpetuity.

**(d) Relationship to Subsidized Housing Inventory:** It is intended that the affordable dwelling units serving income-eligible households that result from this ordinance shall be considered as Local Initiative Units in compliance with the requirements of DHCD for the purposes of listing in the City's subsidized housing inventory under MGL Chapter 40B, Sections 20-23.

**(e) Relationship to Public Funding Programs:** Developers may participate in public subsidy programs for their projects and still meet the requirements of this section. In case of conflicting price limitations, the lower price requirement shall prevail. This inclusionary housing requirements ordinance is not intended to supersede applicable state and federal regulations.

### 5.11.7 Development Standards

**(a) Comparability:** All affordable dwelling units constructed under this ordinance shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing. Affordable units shall be comparable to the extent possible and indistinguishable from market-rate units in design, external appearance, construction, and quality of materials.

**(b) Rights and Privileges:** The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.

### 5.11.8 Alternative Methods of Affordability

**(a)** City of Gloucester City Council or Planning Board, when either is acting as the granting authority may allow an alternative method of compliance with this section at the formal written request of the developer. In granting such authorization, the City Council or Planning Board must find that the developer has demonstrated that building the required affordable units on-site would create an economic hardship. Approval of alternative methods of compliance shall be only for the methods described below in subsection (b).

**(b)** The following alternative methods of compliance may be allowed by the City Council or Planning Board as granting authorities, and any alternative authorized by them shall comply in all other respects with the requirements of this ordinance:

**(1) Off-site Location:** With authorization by the City Council or Planning Board as described above, affordable units may be constructed by the developer on an alternative site. The alternative site must be suitable for residential development within the City of Gloucester, and the newly constructed units must be added to the City's stock of affordable dwelling units. Off-site units shall be no fewer than the number of units that would have otherwise been provided on-site, shall be comparable in design, external appearance, construction, and quality of materials to the on-site units, and shall be subject to the same construction schedule as required for on-site units as set forth in Section 5.11.10(d). The location and construction of the off-site units to be provided shall be reviewed by the City Council or Planning Board as an integral element of the special permit and approval process.

**(2) Cash Contribution:** With authorization by the City Council or Planning Board as described above, developers may make a cash payment in lieu of affordable units to the Gloucester Affordable Housing Trust Fund as outlined below:

For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to an income-eligible household as defined by this ordinance and HUD, calculated over a term of ten (10) years.

For ownership units, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to an income-eligible household as defined by this ordinance and HUD.

Off-site affordable units or cash contributions must be constructed or made prior to the issuance of 50% of the occupancy permits for market-rate units requiring the creation of an affordable unit in a multi-family development, or prior to the issuance of 50% of the building permits for market-rate units requiring the creation of an affordable unit in a conventional subdivision, OSRD or cluster development, or in accordance with a written agreement approved by the City Council or Planning Board as a condition of a special permit or approval.

**(c) Administration of Funds:** Funds paid to the City in-lieu of providing the required affordable housing units shall be maintained in a separate account, known as the Gloucester Affordable Housing Trust Fund, and restricted solely for the creation of affordable housing located in the City of Gloucester, as defined by this ordinance.

### 5.11.9 Enforcement

**(a) Legal Restrictions**: All agreements with the City of Gloucester, including restrictive instruments and other documents necessary to ensure compliance with this section, shall be subject to prior written review and approval by the City General Counsel, and shall be executed prior to the issuance of a Building Permit.

**(b) Affordability:** To ensure affordability, all dwelling units shall be rented or sold subject to deed covenants, contractual agreements, condominium documents and fees, or other mechanisms restricting the use, occupancy, rent levels and sales prices. Such deed restriction with any related requirements shall be recorded at the Southern Essex District Registry of Deeds.

**(c) Performance Bond Guarantee:** Prior to the issuance of a building permit the applicant shall submit a performance bond secured by a deposit or negotiable securities.

**(1) City Council Special Permits:** The applicant shall submit a bond that, in the opinion of the City Council, is equal to 120% of the cost of constructing the approved development. After the development has been built to the satisfaction of the City Council, in accordance with the a approved special permit, the applicant may request discharge of the bond.

**(2) Planning Board Special Permits and Approvals:** For all developments the applicant shall follow the procedure for securities under Section 3.8 of Gloucester's Rules and Regulations Governing the Subdivision of Land.

**(d) Timing of Construction:** As a condition of the issuance of approval under this inclusionary housing requirements ordinance, the City Council and Planning Board shall set time schedules for the construction of both affordable and market-rate units.

### 5.11.10 Severability

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

**(Adopted April 23, 1991; Amended May 27, 2008)**

## 5.12 BUSINESS PARK DISTRICT

All principal uses permitted in the BP Business Park District shall conform to the design standards described in the subsections below.

### 5.12.1 Open Space

To maintain the function, safety and aesthetics of parking areas and building development within the district, a minimum of ten (10) percent of each lot shall be maintained as open space. Such open space areas may include suitability landscaped areas, areas left in their natural state, planting areas within or adjacent to parking and loading areas, pedestrian walkways and exterior recreation areas.

### 5.12.2 Landscaping Around Buildings

For all buildings constructed after April 1, 1993, a five (5) foot wide landscaped foundation planting shall be provided at the base of not less than fifty (50) percent of the length of the building wall facing the way upon which it has its frontage.

### 5.12.3 Buffer Zone

A seventy-five (75) foot buffer zone shall be provided from the lot line of any lot that abuts or is partially within the residential district. No structures, parking, or paved areas shall be allowed within the buffer zone.

## 5.13 PERSONAL WIRELESS SERVICE FACILITY

### 5.13.1 Purpose and Intent

It is the express purpose of this ordinance to minimize the visual and environmental impacts of personal wireless service facilities. The Ordinance enables the review and approval of personal wireless service facilities by the City of Gloucester in keeping with the City's existing Ordinances and historic development patterns, including the size and spacing of structures and open spaces. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site plan review and other local Ordinances designed to safeguard public health and safety, encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Gloucester.

The regulation of personal wireless service facilities is consistent with the Charter of the City of Gloucester and planning efforts of the city through its local comprehensive plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation of coastal resources; protection of the natural resources of Cape Ann; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

If a personal wireless service facility is permitted by right in a zoning district, then the basic assumption is that the personal wireless service facility could go anywhere within that zoning district provided certain dimensional standards are met. This Ordinance does not recommend this approach because there may be sensitive resources in any zoning district that could be negatively affected by these facilities.

If a personal wireless service facility is permitted by Special Permit, then the basic assumption is that the personal wireless service facility could go anywhere in the City, providing certain discretionary and dimensional standards are met. The Special Permit regulations of this Ordinance are intended to mitigate any negative impacts of these facilities.

### 5.13.2 Definitions

5.13.2.1 Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

5.13.2.2 Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

5.13.2.3 Available Space. The policy that requires siting of personal wireless service facilities on existing buildings or structures, regardless of height, before looking to new construction opportunities. The theory is that available space exists throughout the urban area and that it is more cost-effective, resource-conserving and visually acceptable to place personal wireless service facilities on available space. It is the first preference of the City of Gloucester to have personal wireless service facilities use available space.

5.13.2.4 Camouflaged. A personal wireless service facility that is disguised, hidden, or made a part of an existing or proposed structure is considered "camouflaged."

5.13.2.5 Carrier. A company that provides wireless services.

5.13.2.6 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

5.13.2.7 Concealed. A personal wireless service facility that is placed within an existing or proposed structure so that it is hidden from view is considered "concealed."

5.13.2.8 Dual-polarized (or cross-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.

5.13.2.9 Elevation. The measurement of height above sea level.

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

5.13.2.11 Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

5.13.2.12 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

5.13.2.13 F.A.A. Federal Aviation Administration

5.13.2.14 F.C.C. Federal Communications Commission

5.13.2.15 Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

5.13.2.16 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

5.13.2.17 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

5.13.2.18 Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio service system.

5.13.2.19 Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

5.13.2.20 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

| | |
|---|---|
| a) Roof-mounted. | Mounted on the roof of a building. |
| b) Side-mounted. | Mounted on the side of a building. |
| c) Ground-mounted. | Mounted on the ground. |
| d) Structure-mounted. | Mounted on a structure other than a building. |

5.13.2.21 Omnidirectional (whip) antenna. A thin rod that beams and receives a signal in all directions.

5.13.2.22 Panel Antenna. A flat surface antenna usually developed in multiples.

5.13.2.23 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act. (See Footnote 1)

5.13.2.24 Personal Wireless Services. The three types of services regulated by this Ordinance, including commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services.

5.13.2.25 Radiofrequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.

5.13.2.26 Radiofrequency Radiation (RFR). The emissions from personal wireless service facilities. (See Footnote 2)

5.13.2.27 Repeater. A small receiver/transmitter of not more than 20 Watts output designed to provide service to areas which are not able to receive adequate coverage directly from a personal wireless service facility.

5.13.2.28 Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

5.13.2.29 Separation. The distance between one carrier's array of antennas and another carrier's array.

5.13.2.30 S.P.G.A. Special Permit Granting Authority.

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Footnotes:
1. Personal wireless service facilities are defined in the Telecommunications Act of 1996. This definition is also provided in Section 2.0 of the City of Gloucester Zoning Ordinance.
2. It is RFR, not all EMF, that is regulated by the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on 8/1/96. The FCC had extended the implementation date of the FCC Guidelines from 1/1/97 to 10/15/97.

5.13.2.31 Telecommunications Act of 1996. 47 U.S.C., Section 332 (c) (7) preserves the authority of municipalities to regulate the placement, construction and modification of personal wireless service facilities, but provides that municipalities shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless service facilities.

5.13.2.32 Wetlands. As defined in MGL, Chapter 131, Section 40 and City of Gloucester Code of Ordinances, Chapter 12 "Marshlands".

5.13.2.33 Historic Structure. A structure listed on the Natural Register of Historic Places or eligible structure for placement on the National Register of Historic Places.

5.13.2.34 Scenic Road. To be determined.

**5.13.3 Municipal Regulations**

5.13.3.1 Use Regulations. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 5.13.3.3 (e) below. Such installations shall require a Special Permit.

b) A personal wireless service facility involving construction of one or more ground- or building (roof- or side-) mounts shall require a Special Permit in all zoning districts within the City, provided that the proposed use complies with the height and setback requirements of Section 5.13.3.3 and all of the Special Permit Regulations set forth in Section 5.13.4 of this Ordinance.

c) A personal wireless service facility that exceeds the height restrictions of Sections 5.13.3.3(a) through 5.13.3.3(e) inclusive may be permitted by Special Permit in a designated Personal Wireless Service Facility Overlay District, provided that the proposed facility complies with the height restrictions of Section 5.13.3.3(f), and all of the setback and Special Permit Regulations set forth in Section 5.13.3.3 and 5.13.4 of this Ordinance.

5.13.3.2 Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:

a) The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities.

b) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed to as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

c) The applicant shall submit documentation of the legal right to install and use the proposed facility, in the form of a license from the FCC, at the time of application for a building permit and/or Special Permit.

d) The use of repeaters to assure adequate coverage, or to fill holes within areas of otherwise adequate coverage, while minimizing the number of personal wireless service facilities may be allowed. An applicant who has received a personal wireless facility Special Permit under this Ordinance may, with at least 30 days written notice to the SPGA, Planning Board, Board of Health, Conservation Commission, Building Inspector, and City Clerk, install, at the applicant's expense, one or more additional repeaters. Site Plan review before the SPGA will be required. The SPGA will publish written notice of public meeting date at least 14 days in advance. Applicants shall detail the number, location, power output, and coverage of any proposed repeaters in their systems and provide engineering data to justify their use. No repeaters shall be located closer that 50 feet to an existing dwelling, nor less than 25 feet above the ground. Maximum height shall be up to 150 feet in the Personal Wireless Service Facility Overlay District or up to ten feet above average tree, or tallest building height within 300 feet of the repeater.

5.13.3.3 Dimensional Requirements. Personal wireless service facilities shall comply with the following:

a) Height, General. Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the tallest height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

b) Height, Ground-Mounted Facilities. Ground-mounted personal wireless service facilities shall not project higher than ten feet above the tallest building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on-site.

c) Height, Side- and Roof-Mounted Facilities. Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a

building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

d) Height, Existing Structures. New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

e) Height, Existing Structures, (Utility). New antennas located on any of the following existing structures shall be allowed to exceed the height restrictions of this Ordinance with a Special Permit provided that there is no more than a twenty feet (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This provision shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic viewsheds.

f) Height, Personal Wireless Service Facility Overlay Districts. Where the City of Gloucester establishes Personal Wireless service Facility Overlay Districts (as designated on the City of Gloucester Zoning Map), personal wireless service facilities of up to 150 feet in height may be permitted by Special Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Special Permit Regulations set forth in this Ordinance, except for the average tree height canopy requirement of 5.13.3.3(b).

g) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

1) In order to ensure public safety, the minimum distance from the base of every personal wireless service facility to the property line of any residence, school, daycare center, medical facility or nursing home shall be at least **500 feet** measured on a horizontal plane. The minimum distance from the base of any ground-mounted personal wireless service facility to any other type of property line, road, structure, or business shall be the height of the facility/mount including any antennas or other appurtenances. For these uses only, this setback is considered a fall zone. (Amended 3/9/99)

2) In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided in Section h) below.

h) Flexibility. In reviewing a Special Permit application for a personal wireless service facility, the City Council (SPGA) may reduce the required fall zone and/or setback distance, if it finds that a substantially better design will result from such reduction.

In making such a finding, the City Council (SPGA) shall consider both the visual and safety impacts of the proposed use.

5.13.3.4 Personal Wireless Service Facility Overlay District. The City shall establish four (4) districts where personal wireless service facilities up to 150 feet in height may be granted Special Permits.

a) Two districts shall be in the G-I zoning districts in the Western portion of the City of Gloucester along Kondelin Road and west of Magnolia Avenue respectively.

b) Two districts shall be in the Eastern Portion of the City of Gloucester, one, part of the B-P zoning district at Blackburn Industrial Park and the other, part of the G-I zoning district adjacent to the Blackburn Industrial Park.

c) The personal Wireless Service Facility Overlay District shall be mapped and on file with the City of Gloucester Zoning Map at the Office of Community Development.

d) The Gloucester City Council may, from time to time, add other overlay district areas to this list.

**5.13.4 Special Permit Regulations**

All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

5.13.4.1 Design Standards

a) Tiering. It shall be the policy of the City of Gloucester to consider applications for special permits to construct a personal wireless service facility on available space in the following order of priority:

1) First, personal wireless service facilities that are to be concealed within existing buildings or structures shall be preferred and only when presented with evidence that such buildings or spaces are not available, will the Gloucester City Council consider...

2) Second, personal wireless service facilities that are mounted on the roof of existing buildings shall be considered and, only when presented with evidence such buildings do not exist within the desired service areas, will the Gloucester City Council consider...

3) Third, personal wireless service facilities that are mounted on available space, including existing personal wireless service facilities within one of four personal wireless service facility overlay districts.

4) The above preferences are to be considered opportunities carrying with them a favorable review, providing other applicable requirements of this ordinance are met.

5) For any of the priorities above, any assertion of property owner refusal, regardless of cost considerations, must be represented by a registered letter from the property owner.

b) Visibility/Camouflage or Concealment. Personal wireless service facilities shall be camouflaged or concealed as follows:

1) Camouflage or Concealment by Existing Buildings or Structures:

A) When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility with or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

B) Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

2) Camouflage or Concealment by Vegetation. If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The City Council (SPGA) shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

3) Color

A) Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

B) To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted with neutral colors that are harmonious with and blend with the background, such as sky or wooded terrain.

c) Equipment Shelters. Equipment shelters for personal wireless service facilities shall be reviewed by the City Council (SPGA) with a preference for the following design standards:

1) Equipment shelters shall, as a first preference, be located in underground vaults; or if not, demonstrable evidence offered as to why underground vaulting is impossible, and then,

2) Equipment shelters above grade shall, as a second preference, be designed consistent with traditional New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or, if not,

3) Equipment shelters shall, as a last preference, be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The City Council (SPGA) shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

d) Lighting and Signage

1) Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the City's sign regulations.

e) Historic Buildings and Districts.

1) Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

2) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads or viewing areas within the district.

f) Scenic Landscapes and Vistas

1) No new ground-mounted personal wireless service facilities shall be located within areas contained in the Visual Overlay District on file in the City of Gloucester Department of Community Development. The Visual Overlay District Map shall contain:

A) View corridors, or that strip of land within 250 feet of the outer edge of the right-of-way on both sides of State Route 128.

B) Coastal shoreline, or that inland strip of land within 250 feet of the ten-foot contour line above mean sea level except that such inland strip shall extend 250 feet above the mean high tide line when no beach or coastal marsh area is located inland from such line.

C) Watercourse and water body buffers, or those strips of land within 75 feet of average mean high water on all streambeds, quarries, reservoirs and ponds.

D) Public open space, or all lands reserved for parks, recreation, public schools and playgrounds as well as conservation through public control.

2) Roof-mounted, side-mounted, camouflaged or otherwise concealed personal wireless service facilities may be subject to the Special Permit process and will be permitted within the areas shown on the Visual Overlay District Map, provided they meet the standards of this Ordinance.

g) Security Barriers

1) All ground-mounted personal wireless facilities shall be surrounded by a security barrier.

5.13.4.2 Environmental Standards

a) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, including all hydrocarbon products, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

c) Stormwater run-off from the facility shall be contained on-site.

d) Environmental Standards, Noise:

1) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at the property line.

2) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at ground level at the base of the building closest to the antenna.

3) The City Council (SPGA) retains the right to commission an acoustical engineer to study noise at a proposed site in accordance with the standards in Section 5.13.5.5(e) of this Ordinance. The cost for retaining such an engineer shall be borne by the applicant.

5.13.4.3 Health Standards. As proposed, all requirements to protect public health and safety below are specified to ensure a legally defensible position by the City.

a) Radiofrequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on August 1, 1996. The FCC had extended the implementation date of the FCC Guidelines from January 1, 1997 to October 15, 1997.

b) Retention of Experts. The City Council (SPGA) retains the right to commission experts to study the existing, probable or potential RFR at a proposed site. The cost for retaining such experts shall be borne by the applicant.

**5.13.5 Application Procedures**

5.13.5.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for personal wireless service facilities shall be the Gloucester City Council.

5.13.5.2 Other Permits Required. Any other permits required from federal, State or municipal agencies must be applied for and granted to the applicant prior to acceptance of an application for a Special Permit for a personal wireless service facility from the City of Gloucester.

5.13.5.3 Special Permit Procedures. All procedures for applying for Special Permits shall be consistent with, and as provided for, Sections 1.5 and 1.8 of the City of Gloucester Zoning Ordinance and Rule 25 of the City of Gloucester Zoning Ordinance.

5.13.5.4 Application Filing Requirements

The following shall be included with an application for a Special Permit for all personal wireless service facilities:

a) General Filing Requirements:

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

2) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.

3) A licensed carrier shall either be an applicant or a co-applicant.
4) Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signatures authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

b) Location Filing Requirements:

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

2) Tax map and parcel number of subject property.

3) Zoning district designation for the subject parcel (Submit copy of City zoning map with parcel identified).

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

5) A City-wide map showing the other existing personal wireless service facilities in the City and outside the City within one mile of its corporate limits.

6) The proposed locations of all existing and future personal wireless service facilities in the City on a City-wide map for this carrier.

c) Siting Filing Requirements:

1) A one-inch-equals-40-feet vicinity plan showing the following:

A) Property lines for the subject property.

B) Property lines of all properties adjacent to the subject property within 300 feet.

C) Tree cover on subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.

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

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

F) Proposed security barrier, indicating type and extent as well as point of controlled entry.

G) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.

H) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.

I) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.

J) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

K) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility. All heights shall be shown as proposed AGL, before any grading or disturbance of the natural grade.

L) Plan lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.

M) If the proposed facility will extend above the tree canopy, a vicinity viewshed map and sectional drawings at a scale of 1 inch = 40 feet including the entire area within 2500 feet and showing the following: 1) topography, public and private roads, buildings and structures, bodies of water, and landscape features; and 2) areas which are likely to have views of the facility based on terrain characteristics, including openness, elevation and slope.

2) Sight lines and photographs as described below:

A) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (view point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public road.

B) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch photograph of what can currently be seen from any public road within 300 feet.

C) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

3) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

A) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

B) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

C) Any and all structures on the subject property.

D) Existing trees and shrubs at current height and proposed trees and shrubs 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 line, with two-foot contours above mean sea level.

d) Design Filing Requirements

1) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

2) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., galvanized steel, anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

3) Colors of the proposed personal wireless facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

4) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

5) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

6) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen and species.

7) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a 48-hour, 24 hours of which must be on a weekend day, balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, including a second date, in case of poor visibility due to weather conditions

on the initial date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.

8) If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

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

1) Existing, or ambient: the measurements of existing noise.

2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.

3) As proposed, all requirements are specified to ensure a legally defensible position by the City.

f) Radiofrequency Radiation (RFR) Filing Requirements. The applicant shall pay for an Independent Consultant, hired by the city, to monitor the background levels of radiofrequency radiation around the proposed personal wireless service facility site. The Independent Consultant shall provide a statement listing the existing and maximum future projected measurements of radiofrequency radiation from the proposed personal wireless service facility, for the following situations:

1) Existing, or ambient: the measurements of existing RFR.

2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.

3) Certification, signed by a RF engineer stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Radiation Standards sub-section of this Ordinance.

A report of the monitoring results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector, and City Clerk.

g) Federal Environmental Filing Requirements:

1) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

A) Wilderness areas.
B) Wildlife preserves.
C) Endangered species habitat.
D) Historical site.
E) Indian religious site.
F) Flood plain.
G) Wetlands.
H) High intensity white lights in residential neighborhoods.
I) Excessive radiofrequency radiation exposure.

2) At the time of application filing, an EA that meets FCC requirements shall be submitted to the City for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

3) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

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

**5.13.6 CO-Location**

5.13.6.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a Special Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;

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

5.13.6.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the City. The City may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location.

The cost for such a technical expert will be at the expense of the applicant. The City may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

5.13.6.3 If the applicant does intend to co-locate or to permit co-location, the City shall request drawings and studies which accurately show the ultimate appearance and operation of the personal wireless service facility at full build-out.

5.13.6.4 If the City Council (SPGA) approves co-location for a personal wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

**5.13.7 Modifications**

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Permit when the following events apply:

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

a) Change in the number of facilities permitted on the site;

b) Change in the technology used for the personal wireless service facility.

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

**5.13.8 Monitoring and Maintenance**

As proposed, all requirements are specified to ensure legally defensible position by the City.

5.13.8.1 After the personal wireless service facility is operational, the owner(s) of any personal wireless service facility located on any facility site shall pay for an Independent Consultant, hired by the City, to conduct testing and monitoring of radiofrequency radiation emitted from said site and to report results of said monitoring as follows:

Within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, the Independent Consultant shall submit existing levels of radiofrequency radiation from the personal wireless service facility. Such measurements shall be signed by a radiofrequency engineer stating that radiofrequency measurements are accurate and meet Federal Communications Commission guidelines as specified in the Radiofrequency Standards of this Ordinance.

A report of the Monitoring Results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector and City Clerk.

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

5.13.8.3 The applicant and co-applicant shall maintain the personal wireless service facility in good condition. If the SPGA deems it necessary, an initial bond shall be posted to cover construction costs and an annual maintenance bond to cover maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, access road maintenance and maintenance of the buffer areas and landscaping.

**5.13.9 Abandonment or Discontinuation of Use**

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

5.13.9.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

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

c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

5.13.9.3 If a carrier fails to remove a personal wireless service facility in accordance with this section of this Ordinance, the City of Gloucester shall have the authority to enter the subject property and physically remove the facility. The City Council (SPGA) shall require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the City must remove the facility.

a) Such a performance bond shall only be deposited in an Enterprise Account, so labeled and established for the sole purpose of removing an abandoned or discontinued facility.

b) In the absence of an Enterprise Account, the Building Inspector may request removal authority and sufficient funds from the Gloucester City Council.

### 5.13.10 Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the City Council (SPGA) finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the city than the existing structure. In making such a determination, the City Council (SPGA) shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

### 5.13.11 Term of Special Permit

A Special Permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for twenty-five (25) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new Special Permit shall be required.

### 5.13.12 Provision for Fire Safety and Rescue

5.13.12.1 All applicants for ground-mounted personal wireless service facilities shall contribute toward improving the adequacy of City of Gloucester's response in the event of hazardous or emergency events on high, free-standing structures such as:

a) Training fire department personnel on accessing high structures with conventional fire-fighting methods and equipment.

b) Purchasing any new equipment necessary to improve the City of Gloucester's ability to suppress emergencies and rescue personnel on high, free standing structures.

5.13.12.2 The Gloucester Fire Department shall establish an Enterprise Account for the purposes set forth above.

5.13.12.3 All applicants shall contribute to the Fire Safety and Rescue Enterprise Account for personal wireless service facilities on a pro-rated basis.

### 5.13.13 Regulation Compliance

Failure to comply with any regulations under the Special Permit shall be grounds for removal of non-complying structures, buildings, devices, at the owner's expense.

**(Adopted January 6, 1998)**

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## 5.14 ASSISTED LIVING RESIDENCES

### 5.14.1 Purpose

The purpose of this section is to provide for the availability of Assisted Living Residences and services in the City of Gloucester. Assisted Living is a special combination of housing, ancillary support services and personalized care that is designed to respond in a homelike setting to the individual needs of adults requiring help with Activities of Daily Living, but who do not require the skilled medical care provided in a nursing facility.

### 5.14.2 Administration

(a) The Special Permit Granting Authority (SPGA) shall be the City Council which shall follow the procedural requirements for special permits as set forth in MGL Chapter 40A, Section 9 and pursuant to Section 1.5 of the City of Gloucester Zoning Ordinance.

(b) Applicability: Assisted Living Residences (ALR) are allowed in the zoning districts specified in Section 2.3.1, Residential Use Numbers 18 and 19. An Assisted Living Residence of up to ten (10) dwelling units may be authorized by the granting of a special permit pursuant to Section 1.8 and Section 5.14.4. An Assisted Living Residence of eleven (11) or more dwelling units may be authorized by the granting of a special permit pursuant to Section 1.8, Section 5.7 Major Projects, and Section 5.14.4.

(c) Dimensional Requirements: See Section 3.2.5 Dimensional Requirements for Assisted Living Residences.

(d) Application Submittal: The applicant shall submit to the City Clerk twelve (12) copies of a City Council Special Permit Application which shall include a site plan in accordance with Section 5.14.4 and, when necessary for 11 or more units, Section 5.7.5.

(e) Independent Review: At the City Council's discretion an independent review may be requested at the applicant's expense.

### 5.14.3 Definitions

Assisted Living as defined by MGL Chapter 19D, 651 CMR 12.00 and 651 CMR 13.00.

Assisted Living Residence as defined by 651 CMR 12.02, an Assisted Living Residence is any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

(a) provides room and board; and
(b) provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, Personal Care Services for three or more adults who are not related by consanguinity or affinity to their care provider; and
(c) collects payments or third party reimbursements from or on behalf of Residents to pay for the provision of assistance with the Activities of Daily Living or arranges for the same.

Dwelling Unit for Assisted Living Residences - A portion of an Assisted Living Residence designed for and occupied by one or two individuals as the private living quarters of such individuals.

### 5.14.4 Performance Standards

In addition to the requirements of Section 1.4.2.2 for Assisted Living Residences of ten (10) or less dwelling units and Sections 1.4.2.2 and 5.7 for Assisted Living Residences of eleven (11) or more dwelling units, the following requirements shall apply:

(a) Assisted Living Residences shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities, and shall be consistent with the neighborhood character.

(b) Assisted Living Residences shall provide one off-street parking space for every two dwelling units, and one visitor parking space for every ten units.

(c) Other than for access to the upper floors, the street level floor of Assisted Living Residences in Central Business (CB) and Village Business (VB) districts shall be occupied by retail businesses, open to the public.

(d) An Assisted Living Residence where each unit is owned separately or converted to separate ownership shall establish an Owners Association which shall provide for the maintenance of the common facilities. An agreement regarding the same shall be submitted to and subject to the approval of the City Council and City Legal Department.

(e) Assisted Living Residences with 5-10 dwelling units shall provide one affordable unit and comply with the following requirements:

1. The agent of the facility shall annually certify to the Gloucester Community Development Director that the low to moderate income of the residents meets the U.S. Department of Housing and Urban Development (HUD) qualifications.

2. Preference shall be given to Gloucester residences for occupancy of the affordable units provided they meet the eligibility requirements of federal, state and local regulations.

(f) Assisted Living Residences with eleven (11) or more dwelling units shall comply with the following affordability requirements:

1. Twenty (20)% of the dwelling units shall be designated for low to moderate income persons as defined by the most recent income guidelines established by the U.S. Department of Housing and Urban Development (HUD).

2. The agent of the facility shall annually certify to the Gloucester Community Development Director that the low to moderate income of the residents meets the U.S. Department of Housing and Urban Development (HUD) qualifications.

3. Preference shall be given to Gloucester residences for occupancy of the affordable units provided they meet the eligibility requirements of federal, state and local regulations.

(g) In addition to any applicable conditions specified in this ordinance, the City Council may impose such other conditions as it finds reasonably appropriate to safeguard the neighborhood, the residents, guests or employees of the facility, or otherwise serve the purposes of this ordinance.

**(Adopted June 20, 2000; Amended November 15, 2005)**

## 5.15 OPEN SPACE RESIDENTIAL DEVELOPMENT

### 5.15.1 Purpose and Intent

5.15.1.1 Primary purposes for Open Space Residential Development, hereafter OSRD, are:

(a) To advance and be consistent with the goals, objectives and strategies of The Community Development Plan for the City of Gloucester, 2001: A Comprehensive Plan, August 2001.

(b) To encourage permanent preservation of open space, agricultural land, forest, forestry land, wildlife habitat, other natural resources including aquifers and watershed, water bodies and wetlands, and historical and archeological resources.

(c) To encourage a more efficient form of development that is less sprawling, consumes less open land, and conforms to existing topography and natural features better than a grid subdivision.

(d) To minimize the total amount of disturbance on a site and to preserve the natural topography of a site.

(e ) To allow greater flexibility and creativity in design of residential developments.

(f) To facilitate the construction and maintenance of housing, ways, utilities and services in a more economical and efficient manner.

### 5.15.2 Applicability

5.15.2.1 OSRD is permitted in the following zoning districts: R-80, R-40, RC-40, R-30, R-20, R-10 (See Section 2.3.1 Residential Use No. 20), and is subject to Section 5.11 and Sections 5.15.4 and 5.15.5.

### 5.15.3 Design Overview

5.15.3.1 The Four Step Design Process:

(a) Identify and delineate the following:

1. Primary Conservation Areas which include wetlands, riverfront areas, and floodplains; and Secondary Conservation Areas which are unregulated features of the natural landscape, such as: steep slopes, mature woodlands, prime farmland, meadows, additional wildlife habitats and cultural features such as historic and archeological sites, and scenic views; and

2. Potentially Developable Areas which is all other land outside identified Primary and Secondary Conservation Areas.

(b) Locate house sites, providing the approximate sites of individual houses within the Potentially Developable Area along with delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the city's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

(c) Align Streets and Trails. Align streets in order to access the house lots. Trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails.

(d) Draw in the lot lines.

5.15.3.2 Generic Design Standards:

(a) OSRD shall promote permanent preservation of open space, agricultural land, forestry and, natural resources, historical and archeological resources better than a grid subdivision.

(b) OSRD shall consume less open land than a grid subdivision.

(c) OSRD shall conform to existing topography and natural features of the land.

(d) OSRD shall have less total amount of disturbance on the site than a grid subdivision.

(e) OSRD shall facilitate the layout, construction and maintenance of ways, utilities, and public services in a more economical, safe and efficient manner than a grid subdivision.

(f) The landscape shall be preserved in its natural state. Tree and soil removal shall be minimized. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Individual building sites shall be oriented to maintain natural topography, soils and vegetation.

(g) Ways shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

(h) Proposed buildings and associated development shall be compatible with surroundings, terrain, other existing uses, scale, and architecture of nearby buildings and possess a functional and visual relationship to the nearby environment.

(i) All open space that is not set aside for wildlife habitat and resource protection shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

(j) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable.

(k) The proposal should protect the adjoining premises and general neighborhood from any detrimental impact resulting from the use of the subject property, including but not limited to the production of a nuisance by virtue of noise, odor, unsightliness, or vibration.

5.15.3.3 Detailed Design Standards are further defined in the <u>OSRD Rules and Regulations</u>.

5.15.3.4 In approving an OSRD Site Plan, Planning Board, hereinafter referred to as the Board, may impose conditions to ensure that a site plan complies with OSRD detailed design standards.

### 5.15.4 Open Space Requirements

5.15.4.1 Open Space. A minimum of fifty percent (50%) of the site shall be open space with no more than twenty-five percent (25%) defined as Resource Area and at least fifteen percent (15%) of the remaining open space shall not consist of 'Buffer Zone' as defined by the City of Gloucester General Wetlands Ordinance (Article 12, Gloucester Code of Ordinances) or slope of more than twenty percent (20%).

(a) Open space shall not include driveways, roads or ways necessary for access and egress to the site.

(b) One third (1/3) of the twenty (20) foot site perimeter setback, as required in 5.15.5.1(c), may be used towards the required open space.

(c) One hundred percent (100%) of the open space, shall either be:

1. Conveyed to the City of Gloucester and accepted by it for open space use with an assignment for the perpetual care and custody of the site under the jurisdiction of the Conservation Commission; or

2. Conveyed to the Commonwealth of Massachusetts as part of a state forest, park, or wildlife management area; or

3. Conveyed to a nonprofit corporation, the principal purpose of which is the conservation of open space, and made subject to a conservation restriction prepared in accordance with provisions of Section 31 and 33, inclusive, of MGL Chapter 184; or

4. Made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of MGL Chapter 184 running in favor of either the City or, upon the approval of the Board, a nonprofit corporation, the principal purpose of which is the conservation open space. The conservation restriction shall provide that such land shall be kept, in perpetuity, in an open or natural state, in accordance with the above noted sections of MGL Chapter 184.

(d) Open space shall be a large contiguous parcel.

(e) Open space shall be used for conservation purposes, including wildlife habitat, watershed protection, historic preservation, education, outdoor education, passive recreation, park purposes, agriculture and horticulture/ forestry.

(f) Provided that the Board finds that such uses will not be detrimental to the character, quality or use of the open space, wastewater and stormwater management systems, and underground utilities serving the site may be located within open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum required open space.

### 5.15.5 Dimensional Requirements

5.15.5.1 Applicants for OSRD development are encouraged to modify lot size, shape and other dimensional requirements for lots within an OSRD development. Section 3.2 of the City of Gloucester Zoning Ordinance setting forth the minimum lot requirements shall not apply to lots within OSRD. The minimum requirements for such lots are:

(a) Minimum lot area shall be five thousand (5,000) square feet.

(b) Minimum frontage shall be twenty (20) feet.

(c) A site perimeter setback of at least twenty (20) feet shall be provided at the perimeter of the overall site subject to OSRD except that driveways necessary for access and egress to the site may be allowed within the site perimeter setback for the overall site subject to OSRD. No vegetation in this buffer shall be disturbed, destroyed or removed, except for normal maintenance. (See Open Space Requirements, Section 5.15.4).

(d) New lots shall not have frontage on a way other than one created within an OSRD.

(e) The minimum frontage for the overall site subject to OSRD shall be fifty (50) feet.

(f) Maximum building height shall not exceed thirty (30) feet.

(g) The maximum lot coverage for an individual lot shall not exceed fifty (50) percent.

**5.15.6 Pre-application**

5.15.6.1 Prior to submitting an OSRD site plan, the applicant shall make a written request for an informal pre-application review by the Board at a regular meeting.

5.15.6.2 Submittals under this category of review shall be labeled 'PRE-APPLICATION'.

5.15.6.3 Pre-application Site Visit. The Board shall hold a site visit as soon as possible with the applicant and/or agents in attendance.

**5.15.7 Site Plan**

5.15.7.1 For the purposes of this ordinance the Planning Board is the Site Plan review authority.

5.15.7.2 The Site Plan shall consist of a Yield Plan and a Sketch Plan:

5.15.7.3 The Yield Plan shows the maximum number of lots that can be placed on a site under a grid subdivision plan.

(a) Sites with access to municipal sewer. The Basic Maximum Number of Allowed Lots is calculated by the following equation below where the total area is the area of the proposed development, and the resource area is as defined and approved by the Gloucester Conservation Commission.

***Formula #1: Basic Maximum Number of Allowed Lots***
**[(Total Area - Resource Area) X (.90)] / District Minimum Lot Area**

(b) Sites served by individual or shared on-site wastewater systems governed under 310 CMR 15.00 The State Environmental Code, Title 5 and The City of Gloucester On-site Wastewater Regulations. The Basic Maximum Number of Allowed Lots shall be derived by submittal of a yield calculation using Formula #1 accompanied by a plan that provides evidence, acceptable to the

Board, confirming the number of dwelling units that could be served by on-site wastewater treatment and disposal systems and which probably could be permitted to serve a set number of dwelling units based on site soil evaluations and consideration of relevant state and local laws. The applicant shall have a burden of proof to supply soils analysis and engineering information on the plan that defines, with reasonable certainty, the number of allowable dwelling units that can be safely sited on a lot. At a minimum, standard soil and percolation testing specified in state and local regulations shall be completed for each proposed area which might be suitable for an on-site wastewater treatment and disposal system with such testing witnessed by the agents of the Board of Health. A site plan showing calculations and possible locations of suitable areas for on-site systems shall be compiled. The City of Gloucester On-site Wastewater Regulations should be reviewed and the Board of Health consulted for additional information. Within twenty one (21) days of receiving written request from Planning Board, the Board of Health shall provide written input to the Planning Board regarding this determination.

(c) Sites served by on-site shared wastewater systems governed under 314 CMR 3 (Surface Water Discharge Permit) or 314 CMR 5 (Groundwater Discharge Permit) shall take into consideration the carrying capacity of the land and receiving water(s). In no instance shall yield calculation be greater than that which could be calculated under 5.15.7.3(a) and (b). Within twenty one (21) days of receiving written request from the Planning Board, the Board of Health shall provide written input to the Planning Board regarding this determination.

5.15.7.4 The Sketch Plan shall:

(a) Be prepared and signed by a certified Landscape Architect, or by a multidisciplinary team of which one member must be a certified Landscape Architect; and

(b) Provide specific reference to the Yield Plan; and

(c) Address the general features of the land, give approximate configurations of the open space, roads, lots, and include the information, as appropriate, as listed in OSRD Rules and Regulations; and

(d) Include detailed narrative regarding the layout of open space, stormwater management, wastewater management, utilities, landscaping, and other aspects of infrastructure and building design; and

(e) Reflect the four step design process as set forth in Section 5.15.3.1; and

(f) Comply with the design standards set forth according to sections 5.15.3.2. and 5.15.3.3.

5.15.7.5 A Site Plan may be a fully engineered plan, conforming with the provisions of this ordinance. The Site Plan shall incorporate the features of the sketch plan and include stormwater management, wastewater management, utilities, and all other information as required within this ordinance and referenced regulations.

5.15.7.6 OSRD definitive subdivision approval shall be conditional upon approval of the Site Plan.

**5.15.8 Procedure for Submittal and Approval of Site Plan**

5.15.8.1 A complete application shall be filed with the City Clerk and the Planning Board. Fifteen (15) copies shall be filed with Planning.

5.15.8.2 Review by municipal entities. The Board of Health, Conservation Commission, Building Inspector, Fire Department, Police Department, and Engineering/DPW shall consider, review and report to the Board in writing on the application. Reports from other boards and officials shall be submitted to the Board within thirty-five (35) days of receipt of the City Clerk of a complete application. Failure of these reviewing parties to make recommendations after receiving the applicable materials shall be deemed a lack of opposition thereto. In the event that a public hearing by the Board is held prior to the expiration of the thirty-five (35) day period, the Board shall continue the public hearing to permit the formal submission of reports and recommendations.

5.15.8.3 Public hearing. The Board shall hold a public hearing within thirty-five (35) days of receipt of a complete application.

5.15.8.4 Board decision. The Board shall issue a written site plan decision within sixty five (65) days of the submittal of a complete site plan. In reviewing a site plan, the Board may impose conditions to ensure that the site plan complies with generic and detailed design standards, requirements of OSRD Rules and Regulations. The decision shall contain written explanation for any significant departures from the recommendations of any reviewing party. The decision shall be upon a majority of the Board and a written decision shall be endorsed by the Board Chair. The appeal of any decision of the Board shall be made in accordance with the provisions of MGL Ch. 41, Section 81BB. A copy of the decision shall be filed with City Clerk and shall be forwarded to the applicant by registered mail.

5.15.8.5 Site plan approval shall lapse one (1) year from the date that the Board votes to endorse a site plan unless the applicant has submitted an OSRD definitive plan application, or within three (3) years unless building permits have been issued, whichever is less. Prior to the lapse of this period an applicant may make a written application requesting a time extension for the site plan, by providing a rationale for said request for a time extension. For good cause such approval may be granted by the Board by issuing a written extension following a public hearing.

**5.15.9 Relationship Between OSRD Site Plan and OSRD Definitive Subdivision Plan**

5.15.9.1 The issuance of OSRD Site Plan Approval allows the applicant to submit an OSRD Definitive Subdivision Plan to the Board for consideration under the Subdivision Control Law.

5.15.9.2 The OSRD definitive subdivision plan shall substantially comply with the OSRD Site Plan. Substantial compliance is deemed to exist providing that there is no:

(a) Increase in the number of building lots or units;

(b) Significant decrease in open space area;

(c) Significant change in site layout;

(d) Significant change in the general development pattern which adversely affects natural landscape features and open space preservation; and

(e) Significant change to stormwater and wastewater management.

5.15.9.3 If the Board determines that the OSRD Definitive Subdivision Plan does not substantially comply with the OSRD Site Plan, the Board may disapprove the definitive subdivision plan.

5.15.9.4 The Board may conditionally approve an OSRD Definitive Subdivision Plan that does not substantially comply with the Site Plan. The Board shall issue a written decision identifying where the plan does not substantially comply with the Site Plan and shall require that the Site Plan be amended to be in compliance. The Board shall also require that the applicant file an application to amend the Site Plan within a specified time period. The public hearing on the application to amend the Site Plan shall be limited to the significant changes identified by the Board in their conditional approval of the OSRD Definitive Subdivision Plan. These are the only considerations that the Board may take into account in deciding whether to amend the Site Plan.

5.15.9.5 Submittals and permits provided for in this section shall be in addition to any other requirements of the Subdivision Control Law, Rules and Regulations Governing the Subdivision of Land, or any provisions of the City of Gloucester Zoning Ordinance.

**5.15.10 Rules and Regulations**

See "Rules and Regulations Pertaining to the City of Gloucester Open Space Residential Development (OSRD)", Section 6.1, of the Rules and Regulations Governing the Subdivision of Land, Gloucester.

**(Adopted August 20, 2002)**

## 5.16 VILLAGE DEVELOPMENT OVERLAY DISTRICT

### 5.16.1 Statement of Legislative Intent

Consistent with the Community Development Plan For the City of Gloucester, 2001 (August 2001) and the West Gloucester Land Use and Wastewater Plan (Ward 5-2 Section) -- Final Report (July locations where there is adequate existing or planned infrastructure, such as sewers, water facilities and roads. The VDOD special permit mechanism is intended to provide an incentive mechanism whereby areas of high environmental sensitivity are permanently preserved as open space in exchange for a density bonus -- meaning that a "Village Development Project" (VDP) proponent may increase density of housing by a set proportion in exchange for the permanent protection of open space, and by providing a mix of housing, including permanently affordable units. The overlay mechanism also provides incentive by allowing Planning Board (special permit granting authority) to approve a more flexible layout than other available options such as a conventional subdivision or a city council multifamily special permit. Provisions of this overlay district zoning ordinance are discretionary -- the existing underlying zoning remains in effect, and a developer may continue to build under that criteria. Standards applicable to this section apply only to areas within the municipality specifically defined in applicable zoning maps. This ordinance promotes the protection and environmental quality of key natural resources, and promotes managed development of sewer facilities and other infrastructure in targeted areas. This ordinance shall not be construed to authorize or mandate construction of aforementioned public facilities. This ordinance is adopted in conjunction with City Ordinance Ch. 23 Utilities, Art. II Sewers, Division 2: Use regulations, Sec. 23-42 Sewer Extensions in Ward Five (5) Precinct Two (2) adopted December 17, 2002.

### 5.16.2 Purpose

The purposes of the Village Development Overlay District are to:

(a) Encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;

(b) Protect the natural environment;

(c) Promote appropriate compact development in areas served by public water and sewer lines;

(d) Promote creative developments that provide a range of housing styles and prices that suit the needs of Gloucester's residents.

### 5.16.3 Definitions

5.16.3.1. As defined by the Planning Board, "Affordable to persons or families qualifying as low income" shall mean affordable to persons or families earning less than fifty percent (50%) of the median income for Gloucester using the U.S. Department of Housing and Urban Development (HUD) Income Guidelines that are issued on an annual basis for the Boston Primary Metropolitan Statistical Area (PMSA).

5.16.3.2. As defined by the Planning Board, "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons or families earning more than fifty percent (50%) but less than eighty percent (80%) of the median income for Gloucester using the U.S.

Department of Housing and Urban Development (HUD) Income Guidelines that are issued on an annual basis for the Boston Primary Metropolitan Statistical Area (PMSA).

5.16.3.3. "Basic maximum number of allowed units" shall mean the number of dwelling units 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.

5.16.3.4. "Basic maximum number of allowed bedrooms" shall mean the basic number of allowed units multiplied by three (3).

5.16.3.5. "Designated Open Space" shall mean those areas of land designated as desirable for open space purposes as set forth in Section 5.16.16, including Type I and Type II.

5.16.3.6. "Targeted Village Development Areas" shall mean the area labeled 'areas recommended for incentive zoning' on VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two Pursuant to Zoning Ordinance 5.16, on file with City Clerk and the Community Development Department. That map is derived from the Land Use Recommendations map, labeled Figure 10, as presented in West Gloucester Land Use and Wastewater Plan: Ward 5-2 Section -- Final Report . Targeted village development areas are designated for creative and compatible higher density development.

5.16.3.7. "Areas Targeted for Lower Density Development" shall mean all areas located outside of the Targeted Village Development Areas on the VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two pursuant to Zoning Ordinance 5.16, on file with City Clerk and the Community Development Department.Areas Targeted for Lower Density Development are designated for conservation and lower density development.

5.16.3.8 "Village Development Project (VDP)" shall mean a development authorized by special permit in Targeted Village Development Areas pursuant to regulations and guidelines herein.

**5.16.4 Overlay District**

The Village Development Overlay District is hereby established and shall be construed as an overlay district. Within the Village Development Overlay District all ordinances and regulations of the underlying district(s) shall continue to be in full force and effect, except where the Village Development Overlay District ordinances and regulations supersede such underlying requirements or provide an alternative to such requirements. The Village Development Overlay District shall consist of Targeted Village Development Areas and Areas Targeted for Lower Density Development, as defined above and as shown on the map entitled VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two pursuant to Zoning Ordinance 5.16, hereby incorporated by reference into the zoning ordinance – the map is made part of the official zoning map and a copy of such map is on file at the Office of City Clerk and the Community Development Department.

**5.16.5 Development Allowed by Special Permit**

Within the Village Development Overlay District, a VDP may be constructed exclusively in Targeted Village Development Areas upon the issuance of a special permit by the Planning Board, subject to the requirements set forth herein. Only those uses and structures specifically authorized herein shall be permitted in conjunction with a VDP.

**5.16.6 Pre-application Process**

Applicants for Village Development Projects are strongly encouraged to request pre-application review at a regular business meeting of the Planning Board. The purpose of pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage of design. At the pre-application session, the applicant may outline the proposed VDP, seek preliminary feedback from Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a special permit. Pre-application process is non-binding on all parties and it is not to be construed as site plan review.

**5.16.7 Procedures**

Following the pre-application review, applicants for a VDP shall file with the Planning Board an application in accordance with the rules and regulations of the Board. Planning Board shall follow the procedural requirements for special permits as per Massachusetts General Law Chapter 40A and Sections 1.5 and 1.8 of the Gloucester Zoning Ordinance. Planning Board by written procedural rules may augment these procedures, such as to further define the form and content of an application.

**5.16.8 Modification of Lot Requirements and Other Standards**

Modification of Lot Requirements and Other Standards. Lots within a VDP are not subject to any of the Intensity of Use Schedule requirements set forth in the Zoning Ordinance or any Off-street Parking requirements set forth in the Off-Street Parking subsection of the General Regulations of the Zoning Ordinance except for the following:

(a) No building shall exceed thirty (30) feet in height unless a separate additional special permit is granted by the City Council.

**5.16.9 Basic Maximum Number of Allowed Dwelling Units**

In a VDP the proponent shall have the burden of proof to show the Basic Number of Allowed Dwelling Units that a site could yield with regard to the design and engineering specifications for a conventional plan, such as a subdivision. The Planning Board shall consult the Board of Health and Conservation Commission (and their staff) regarding the methods used and their interpretation of the findings of such analysis.

**5.16.10 Density Bonus Calculation**

Planning Board may award a density bonus in a VDP to increase the number of dwelling units or bedrooms beyond the Basic Maximum Number of Allowed Dwelling Units or Bedrooms. The density bonus for the VDP shall not, in aggregate, exceed an additional one hundred percent (100%) of the Basic Maximum Number of Allowed Dwelling Units or Bedrooms. Density bonus computations shall be rounded down to the next lowest whole number. The applicant may choose to calculate the density bonus by using one of the following methods:

(a) Dwelling Unit Method: The Basic Maximum Number of Allowed Dwelling Units within a VDP may be increased as a result of the density bonus. At least fifty percent (50%) of all dwelling units awarded as a density bonus shall be two bedroom units and/or permanently restricted to occupancy by persons over the age of fifty-five.

(b) Bedroom Method: The Basic Maximum Number of Bedrooms within a VDP may be increased as a result of the density bonus. A density bonus for bedrooms for the VDP shall be calculated by determining the density bonus for dwelling units and then multiplying said density bonus by three

(3). The bedrooms may be provided in dwelling units of various sizes, including one (1) bedroom, two (2) bedroom, and three (3) bedroom units.

**5.16.11 Reasons for Density Bonus**

A density bonus may be awarded under the following circumstances; an applicant shall have the burden of proof to show that proposed designated open space could yield the basic maximum number of dwelling units that the applicant claims:

(a) For Designated Open Space Type I permanently restricted as specified in Section 5.16.16, the density bonus for dwelling units shall be the number of dwelling units that could be constructed on the Designated Open Space times one and one-half (1.5). This means that the density bonus is the base number of units that could be constructed on 'proposed open space' plus an additional fifty percent of units -- the resulting total number of bonus units is sent from the proposed open space into the proposed VDP as an additional bonus increment (see also 5.16.10). The density bonus for bedrooms shall be the number of dwelling units that could have been constructed on the Designated Open Space times four and one-half (4.5).

(b) For Designated Open Space Type II permanently restricted as specified in Section 5.16.16, the density bonus for dwelling units shall be the number of dwelling units that could be constructed on the Designated Open Space. The density bonus for bedrooms shall be the number of dwelling units that could have been constructed on the Designated Open Space times three (3).

(c) In lieu of permanently restricted open space of either type, the Planning Board may award an appropriate density bonus where the applicant agrees to deposit in the City's Ward 5-2 Open Space Trust Fund an equivalent amount of funds to be used for the purchase of open space (Note: At the point of adoption of this ordinance this fund was not yet established, and it will take a separate City Council action to do so). The Planning Board may engage technical experts to assist in determining the appropriate in lieu payment.

**5.16.12 Affordable Component**

As a condition of the grant of any special permit for a VDP, a minimum of twenty percent (20%) of the total number of dwelling units shall be restricted for 45 years in the following manner:

(a) Ten percent (10%) of the units shall be affordable to persons or families qualifying as low income; and

(b) Ten percent (10%) of the units shall be affordable to persons or families qualifying as moderate income.

The method employed for defining affordability to persons of low and moderate income shall be defined by the Planning Board, which may enlist the assistance of the City Community Development Department. The forty-five (45) year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the City for a period not less than one hundred twenty (120) days after notice thereof by registered mail. The City may transfer that right of first refusal to another entity.

**5.16.13 Payment in Lieu**

Alternatively, in lieu of actually building the affordable unit(s), the applicant may contribute an appropriate amount per required affordable units to the City's Affordable Housing Trust Fund (Note: At the point of adoption of this ordinance this fund was not yet established, and it will take a separate City Council action to do so). In the case of fractional units, the contribution shall be prorated for the fractional portion of any unit. The Planning Board may engage technical experts to assist in determining the appropriate in lieu payment.

**5.16.14 Types of Buildings**

The VDP may consist of any combination of single family, two family and multifamily residential structures. A multifamily structure shall not contain more than four (4) dwelling units, unless an additional special permit is granted by the City Council. The architecture of all multifamily buildings shall be residential in character, with an articulated footprint, and varied facades. Residential structures should be oriented toward the street serving the premises and not toward the off street parking area, if any.

**5.16.15 Standards**

The development of a VDP shall conform to the following standards:

(a) Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board, with the Subdivision Rules and Regulations serving as a guide, where the roadway is or may be ultimately intended for dedication and acceptance by the City. 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.

1. To the extent possible, roadways shall form an interconnected pattern of rectilinear or curvilinear streets. If one or more properties adjacent to a site being consider for development are undeveloped, a plan should provide at least one right of way, as may be required by Planning Board under its subdivision review regulations, suitable to provide future access connections to the adjacent areas. Cul de sacs are discouraged.

2. Parking may be provided on a street with the consent of the Planning Board, however, the minimum pavement width on streets where on-street parking is allowed shall not be less than twenty four (24) feet.

(b) Parking. Parking may be provided on-street or off street.

1. Parking provided shall be at a standard of at least one and a half (1.5) parking spaces provided per dwelling unit (see also ‘roads’ above). It may be preferred to have two (2) spaces per unit for those units with two or more bedrooms.

2. Parking areas with greater than eight spaces should be screened from public view, preferably by landscaping treatment that utilizes vegetation for screening.

(c) Drainage. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Planning Board's Subdivision Rules and Regulations.

(d) Perimeter Buffer. A perimeter buffer of not less than twenty-five (25) feet shall be provided, except where access roads enter or exit the premises. The Planning Board may waive this requirement where suitable screening is provided by fencing, plantings, or other methods. No structures or parking areas shall be located in the perimeter buffer.

**5.16.16 Designated Open Space**

Designated Open Space includes land within Areas Targeted for Lower Density Development that as been identified by the Conservation Commission or Planning Board as suitable for conservation, recreation, and open space purposes.

(a) Type I Designated Open Space. Type I Designated Open Space shall include any land within Areas Targeted for Lower Density Development that has one or more of the following characteristics:

1. The land is adjacent to existing protected open space or provides access to protected open space.

2. The land contains or is adjacent to a stream or creek that drains to Essex Bay, Little River, Jones River, Annisquam River, Ipswich Bay, or any beach.

3. The land provides access to a beach, dune, or tidal flat.

4. The land contributes to the area's scenic character by virtue of abutting a street.

5. The land has been recommended for acquisition by either the Conservation Commission or Planning Board.

(b) Type II Designated Open Space. Type II Designated Open Space shall include any other land within the Area Targeted for Lower Density Development that is deemed appropriate by the Planning Board for the purposes set forth below, including lands containing marsh and wetland.

(c) Purposes. Designated Open Space shall be restricted for conservation, historic preservation, outdoor education, recreation, public parks, agriculture, horticulture, forestry, or for a combination of these uses, as determined by the Planning Board, and shall be served by suitable access for such purposes.

(d) Improvements. The Designated Open Space shall remain unbuilt upon, provided that Planning Board may permit up to ten percent (10%) of such open space to be altered for structures accessory to the dedicated use or uses of such open space or for pedestrian walks, bike paths, and the like.

(e) Ownership. Any Designated Open Space provided through this Section 5.16 shall, at the Planning Board's discretion, be conveyed to or restricted in favor of the following:

1. City of Gloucester acting through its City Council; or

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.

**5.16.17 Decision**

The Planning Board may approve, approve with conditions, or deny an application for a VDP after determining whether the VDP better promotes the purposes of Section 5.16.2 than would a conventional development on the same site.

**5.16.18 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 Ordinance not superseded by the provisions of Section 5.7 or any other applicable state and local laws and regulations.

**5.16.19 Reports on the Use and Impacts of the Village Development Overlay District**

No more than five years from the date of adoption of this ordinance, the Community Development Department shall formulate a comprehensive written review of permit activity that has occurred under this ordinance and the resulting impacts within the community. Such report shall be transmitted to the Mayor who shall provide a copy to Planning Board and City Council.

**(Adopted January 29, 2003)**

## 5.17 DRIVE-THROUGH FACILITIES

### 5.17.1 Purpose

The purpose of this section is to protect the health, safety, welfare and convenience of residents, minimize traffic congestion, and maintain the architectural integrity of the surrounding area by requiring performance standards for the construction and operation of drive-through facilities.

### 5.17.2 Administration

(a) Drive-through facilities are allowed by special permit in only the following districts: Central Business (CB), Neighborhood Business (NB), Extensive Business (EB), Village Business (VB), Marine Industrial (MI), General Industrial (GI), and Business Park (BP).

(b) Dimensional Requirements:

| | **CB** | **NB** | **EB** | **VB** | **MI** | **GI** | **BP*** |
|---|---|---|---|---|---|---|---|
| Min. Lot Area (sf) | 15,000 | 20,000 | 15,000 | 20,000 | 15,000 | 15,000 | 40,000 |
| Min. Frontage (ft) | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| Min. Front Yard (ft) | 30 | 30 | 30 | 30 | 30 | 30 | 40 |
| Min. Side Yard (ft) | 20 | 20 | 20 | 20 | 20 | 20 | 25 |
| Min. Rear Yard (ft) | 30 | 30 | 30 | 30 | 30 | 30 | 40 |

*At least 15,000 sf must be designated for drive-through facility.

### 5.17.3 Special Permit Application Procedures

(a) The Special Permit Granting Authority: The Special Permit Granting Authority (SPGA) for drive-through facilities shall be the City Council. The City Council shall follow the procedural requirements for special permits as set forth in MGL Chapter 40A, Section 9, and Sections 1.5 and 1.8 of the City of Gloucester Zoning Ordinance.

(b) Application Submittal: The applicant shall submit to the City Clerk twelve (12) copies of an application for a special permit which shall include a site plan in accordance with the requirements as set forth in Section 5.17.5(b).

(c) Drive-Through Application Review: Review of a drive-through facility application shall be referred to the Planning Board for their review within 45 days of receipt of the application from the City Council. The Planning Director will submit the application to key municipal departments, including Planning, Building, DPW/Engineering, Public Health Department, Police, Fire, and Traffic Commission for their review and comment.

(d) Independent Review: At the City Council's discretion, an independent review may be requested at the applicant's expense.

### 5.17.4 Definitions

Access Connection: A means of approach to provide vehicular or pedestrian entrance or exit to a property from the public/private roadway, such as, but not limited to a driveway, curb cut, turnout.

Driveway/ Curb Cut Spacing: The distance between access points of the driveway, measured from the closest edge of pavement of the driveway or curb cut to the next closest edge of the pavement along the public/private roadway.

Stacking Lane: An area of driving lane and waiting spaces provided for vehicles waiting for drive-through service, that is physically separated from other traffic and pedestrian circulation on the site.

Stacking Space: An area within a stacking lane for vehicles waiting to order and/or finish a drive-through transaction.

### 5.17.5 Performance Standards

Drive-through service facilities shall comply with the performance standards set forth in this section. Except for dimensional requirements, the City Council may impose additional conditions or alter performance standards if it finds that a substantially better design will result from such additional or alternate standards. In so doing, the City Council shall consider how such additions or alterations will impact public safety, character of the neighborhood, and the environment.

**(a) Traffic Impact Study (TIS)**

The City Council shall require that a Traffic Impact Study (TIS) be prepared by a registered professional engineer who is a member of the Institute of Transportation Engineers (ITE). The purpose of a TIS is to document existing traffic conditions in the vicinity of the proposed drive-through facility, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures to mitigate any adverse impacts on traffic, as stated in the following:

(1) Existing Traffic Conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, appropriate and pertinent accident data, levels of service of intersections and streets likely to be affected by proposed project. Generally, such data shall be presented for all streets and intersections adjacent to or within 500 feet of the project's boundaries. The data will be no more than twenty-four (24) months old, upon submittal unless other data is specifically approved by the City Council.

(2) Projected Impact of Proposed Project: Projected peak hour and daily traffic generated by the drive-through on roads and ways in the vicinity; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity; projected post development traffic volumes and levels of service of intersections and streets likely to be affected by proposed project.

**(b) Site Plan**

The site plan, prepared by a registered Professional Civil Engineer and Registered Land Surveyor, shall accompany the special permit application and shall include the following items and information:

(1) Site plan shall be at a scale of one inch equals forty feet (1" = 40'), or such scale as may be approved by the City Council.

(2) Name and address of project; name and address of owner; name and address of Engineer and Surveyor; assessors map and lot numbers; zoning district; locus (1" = 1,000'); North arrow; boundaries; topography; date; scale of plan.

(3) The proposed site plan, incorporating recommendations of the Traffic Impact Study shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to evaluate compliance with this standard:

a. Entrance and exit driveways shall be located and designed to create maximum practicable distance from existing and proposed access connections from adjacent properties.
b. Where possible, driveways shall be located opposite similar driveways.
c. Left-hand turning movement shall be minimized.
d. No parking shall be allowed on street within 8' of curb cuts.
e. No vehicular waiting shall be allowed on the street. Vehicle stacking spaces to accommodate waiting traffic shall be provided in the drive-through lane.
f. Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable by an ADA compliant walkway from sidewalk to facility.
g. Off-street loading shall comply with Zoning Ordinance Section 4.2.

(4) The location and use of all existing and proposed buildings and structures, including their dimensions, height, and exterior entrances and exits. Location of all service equipment. Location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, walls, buffers for screening purposes, paths, landscaping, planting areas, signs, refuse and other waste disposal containers. Detailed location of accessing entrance and exit, and sight distance for any access connection applicable to site.

(5) Location of all existing and proposed public and private utilities.

(6) Lighting shall be shown on the site plan.

**(c) Site Access**

(1) Width of the access connections at the property line shall not exceed twenty-five (25) feet, unless the TIS identifies and the City Council agrees to the need for turning lanes from the development onto the adjacent public road.

(2) All streets and intersections impacted by the project as identified in TIS shall have a comparable level of service to pre-development conditions.

**(d) Stacking Lanes**

(1) Entrances to stacking lane(s) shall be clearly marked and a minimum of forty (40) feet from the intersection with the public street. The distance shall be measured from the property line along the street to the beginning of the entrance.

(2) Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along all portions of the lane(s).

(3) Fast food restaurants shall have a minimum of 5 spaces for queuing cars accessing the ordering window or speaker. If pickup/payment windows are provided separately, the queuing distance between windows and/or speaker(s) shall be a minimum of 2 stacking spaces.

Banks, service and retail establishments shall have a minimum of 3 stacking spaces for queuing cars accessing a drive-through window or speaker.

(4) Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.

(5) Stacking lanes shall be designed to prevent congestion, both on site and on adjacent streets.

(6) Stacking lane layout:
a. shall be integrated with the on-site circulation pattern;
b. shall minimize conflicts between pedestrian and vehicular traffic by providing physical and visual separation between the two;
c. shall provide an emergency by-pass or exit, if said stacking lane is curbed;
d. shall not impede or impair access into or out of parking spaces;
e. shall not impede or impair vehicular or pedestrian traffic movement;
f. shall not interfere with required loading and trash storage areas;
g. shall not enter or exit directly into a public right-of-way.
h. shall not be located in the setbacks in NB and VB districts exclusively.

**(e) Layout of Outdoor Service Equipment**

(1) Menu Signs / Speaker Boards:
a. Signs shall be a maximum of thirty (30) square feet, with a maximum height of six (6) feet, and shall not require a separate permit under the sign ordinance, but shall follow requirements of Zoning Ordinance Section 4.3.
b. Menu Signs and speaker boards shall be physically shielded from any public street and residential properties by landscaping or other means.
c. Outdoor speakers shall comply with the noise ordinance of Chapter 13 of the City of Gloucester Code of Ordinances, and should be directed away from abutting properties.

(2) Dumpsters:
a. Based on the Board of Health "Dumpster Regulations", no dumpster shall be placed within fifteen (15) feet of a building unless approved by the Fire Chief, and shall not block a public way or sidewalk.
b. No dumpster shall be placed within ten (10) feet of a property line.

**(f) Lighting**

(1) Flood and area lighting is unacceptable.

(2) All luminaries/lighting fixtures shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting from the fixture shall only be visible from below.

(3) Shielding shall provide cutoff of all light at the property lines of the subject site.

(4) The luminaries/lighting fixtures in the parking lot, sidewalks, paths and adjacent to the vehicular circulation system shall not exceed twelve (12) feet in height.

(5) Where wall-pack type luminaries/lighting fixtures are utilized for outdoor lighting, these shall be equipped with lenses to reduce glare. Wall-pack lighting shall direct lighting towards the ground.

(6) All luminaries/lighting fixtures shall be restricted to a maximum horizontal foot-candle level of 8.0 (initial), as measured directly below the fixture at grade.

**(g) Landscaping**

(1) A landscape plan, prepared by a Landscape Architect**,** shall show all existing natural land features and all proposed changes to these features.

(2) The landscape shall be preserved in its natural state as much as possible by minimizing tree and soil removal and by avoiding abrupt grade changes. There should be an attempt to blend into existing topography.

(3) There shall be a five (5) foot minimum landscaped buffer zone between the exterior lot lines of the proposed development and abutters in NB and VB Districts. Open space should landscaped with a variety of plant material and maintained accordingly.

**(h) Operation and Security**

(1) The applicant shall submit information on the hours of operation, security on the site, employee parking, and plans for cleanup and maintenance.

**(Adopted July 13, 2004)**

## 5.18 MARINE INDUSTRIAL DISTRICT

For all uses requiring a special permit in the Marine Industrial (MI) district, and located within two hundred (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.5.3, 1.5.4, and 5.7 herein, the special permit granting authority shall consider the following factors:

(1) Will the proposed use displace existing water-related uses?

(2) Will the proposed use pre-empt the use of the surrounding property for future development of water-related uses?

(3) Will the proposed use be compatible with the working waterfront character of the zone?

(4) To the extent that the proposed project will displace existing commercial fishing vessel berthing in Gloucester Harbor, will the applicant provide equivalent space at a suitable alternative site?

(5) To what extent will the proposed use beneficially affect the preservation of water-related uses on surrounding properties.

In exercising its power under this section, the special permit granting authority may impose reasonable conditions, regulations or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not adversely affect the primary character of the area as a working waterfront.

## 5.19 LOCATION OF MOTOR VEHICLE SERVICES

Facilities for motor vehicle service, rental, or repair shall not be granted a Special Permit except in conformity with the following:

5.19.1 No vehicular entrance or exit shall be located within 25 feet of a residential district or the sideline of an intersecting street.

5.19.2 No vehicular entrance or exit shall be located within 400 feet of the nearest property line of any school, library, hospital, playground or religious institution, unless it is demonstrated by the applicant that special circumstances of the site or use effectively mitigate concern over the hazard.

5.19.3 There shall be adequate space off-street for not fewer than two cars to await service per filling position.

5.19.4 Automatic car washes shall provide space for not less than 10 cars per washing lane to queue off-street and, where waste water does not discharge directly into a public sewer, shall provide positive means of preventing water pollution. Water recycling requirements of the Gloucester Department of Public Works shall be complied with.

## 5.20 PORK CHOP LOTS

### 5.20.1 Conditions for Issuance

The Gloucester Planning Board may authorize Pork Chop Lots by Special Permit (SP) in cluster developments and in residential districts on streets in existence at the date of adoption of this Section, provided that the following conditions are met:

(a) That the site is an appropriate location for the proposed use and that the character of adjoining uses will not be adversely affected.

(b) That the minimum lot area of the Pork Chop Lot is at least two times the minimum lot area required in the zoning district in which the Pork Chop Lot is located, except that the portion of the lot to the way shall not be included in the lot area calculation. (Amended 12/8/98)

(c) That safe and adequate vehicular access can be provided on said lot, without easements, from the street frontage to the principal building on the lot.

(d) That the width of the Pork Chop Lot measured at the shortest distance between side lot lines is no less than forty feet (40') at any point between the street and the existing or proposed building on the lot.

(e) That the depth of that portion of the lot which fails to satisfy the lot frontage requirements set forth in Section 3.2 shall not exceed a distance of two hundred fifty (250) feet from the street, measured along the proposed driveway.

(f) All front, rear and side yard setbacks shall be the same as the yard setbacks of the zone in which the lot is located.

(g) That no more than one principal building shall be located on a lot.

(h) That there is not more than one (1) other Pork Chop Lot with frontage contiguous to

### 5.20.2 Procedure for Special Permits

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Laws Chapter 40A and Section 1.5 of the Gloucester Zoning Ordinance.

**(Adopted December 22, 1987)**

## 5.21 COMMON DRIVEWAYS

### 5.21.1 Purpose

The purpose of this Ordinance is to enhance the safety and welfare of residents of common driveways and to clarify the rights and responsibilities of builders and residents of common driveways, and of the City of Gloucester, in order to improve the public safety along streets by reducing the number of curb cuts, to reduce the negative visual impact of multiple driveways exiting upon a street and to minimize negative impacts on natural resources.

### 5.21.2 Definition

Vehicular access, extending from a street, serving as a common vehicular access to more than one (1) but not more than four (4) residential lots is a common driveway, built in accordance with standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts" where allowed by Special Permit. The driveway will lie entirely within the lots being served.

### 5.21.3 Prohibition

A common driveway which would serve more than four (4) residential lots is prohibited.

### 5.21.4 Scope

Common driveways may be allowed by Special Permit and plan approved by the Planning Board for single and two-family residential use only. Where the proposed development constitutes a subdivision under the Subdivision Control Law, MGL, Chapter 41, sec. 81-K et seq., this ordinance shall not apply. All lots associated with the use of a common driveway must provide off-street parking as indicated in Section 4.1 "Off Street Parking". A common driveway shall not become a public or private way. The City of Gloucester shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus pickup or police patrols along a common driveway, unless by contract duly entered into by the City and all landowners served by the common driveway.

### 3.5.5 Conditions for Issuance

The Planning Board may authorize the use of common driveways to provide access to no more than four (4) individual lots of land through issuance of a Special Permit (SP) provided the following conditions are met.

(a) Common driveways may not be used to satisfy zoning frontage requirements as defined in Section VI. Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements as defined in Section VI.

1. No common driveway shall be extended or connected to any way other than at one point of intersection with a street providing frontage to the development.

(b) All lots to be served by common driveway must meet the requirements of a lot as defined in Section VI. All dimensional requirements, as defined in the Zoning Ordinance, for lots served by a

common driveway, including but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.

(c) That common driveways are required to access over approved lot frontage as defined in Section VI.

(d) That each lot having access from an approved common driveway may be improved with no more than two (2) dwelling units and related accessory building and uses.

(e) That if the common driveway provides access to two (2) OR MORE (no more than four) lots, the landowners of all residences served by a common driveway shall be granted a right-of-way. Such right-of-way shall be recorded at the Essex County Registry of Deeds within thirty (30) days of approval by the Planning Board, together with a statement of covenants as follows:

1. The common driveway shall at no time be used to satisfy frontage requirements under the Zoning Ordinance; and

2. the common driveway shall at no time become the responsibility or liability of the City of Gloucester; and,

3. each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive Right of Way, such as a spur serving solely one parcel; and,

4. each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner hold a Right of Way.

(f) A covenant shall be entered into between the owner or developer and the City in a form acceptable to the Planning Board prohibiting the sale of lots and erection of building except for lots approved and/or prior to the adoption of this Ordinance, until such time as the common driveway has been constructed in accordance with the approved plan.

(g) Common driveways shall provide access to the lots from the street on which the lots served have their frontage and must observe a twenty-five (25) foot setback from the sideline which the lot of origin shares with a lot not served by the common driveway. The Planning Board may waive this requirement if necessary.

(h) That common driveways be constructed in accordance with the standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts".

### 3.5.6 <u>Procedure for Special Permits</u>

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Law, Chapter 40A and Section 1.5 of the Gloucester Zoning Ordinance.

**(Adopted December 9, 1997)**

## 5.22 COMMERCIAL LAND-BASED WIND ENERGY CONVERSION FACILITIES

### 5.22.1 PURPOSE and INTENT

The purpose of this section is to accommodate land-based commercial wind energy conversion facilities (not residentially scaled facilities) in appropriate locations, while minimizing adverse visual, safety and environmental impacts of the facilities. The ordinance enables the review of commercial wind energy conversion facilities by the City Council in keeping with the City of Gloucester Code of Ordinances and Zoning Ordinance. This ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, general wetlands ordinance, and other local regulations designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Gloucester.

### 5.22.2 DEFINITIONS

**Commercial Wind Energy Conversion Facilities**: Commercial wind energy conversion facilities include 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 roads, and one or more wind turbines.

**Distributed Generation Wind Facility:** A wind energy conversion facility, which is primarily designed to provide its electrical output, or value thereof, for the use or benefit, accessory to a structure(s) on the same lot, or contiguous commonly owned lots.

**Height:** The height of a wind turbine measured from existing average grade to the tip of the rotor blade at its highest point, or blade-tip height.

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

**Special Permit Granting Authority:** The Special Permit Granting Authority for a commercial wind energy conversion facility shall be the Gloucester City Council. The special permit is subject to the following requirements as stated below in Section 5.22.6 as well as those set forth in Sections 1.5 and 1.8.

**Wind Monitoring or Meteorological Tower**: A temporary tower equipped with devices to measure wind speeds and direction, and used to determine how much wind power a site can be expected to generate.

**Wind Turbine**: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

### 5.22.3 APPLICABILITY

**(a)** The construction of a commercial wind energy conversion facility shall be permitted in the MI, GI and BP zoning districts and on municipally owned property, subject to the issuance of a

Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.7, Accessory Use Number 15).

**(b)** Wind monitoring or meteorological towers shall be allowed by-right on a temporary basis, in the MI, GI, and BP districts and on municipally owned land subject to issuance of a building permit (see Section II, 2.3.7, Accessory Use Number 17).

**(c)** All such wind energy conversion facilities shall be constructed and operated in locations that minimize adverse visual, safety, and environmental impacts. No special permit shall be granted unless the special permit granting authority finds in writing that

1. the proposed location is an appropriate location on the site;
2. the use will not pose a significant adverse impact to the health or public safety of the neighborhood;
3. there will be no serious hazard to pedestrians or vehicles from the use; and
4. adequate and appropriate facilities will be provided for the proper operation of the use.

These criteria are to be used in lieu of the special permit criteria outlined in Section 1.8.

**(d)** Commercial wind energy conversion facility and temporary meteorological towers will not require a Height Exception under Section 3.2 of the Gloucester Zoning Ordinance.

**(e)** Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind energy conversion facility, should they occur.

### 5.22.4 SITE CONTROL

The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a Special Permit. Documentation should also include proof of control over the land in setback or clear areas, if required under Section 5.22.5. Control shall mean legal authority to prevent the use of any structure within the setback or clear area for human habitation or other uses.

### 5.22.5 PROOF of LIABILITY INSURANCE

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

### 5.22.6 SPECIAL PERMIT REGULATIONS

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

**(a) Height**

Commercial wind energy conversion facilities shall be no higher than 500 feet above the existing average grade. The height of all wind energy conversion facilities shall be measured from the existing average grade to the highest point reached by the rotor blades. The City Council may allow this height to exceed 500 feet as part of the special permit process if the project proponent can demonstrate:

1. that the additional height is needed and would result in significant additional benefits in terms of energy production and efficiency, and
2. by submission of substantial evidence that such height reflects industry standards for a similarly rated wind energy conversion facility, and
3. that the proposed wind energy conversion facility satisfies all other criteria for the granting of a special permit under this section of the zoning ordinance.
4. The allowance to exceed the height of 500 feet shall not constitute a variance from the Zoning Ordinance.

**(b) Setbacks**

1. Each wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.

2. In addition, the following setbacks shall be observed:
i) In order to ensure public safety and to protect the interests of neighboring property owners, the minimum distance from the base of any wind turbine tower to the nearest building on the lot, or on contiguous commonly owned lots, shall be 50 feet; the minimum distance from a public or private way shall be 100 feet; and the minimum distance from property lines shared with abutting properties shall be 150 feet; and in no case shall be less than the length of an individual rotor blade measured from the hub of the wind turbine, whichever is greater.

ii) Wetland resources and their buffer zones may be used for the purposes of providing setbacks.

iii) The setbacks should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The City Council may reduce the setbacks as appropriate, based on site specific considerations, and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable.

iv) Such reduction of required setbacks, if granted, shall not constitute a variance from the Zoning Ordinance.

**(c) Visual Impact**

The proponent shall demonstrate through project siting and proposed mitigation that the wind energy conversion facility minimizes impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering, lighting, cable layout, and demonstration of compliance with all special permit regulations.

**(d) Color**

Wind energy conversion facilities shall be painted a non-reflective color that blends with the sky and clouds.

**(e) Equipment Shelters**
All equipment necessary for monitoring and operation of the wind energy conversion facilities should preferably be contained within the turbine tower. If this is not feasible, ancillary equipment may be located outside the tower. Whenever reasonable, structures should be joined or clustered to avoid adverse visual impacts, contained either within an underground vault, enclosed within a separate structure, or shielded from view either by year-round landscaping or vegetated buffers. Equipment shelters shall only be used for housing of equipment for this particular site.

**(f) Lighting and Signage**

1. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
2. Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties.
3. Signs on the facility shall be limited to:
   i) those needed to identify the property and the owner/operator, and to warn of any danger; and
   ii) educational signs providing information on the technology and renewable energy usage.
4. All signs shall comply with the plans approved and incorporated by reference in a special permit granted under this section.

**(g) Utility Connections**
All utility connections from the commercial wind energy conversion facility site shall be underground to the nearest utility pole or transformer, unless the applicant demonstrates by substantial evidence that the construction of such underground facilities would be unreasonable owing to circumstances relating to the soil conditions, shape, or topography of such a site or if the utility provider requires the connections to be above ground. The electrical transformer for the utility interconnections may be above ground if required by the utility provider.

**(h) Support Towers**
Monopole towers are the preferred type of support for commercial wind facilities.

**5.22.7 ENVIRONMENTAL STANDARDS**
**(a) Wetlands**
Commercial wind energy conversion facilities shall be located in a manner consistent with all applicable local and state wetlands regulations.

**(b) Land Clearing/Open Space**
Wind energy conversion facilities shall be designed to minimize land clearing and fragmentation of open space areas, and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible.

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

**(d) Noise**
The commercial wind energy conversion facility and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10) and the provisions of the Gloucester Code of Ordinances Chapter 13: Noise. An analysis, prepared by a qualified acoustical engineer, shall be present to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

**(e) Shadowing/Flicker**
Wind energy conversion facilities shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

**(f) Safety Standards**
No hazardous materials or waste shall be discharged on the site of any commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access.

**5.22.8 PRE-APPLICATION**
**(a) Conference**: Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the City Council at a public meeting to discuss the proposed wind energy conversion facility in general terms and to clarify the filing requirements. The City Council shall meet with the applicant under this regulation within 35 days following a written request submitted to the City Council and the City Clerk. If the City Council fails to meet with an applicant who has requested such a meeting within 35 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application under this ordinance without need for a pre-application conference.

**(b) Filing Requirements:** The purpose of the conference is to inform the City Council as to the preliminary nature of the proposed wind energy conversion facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and engineering drawings to inform the City Council of the location of the proposed facility, as well as its scale and overall design.

**5.22.9 SPECIAL PERMIT APPLICATION FILING REQUIREMENTS**
The following shall be included with an application for a Special Permit for each commercial wind energy conversion facility:

**(a) General Filing Requirements:**

1. Name, address, telephone number and original signature (photo-reproductions of signatures will not be accepted) of applicant and any co-applicants. Co-applicants may include the landowner of the subject property or the operator of the wind energy conversion facility. If telecommunications antennae are proposed, a telecommunications carrier should be a co-applicant.

2. If the applicant or co-applicant will be represented by an agent, the name, address and telephone number shall be provided and original signature authorizing the agent to represent the applicant and/or co-applicant shall also be provided. Photo-reproductions of signatures will not be accepted.

3. Documentation of the legal right to install and use the proposed facility and proof of control over the setback or clear areas, proof of financial surety that satisfies Section 5.22.5, proof of liability insurance that satisfies Section 5.22.5, certification of lighting requirements from the FAA, statement that satisfies noise requirements as per Section 5.22.7 (d), and certification of attainment for Federal Communications Commission (47 CFR Part 15) relating to interference with radio or television reception.

**(b) Location Map Filing Requirements**

Copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however copy of zoning map with the parcel identified is suitable**.**

**(c) Site Plan Requirements**

Twelve (12) copies of a one-inch-equals-40 feet vicinity plan, signed and sealed by a Registered Professional Engineer or Licensed Surveyor showing the following:

1. Property lines for the subject property and all properties adjacent to the subject property within 300 feet.
2. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet. Distances, at grade, from the proposed wind energy conversion facility to each building on the vicinity plan shall be shown.
3. Proposed location of wind energy conversion facility, including all turbines, fencing, associated ground equipment, transmission infrastructure and access roads. Including:
   - i) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wind energy conversion facility,
   - ii) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways,
   - iii) Representations, dimensioned and to scale, of the proposed facility, including cable locations, parking areas and any other construction or development attendant to the wind energy conversion facility.
4. Tree cover and average height of trees on the subject property and adjacent properties within 300 feet.
5. Contours at each two feet Above Mean Sea Level (AMSL) within 50 feet of proprosed wind energy conversion facility and at a five foot interval for the remainder of the subject property and adjacent properties within 300 feet.
6. Representation of location of viewpoint for the sight-line diagram referenced below.

**(d) Visualizations**

The special permit granting authority shall select four (4) or more sight-lines, including from the nearest building with a view of the wind energy conversion facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or

public ways within a 2-mile radius for the wind energy conversion facility. View representations shall include the following characteristics

1. View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind energy conversion facility (e.g. superimpositions of the facility onto photographs of existing views).

2. All view representations shall include existing or proposed buildings and tree cover.

3. Applicant must include a description of the technical procedures and equiptment utilized and followed in producing the visualizations.

**(e) Elevations**
Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed wind energy conversion facility. Elevations shall be at one-quarter inch equals one foot horizontal scale and one-eighth inch equals one foot vertical scale and show the following:

1. Wind energy conversion facility, and if applicable, the security barrier and associated equipment, with total elevation dimensions of all parts of the facility.
2. Security barrier. If the security barrier will block views of the wind energy conversion facility, the barrier drawing shall be cut away to show the view behind the barrier.
3. Any and all structures on the subject property.
4. Existing trees at current height and proposed trees at proposed height at time of installation, with approximate elevations dimensioned.
5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

**(f) Materials and Colors**
Materials provided for the proposed wind energy conversion facility and all other proposed equipment/facilities shall be specified by type and specific treatment. Colors of the proposed wind energy conversion facility, antennas, mounts, cables, cable runs, equipment shelters and security barriers if any, shall be represented by a color board showing actual colors proposed.

**(g) Balloon or Crane Test:** Within 30 days of the submission of an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site, or alternate means approved by the SPGA, to illustrate the height of the proposed facility. The date, time (and alternate if needed due to weather) and location of such test shall be advertised in a newspaper of general circulation in the city 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 city, abutters, and abutters to abutters within 300 feet as certified by the Assessor's Department, with proof of notification.

**(h) Operation & Maintenance Plan**
The applicant shall submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the wind energy conversion facility.

**(i) Landscape Plan**
A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

**(j) Noise and Environmental Requirements**
The applicant shall provide a statement listing the existing noise levels and the maximum future projected noise levels from the proposed wind energy conversion facility, measured in decibels for the following:

1) Existing, or ambient: the measurement of existing noise at the property boundaries, buildings of abutters and nearest inhabited residence.
2) Existing plus proposed wind energy conversion facility: maximum estimate of noise from the proposed wind energy conversion facility plus the existing noise environment. Such statement shall be certified and signed by a qualified engineer, stating that noise projections are accurate and meet the noise standards of this ordinance and applicable state requirements.
3) As proposed, all requirements are specified to ensure a legally defensible position by the City.

These criteria shall be measured at both the property line and at the nearest inhabited residence. The applicant shall also submit information illustrating how the project is consistent with the environmental standards of this ordinance.

**(k) Emergency Services**
The applicant shall provide a copy of the project summary and site plan to the local police and fire departments. The applicant shall cooperate with local police and fire departments in developing an emergency response plan.

**5.22.10 INDEPENDENT CONSULTANTS**
Upon submission of an application for a special permit, the special permit granting authority is authorized to hire outside consultants for a peer review of an application, pursuant to MGL Chapter 40A, Section 9, Appendix A Rule 25: Rules of Procedure of the Zoning Ordinance and MGL Chapter 44, Section 53G, whose services shall be paid for by the applicant.

**5.22.11 USE by TELECOMMUNICATIONS CARRIERS**
Wind energy conversion facilities may be used to locate telecommunications antennas; such use shall be subject to applicable regulations governing such uses, and subject to the provisions of Section 5.13 Personal Wireless Service Facilities of the Gloucester Zoning Ordinance.

**(a)** All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round, either through effective landscaping or existing natural vegetated buffers; and

**(b)** Antennas shall be mounted to be in keeping with the design of the wind turbine tower; and

**(c)** All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

**5.22.12 TERM of SPECIAL PERMIT**
A Special Permit issued for any wind energy conversion facility shall be valid for 25 years, unless extended or renewed. With a written request from the owner, the time period may be extended or the Special Permit may be renewed upon satisfactory operation of the facility. At the end of that time period, the wind energy conversion facility shall be removed as required by this section.

Any special permit granted under this subsection shall lapse if construction of the commercial wind energy conversion facility does not commence within two years of the date of its issuance, unless good cause for failure to begin construction can be shown. Good cause may include delay in shipment of wind energy conversion facility components, but financial ability shall not be cause for delay.

The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

**5.22.13 MODIFICATIONS**
The City Council shall be notified of all modifications to a commercial wind energy conversion facility made after issuance of the Special Permit, and such modification shall require approval by the City Council in accordance with the city's existing process for modifications to Special Permit approvals. After issuance of a special permit, a change in model or manufacturer of wind turbine to be installed, which complies within +/- 15 feet of the height granted and all other special permit regulations and conditions, shall not require amendment of the special permit.

**5.22.14 MONITORING and MAINTENANCE**
As proposed, all requirements are specified to ensure a legally defensible position by the City.

**(a)** The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present. Site access shall be maintained to a level acceptable to the Fire Chief. The project owner shall be responsible for the cost of maintaining the wind energy conversion facility and access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

**(b)** The applicant shall notify the City Council of the wind energy conversion facility becoming operational; thereafter the applicant shall submit to the City at annual intervals, a report detailing operating data for the facility, including but not limited to days of operation, energy production, and certification of compliance with noise standards; such measurements shall be signed by an acoustical engineer stating that the noise measurements are accurate and meeting the Noise Standards sub-section of this ordinance.

**(c)** Notice shall be provided to the city of any change in ownership of the facility or discontinued operation for more than a two week period.

**5.22.15 ABANDONMENT or DISCONTINUATION of USE**

**(a)** At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant shall notify the city 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 facility shall be considered abandoned or discontinued if the facility is inoperable for 180 days or if designated a safety hazard by the Building Inspector. In the case of a multi-turbine facility, the City Council shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.

**(b)** Upon abandonment or discontinuation of use, the owner may be required to physically remove the wind energy conversion facility within 180 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the operator and at the discretion of the City Council. Physically remove shall include but not be limited to:

1. Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;
2. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations;
3. Restoration of the location of the wind energy conversion facility to its natural pre-existing condition, except that any landscaping, grading or below-grade foundation may remain in the after- condition. Restoration shall be verified by the Gloucester Building Inspector and Gloucester Health Department.

**(c)** If an applicant fails to remove a wind energy conversion facility in accordance with this section of this ordinance, the city shall have the authority to enter the subject property and physically remove the facility. The City Council may require the applicant, and/or subsequent owners of the property or wind energy conversion facility, to provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the City Council's election at the time of construction to cover costs of the removal in the event the city must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of compliance with this section. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for a Cost of Living Adjustment after 10 and 15 years.

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

**(Adopted May 15, 2007)**

## 5.23 RESIDENTIAL LAND-BASED WIND ENERGY CONVERSION FACILITIES

### 5.23.1 PURPOSE and INTENT

The purpose of this section is to accommodate land-based residential wind energy conversion facilities in appropriate locations, while minimizing adverse visual, safety and environmental impacts of the facilities. The ordinance enables the review of residential wind energy conversion facilities by the Zoning Board of Appeals in keeping with the City of Gloucester Code of Ordinances and Zoning Ordinance. This ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, general wetlands ordinance, and other local regulations designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Gloucester.

### 5.23.2 DEFINITIONS

**Residential Wind Energy Conversion Facility (RWECF)**: A wind energy conversion facility with a blade-tip height up to 150 feet as measured from existing average grade.

**Height:** The height of a wind turbine measured from existing average grade to the tip of the rotor blade at its highest point, or blade-tip height.

**Special Permit Granting Authority:** The Special Permit Granting Authority for a residential wind energy conversion facility shall be the Zoning Board of Appeals.

**Wind Turbine**: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

### 5.23.3 SPECIAL PERMIT REQUIREMENTS

A special permit may be issued by the Zoning Board of Appeals for the erection of a RWECF, as an accessory use in any designated residential district or in connection with any residential use in a designated commercial district, subject to the following conditions as well as those set forth in section 1.4.1.2.

**(a) Location and Lot Size:** Tower-mounted RWECFs are allowed in all residential zoning districts and VB. Tower-mounted residential wind energy facilities shall not be placed on lots of less than 40,000 square feet (see Section II, 2.3.7 Accessory Use Number 18).

**(b) Height**: The height of a wind turbine shall be no higher than 150 feet measured from existing average grade to the tip of the rotor blade at its highest point or blade-tip height. The Zoning Board of Appeals may allow this height to be exceeded as a part of the special permit process if the project proponent can demonstrate

1. that the additional height is needed and would result in significant additional benefits in terms of energy production and efficiency, and
2. by submission of substantial evidence that such height reflects industry standards for a similarly rated wind energy conversion facility, and

3. that the proposed wind energy conversion facility satisfies all other criteria for the granting of a special permit under this section of the Zoning Ordinance.
4. The allowance to exceed the height of 150 feet shall not constitute a variance from the Zoning Ordinance.

**(c) Set-backs:** No part of the residential wind energy conversion facility support structure, including guy wire anchors, may extend closer to the property boundaries than the standard structure setbacks for the zoning district where the land is located.

1. The base of the residential wind turbine tower must be set back at least 10 feet from any habitable structure on the lot on which it is located.

2. In order to ensure public safety and to protect the interests of neighboring property owners, the minimum distance from the base of the wind turbine tower to the nearest dwelling, business or institutional use on abutting properties shall be 1.0 times the overall blade tip height, and 100 feet from property lines, and public or private ways. A setback from a lot line shall not be required when the abutting owner(s) grants an easement to the owner of the RWECF. Such easements shall be provided at the time of application. In a case where the applicant is also the owner of the abutting property, the setback shall be measured from the furthest lot line of the abutting property.

3. Setbacks distances may be reduced by Zoning Board of Appeals based on site specific criteria and if the project is consistent with special permit granting criteria and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable.

**(d) Noise:** The RWECF shall be certified by the manufacturer to meet the following maximum noise levels at ground level, as measured by the "A" scale of a Type 1 Sound Level Meter, at a point one hundred feet from the tower base, with the wind averaging thirty miles-per-hour or less:

| Ambient Reading (without RWECF operating) | Maximum Reading (with RWECF operating) |
|---|---|
| 45 dB or less | 48 dB |
| 45 dB | 50 dB |
| 50 dB | 55 dB |
| 55 dB | 60 dB |
| 60 dB | 65 dB |

In no instance may the noise level at the lot line exceed 10 dB(A) over the ambient sound level. In a case where the applicant is also the owner of the abutting property, the distance shall be measured from the furthest lot line of the abutting property. The Zoning Board of Appeals may require an analysis, prepared by a qualified engineer to demonstrate compliance with these noise standards.

**(e) Prevention of Tower Access:** Climbing access to the tower shall be limited by one of the following methods: by placing climbing apparatus no lower than ten feet from the ground, or by

placing shielding over climbing apparatus or access, or by installation of a fence that touches the ground with a minimum height of 6 feet.

**(f) Compliance with FCC Regulations:** The RWECF shall be certified by the manufacturer to be in conformance with the Regulations of the Federal Communications Commission (47 CFR Part 15) relating to possible interference with radio or television reception.

**(g) Compliance with Uniform Building Code:** Building permit applications for residential wind energy conversion facilities shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

**(h) Compliance with FAA Regulations:** Wind energy conversion facilities must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

**(i) Compliance with National Electric Code:** Building permit applications for wind energy conversion facilities shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

**(j) Utility Notification:** No wind energy conversion facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

**(l) Special Permit Approval Criteria**: Any special permit for a RWECF granted shall meet the following conditions:

1. the specific site is an appropriate location for such use; and
2. the use will not pose a significant adverse impact to the health and safety of the neighborhood; and
3. there will be no serious hazard to pedestrians or vehicles from the use; and
4. adequate and appropriate facilities will be provided for the proper operation of the use.

Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind energy conversion facility, should they occur.

Residential wind energy conversion facilities will not require a Height Exception under Section 3.1.6 of the Gloucester Zoning Ordinance.

### 5.23.4 ABANDONMENT

A residential wind energy conversion facility will be considered to be abandoned if it is not operated continuously for a period of one year, or if it is designated a safety hazard by the building inspector. Once an RWECF is designated as abandoned or a safety hazard, the owner shall be required to immediately physically remove the installation, which shall include, but not be limited to:

**(a)** removal of RWECF, any equipment shelters and security barriers from the subject property; and
**(b)** proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations; and
**(c)** restoring the location of the RWECF to its natural condition, except that any landscaping and grading shall remain in the after-condition.

The city retains the right to enter and remove an abandoned or hazardous RWECF that is not removed by the property owner within six (6) months from the date of abandonment. All RWECF removal and associated costs will be charged to the property owner as a tax lien on the property.

**5.23.5 LAPSE of SPECIAL PERMIT**

Any special permit granted under this subsection shall lapse if construction of the RWECF is not commenced within two years following the date of its issuance, unless good cause for failure to begin construction can be shown by the applicant to the Zoning Board of Appeals prior to the expiration of the Special Permit. Financial ability shall not be considered cause for delay.

**5.23.5 SEVERABILITY**

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

**(Adopted May 15, 2007)**

## 5.24 ACCESSORY IN-LAW APARTMENTS

### 5.24.1 Purpose and Intent

The purpose of Accessory In-law Apartments is to facilitate a family's need for housing family members, young and old, and preserve the character of neighborhoods in the City of Gloucester. The intent of this ordinance is to permit the use of Accessory In-law Apartments within existing and new owner-occupied single-family dwellings. This ordinance shall be enforced through an Amnesty Program which shall be adopted as a zoning amendment no later than December 31, 2007.

### 5.24.2 Definitions

**Accessory In-law Apartment.** A dwelling unit located within an owner-occupied single-family dwelling with one or more rooms with kitchen and bathroom facilities that are separate from those of the principal dwelling. The unit shall be designed for the occupancy of a family member(s), and shall remain under the same ownership of the principal dwelling. An Accessory In-law Apartment shall not constitute a two-family dwelling as defined in Section VI**.** No more than one Accessory In-law Apartment shall be located on a single lot. An Accessory In-law Apartment shall require a special permit from the Zoning Board of Appeals.

**Family.** One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of six (6) or more persons who are not within the second degree kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

### 5.24.3 Administration

(a) Applicability: Accessory In-law Apartments are allowed by special permit in all residential districts**.** (See Section II, 2.3.7, Accessory Use Number 20.)

(b) The Special Permit Granting Authority (SPGA) shall be the Zoning Board of Appeals, which may grant a special permit for the alteration of an owner-occupied single-family dwelling to include an Accessory In-law Apartment subject to the following requirements as stated below in Section 5.24.4, as well as those set forth in Sections 1.5 and 1.8 of this Zoning Ordinance.

(c) Prior to applying for an Accessory In-law Apartment Special Permit the owner may submit plans of the proposed work for completion to the Building Inspector for review.

### 5.24.4 Special Permit Requirements

(a) The lot on which such Accessory In-law Apartment is located shall contain at least five thousand (5,000) square feet of lot area.

(b) The size of the Accessory In-law Apartment shall not exceed six hundred (600) square feet or 35% of the total gross floor area of the principal dwelling, whichever is greater, including a bathroom and kitchen.

(c) The record owner of the property shall live on the premises. The special permit shall be issued to the record owner of the property.

(d) An affidavit by the record owner, sworn under penalties of perjury, with proper documentation is required to certify that the Accessory In-law Apartment living area is for a family member(s). Prior to the issuance of a Building Permit, the owner(s) must notify the Building Inspector in writing that the owner will occupy one of the dwelling units on the premises as the owner's primary residence**.**

(e) The requirement for off-street parking as specified in Section 4.1 shall apply to the addition of one Accessory In-law Apartment in a single-family dwelling.

(f) Any exterior changes shall be limited to construction that allows for the accommodation of an Accessory In-law Apartment, and shall be consistent with the appearance of the structure as a single-family dwelling and with the character of the neighborhood. The Zoning Board of Appeals may require that there be no change or minimal change to any face of a building oriented toward a street.

(g) Existing utilities serving the principal dwelling such as water, sewer, electric, and gas may be utilized for the Accessory In-law Apartment.

(h) If the single-family dwelling is not served by city sewer, the sanitary disposal system shall comply with Massachusetts State Environmental Code, Title 5, and the Gloucester On-Site Wastewater Regulations.

(i) Compensatory Sewer Fee and Sewer Betterment Assessment:

1. If a sewer betterment has previously been assessed to an existing single-family dwelling, the permitting of the Accessory In-law Apartment shall not result in a compensatory sewer privilege fee under Code of Ordinances Section 23-23.

2. If the Accessory In-law Apartment to be permitted is in a single-family dwelling to be assessed a sewer betterment under Code of Ordinances Sections 23-15 and 23-24, the dwelling shall be counted as one unit and not as two.

(j) In granting a special permit the Zoning Board of Appeals may impose such conditions and limitations as it may deem appropriate to avoid detriment to the neighborhood or to nearby property.

(k) The special permit shall be recorded at the South Essex District Registry of Deeds or Land Court against the title of the record owner of the lot. Prior to the issuance of a building permit the applicant must submit proof of the recording of the special permit to the Building Inspector.

**5.24.5 Monitoring and Enforcement**

(a) Following the granting of a special permit by the Zoning Board of Appeals hereunder, the Occupancy Permit for an Accessory In-law Apartment shall be renewed annually on or before January 31st**.** The record owner shall submit a written letter to the Building Inspector verifying

the continued use. For such purpose of renewal, the Building Inspector shall have the right at a reasonable time to inspect the premises to determine compliance per requirements of this ordinance and the special permit**.**

(b) The special permit shall terminate upon any one of the following, and the Accessory In-law Apartment shall be vacated and use discontinued:

1. When the house is sold or the ownership transferred; or

2. If the principal dwelling or the Accessory In-law Apartment ceases to be occupied by the owner or a family member**;** or

3. Discontinued use of the Accessory In-law Apartment by the owner or a family Member for more than one year.

(c) When a single-family dwelling with an Accessory In-law Apartment is sold or transferred, and the new owner(s) wishes to continue use of said Accessory In-law Apartment, they must apply for a new special permit from the Zoning Board of Appeals within six (6) months of the sale or transfer.

(d) The Accessory In-law Apartment shall not be held in, or transferred into separate ownership from the principal dwelling under a condominium form of ownership, or otherwise.

**(Adopted May 15, 2007)**

# SECTION VI DEFINITIONS

In this Ordinance the following terms, unless a contrary meaning is required by the content or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

Accessory Building or Use: A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory.

Animal Feedlot: A plot of land on which 25 livestock or more per acre are kept for the purposes of feeding.

Animal Kennel or Hospital: A structure used for the harboring and/or care of more than three dogs that are more than six months old, whether commercially operated or not.

Arterial Street: All state-numbered highways (Routes 127, 127A, 128, 133), Atlantic Road north of Moorland Road, Bass Avenue west of Thatcher Road, East Main Street, Eastern Point Road, Rogers Street, and Sayward Street, plus any streets subsequently laid out with right-of-way width of eighty (80) feet or more.

Aquifer: A confined geologic formation composed of rock or unconsolidated material, from which significant quantities of potable water may be obtained.

Assisted Living: See Section 5.14

Automatic Amusement Devices: Devices as defined at and in compliance with Code of Ordinances, Part II, Chapter 3, Article III, as said article may be amended from time to time.

Bedroom: Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds seventy (70) square feet.

Billboard: A structure or part of a structure, of any size, either free-standing or affixed to a building, the surface of which is for hire for advertising purposes.

Boarding, Lodging, or Rooming House: A building which contains rooms offered for lodging and in which meals also may be served to lodgers only, provided that the house is licensed by the Licensing Board and appropriate agencies, and the total number of lodgers in any boarding house may not exceed twenty (20) persons.

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.

Building Height: See Section 3.1.8.

Bulk Storage (Outdoor): Exposed outdoor storage of sand, lumber, coal, or other bulk materials, bulk storage of liquids in tanks, excluding underground tanks that are accessory to a principal use.

Camper: A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. Includes equipment commonly called travel trailers, pick-up coaches or campers, motorized campers, and tent trailers, but not mobile homes.

Camp Ground: Premises used for travel trailers, campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

Camping, Supervised: Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and/or athletic program, with persons enrolled for periods of not less than one week.

Casino Ship: "Casino Ship" includes all boats landing or mooring in Gloucester where its customers do not lodge on board overnight, where it has only one port of docking and destination and where gaming is its main activity. (Adopted 7/6/99)

Club or Lodge: Premises or buildings of a non-profit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried out as a business.

Collector Street: Any street, other than an arterial street, which serves non-residential property fronting thereon, or subsequently laid out having a right-of-way of at least sixty (60) feet wide, plus the following named streets: Atlantic Road, south of Moorland; Atlantic Street south of Massachusetts Avenue; Concord Street south of Bray Street; Farrington Avenue; Haskell Street; Hesperus Avenue east of Norman Avenue; Magnolia Avenue; Maplewood Avenue; Moorland Road; Mt. Pleasant Avenue; Norman Avenue; Pleasant Street; Poplar Street; Prospect Street; Railroad Avenue; Reynard Street; and Wheeler Street south of Shore Hills Rd.

Condominiums: Land and building or buildings thereon, containing office or dwelling units and common areas and facilities which are regulated and managed by an organization of unit owners, under a master deed according to the provisions of Ch. 183A., M.G.L.

Consumer Service Use: An establishment in which the principal activity is the performance of a service. Consumer service establishments include, but are not necessarily limited to, the following: appliance repair, barber shop, beauty salon, catering, locksmith, photographer's studio, printing establishment, radio/TV repair, shoe repair, sign painting, tailor, watch and jewelry repair.

Contractor's Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Corner Lot: See Section 3.1.8.

Cruise Ship: "Cruise ship" includes all boats landing or mooring in Gloucester Harbor whose main purpose is to travel to more than one port, where all its passengers lodge on board overnight and where gaming is incidental to the main purpose of visiting more than one port on each voyage. (Adopted 7/6/99)

Discharge: The disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Drive-Through Facility: A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle, although this shall not include the selling of fuel at a gasoline filling station or the accessory functions of a car wash facility such as a vacuum cleaning stations. See Section 5.17, Drive-Through Facilities, for permitting requirements.

Dwelling: A building or part of a building used exclusively as the living quarters for one or more families.

Dwelling Unit: Living quarters for a single family with cooking, living, sanitary, and sleeping facilities for each unit.

Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenancy, including row or townhouse structures; or a structure containing one or more permitted non-residential uses on the ground floor, or on the ground and other floors, and also containing one or more dwelling units above the ground floor.

Dwelling, Single-Family Detached: A building containing a single dwelling unit, and having no common or party walls.

Dwelling, Two-Family: A building containing two (2) dwelling units that are in immediate proximity to each other and share either a common vertical exterior wall or a floor/ceiling separation. The length of any connecting corridor, hallway or passageway may not exceed three (3) times the width of corridor, hallway or passageway. (Amended 12/11/01)

Family: One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of six (6) or more persons who are not within the second degree kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

Fast Food Restaurant: Any restaurant serving the majority of its food in disposable containers, packages, or other similar wrapping, for consumption on or off the premises.

Fish: Means fin fish, mollusks, crustaceans, and all other forms of marine animals and plant life, except marine mammals and birds.

Fishing Vessel: Means a vessel that commercially engages in the catching, taking or harvesting of fish or an activity that can be reasonably expected to result in the catching, taking or harvesting of fish (as defined in the Commercial Fishing Industry Vessel Act, P.L. 98-364, 46 U.S.C. Sec. 2101-2114 as amended).

Floor Area: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including the area of basements not more than fifty (50) percent below grade, roofed porches and roofed terraces, excluding areas with less than six (6) feet floor to ceiling height. All dimensions shall be measured between exterior faces of walls.

Gross Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Groundwater: Water located beneath the earth's surface in the zone of saturation of unconsolidated or consolidated aquifers.

Guest Unit: A bedroom or suite of rooms, including a bedroom, in a hotel, motel, motor inn, lodging house, guest house, Bed and Breakfast Home or Establishment, to be rented as separate units to transient guests.

Hazardous waste: A product or waste or combination of substances which because of quantity, concentration, or physical, or chemical, or infectious characteristics poses, in the Board of Health's judgement, a substantial present or potential hazard to the human health, safety, or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in G.L., Ch. 21C, shall also be deemed a hazardous material for the purpose of this ordinance.

Hostel: An overnight lodging facility licensed by a recognized national or international hostelling organization, offering temporary lodging and services related to hostelling to members of such organizations and other travelers. Lodging shall not be provided to any individual for more than 14 days in any six month period, or for more than seven consecuative days.

Hotel, Motel, Motor Inn: A structure or structures providing sleeping rooms for residence of transient guests, and where public eating facilities are provided; but not including buildings of charitable, educational or philanthropic institutions.

Impervious Surface: Material on the ground that does not allow surface water to penetrate into the soil.

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 can be used for its original purpose as readily as when new, shall not be considered junk.

Junk Yard: Premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, packed, bought or sold.

Leachable Waste: Waste materials, including solid wastes, sewage, sludge, and agriculture wastes, that are capable of releasing water-borne contaminants to the surrounding environment.

Lot: See Section 3.1.8.

Lot Area: See Section 3.1.8.

Lot Coverage: See Section 3.1.8.

Lot Frontage: See Section 3.1.8.

Lot Width: See Section 3.1.8.

Marine-Related: An activity involving, pertaining to or requiring the loading, unloading, storage, processing or sale of fish or other water-borne goods or materials, or the embarking or disembarking of passengers, or the docking, construction, repair, servicing or maintenance of vessels.

Mining of Land: The removal or relocation of earth materials, including but not limited to, topsoil, sand and gravel, metallic ores, or bedrock.

Mobile Home: A movable or portable dwelling unit built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living. A manufactured home designed for installation on a permanent foundation and for permanent connection to utilities without any provision for attachment of wheels shall not be considered a mobile home, whether or not built on a chassis, provided such manufactured home has a brick, wood, or similar exterior, and a pitched roof; and meets U.S. Department of Housing and Urban Development construction and safety standards.

Mobile Home Park: Premises which have been planned and improved for the placement of mobile homes for nontransient use.

Mural: A decorative display applied directly to a wall surface without supplementary backing, framing or other means of support.

Nonconforming Building or Lot: A building or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

Nonconforming Use: A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

Nursery School or Day Care Center: Any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other name which receives children, not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for non-residential custody and care during part of all of the day separate from their school system; any part of a private organized educational system, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

Nursing, Convalescent or Rest Home, Hospital: An institution licensed by the Department of Public Health as a nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium pursuant to Sections 51 and 71 of Chapter III, General Laws.

Open Space: Lot area not covered by any structure other than a swimming pool, and not used for driveways, parking or storage. However, balconies and any roof area developed for recreation shall be deemed to be open space.

Parking Space: Space adequate to park an automobile, plus means of access. All parking spaces required by this Ordinance shall be built to the standards set forth in Section 4.1.4. Where spaces are not marked, each space shall be assumed to require 350 square feet.

Personal Wireless Service Facility: See Section 5.13

Philanthropic Institution: An endowed or charitably supported non-profit religious or non-sectarian activity maintained for a public or semi-public use.

Principal Building or Use: Building or use other than an accessory one.

Public Utility: Electrical, gas, steam, water, communication or public passenger transportation systems and their appurtenances. Excluded from this definition are all personal wireless service facilities.

Radio Transmission: Premises used for the commercial transmission of radio or television, not including studios.

Recharge Area: Area of permeable earth materials which is hydrologically connected to aquifers through which precipitation or surface water is transmitted to the subsurface zone of saturation.

Recreational Vessel: Means a vessel that is (a) being manufactured or operated primarily for pleasure; or (b) leased, rented or chartered to another for the latter's pleasure.

Retail Use: A business establishment where the principal activity is the sale of goods directly to the consumer. Retail business uses include, but are not necessarily limited to, the following: antique store, appliance store, book/newspaper store, clothing store, computer store, department store, drug store, dry goods store, furniture store, grocery store, jewelry store, liquor store, musical instruments, stereo/video store, variety store.

Shopping Center: A retail business, entertainment, or consumer service establishment or an aggregation of such establishments on the same premises, having a minimum of 10,000 square feet of gross floor area.

Sign: Any device, including those on or inside of windows, designed to inform or attract the attention of persons not on the premises on which the sign is located, except for those devices specifically not considered signs in Section 4.3.1.

Sign, Accessory: A sign whose subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services or activities on the premises.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs shall be included in calculating sign area.

Sign, Free-Standing: A sign erected or affixed to the land, and not attached to a building.

Sign, Non-Accessory: Any billboard, or sign not an accessory sign.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

State Highway: A highway owned by the Commonwealth of Massachusetts, or one designated as a State Numbered Highway by the Massachusetts Department of Public Works.

Street: Any public or private way which, by lawful procedure, has been recognized by the City and which has, as determined by the Planning Board, sufficient width, suitable grades and sight distances, adequate clearances, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land deriving frontage therefrom, and for the installation of municipal services to serve such land and the buildings erected or to be erected on such land.

Street Line: The right-of-way line of a street, assumed to be twenty (20) feet from the center of the traveled roadway where no such right-of-way line has been established or can be readily determined.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground. Structures include buildings, mobile homes, billboards, fences that exceed six (6) feet in height, swimming pools, tanks, or the like, or part thereof; boundary walls and fences not exceeding six feet in height are not considered to be structures.

Swimming Pool: Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having depth of two feet or more and having a capacity of two hundred cubic feet or more in volume shall be considered structures.

Temporary Structure: Tent, construction shanty, or trailers, or similarly portable or demountable structures, intended for continuous use for not longer than one year.

Temporary Use: Use, occupation or occupancy of a parcel of land, building or structure for a period not to exceed one calendar year.

Trailer Truck Park: A transportation terminal principally used for the parking, storage, and servicing of trailer trucks or other trucks of more than two-ton capacity, may include eating and sleeping facilities for truck drivers.

Transportation Terminal: Premises principally used for the loading or unloading of cargo from or into vehicles or storage, which may include the parking, storage or servicing of such vehicles, including trucks, rail freight cars, and marine vessels; but not including such activities if customarily accessory to a principal use.

Utility Trailer: A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

Water's Edge: The point where land, seawall or bulkhead meets the mean high tide line, or if a pier or dock extends beyond the mean high tide line, the edge of that pier or dock next to the water.

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

Yard: See Section 3.1.8.

Yard, Front: See Section 3.1.8.

Yard, Rear: See Section 3.1.8.

Yard, Side: See Section 3.1.8.

Yard Sale: The occasional temporary use of a yard or garage for the retail sale of household articles formerly used by the residents of those or neighboring premises.

# APPENDIX A - RULE 25: RULES OF PROCEDURE

## SPECIAL PERMIT PROCEDURES

## PART I: STATUTORY REQUIREMENTS

The following summary of the provisions of Chapter 40A of the General Laws of Massachusetts that govern the City Council's actions on Special Permits is included for the convenience and information of applicants for Special Permits and other interested citizens. The Council cannot depart from the following prescribed procedures in its handling of such Special Permits as are assigned to it for decision by the Zoning Ordinance.

These rules are adopted by the City Council in compliance with Section 9, Chapter 40A, M.G.L.

### GENERAL PROCEDURE:

Special Permits by the City Council shall only be issued following a public hearing(s) held within sixty-five (65) days after the filing of an application with the City Council. The date of filing shall be considered the date a complete application is received by the City Clerk's Office. A complete application will contain all the information required under Section 1.4.2.2 of this Ordinance, and "Major Projects" as defined herein shall be submitted in conformance with the additional requirements of Section 5.7.2. Personal Wireless Service Facilities, as defined herein shall be submitted in conformance with Section 1.4.4.2 of the Ordinance and the additional requirements of Section 5.13.5. All reference to Special Permits, without specifying type (i.e., "CC", "CCS", or "Major Projects") shall be considered a "CC" permit.

The required public hearing may be held before a Committee of the City Council, or before the entire City Council, as the Council so chooses. The entire City Council shall vote on the Special Permit application within ninety (90) days following the close of the public hearing, after receiving a report by the Committee, if any, that held the public hearing. The vote to grant a Special Permit will be by two-thirds vote of all members of the City Council. Failure by the City Council to take final action upon any application for a Special Permit within said ninety (90) days following the close of the public hearing shall be deemed to be a grant of the permit applied for. The Council shall follow the Council Rules on Special Permit Procedures set forth in Part II of this section.

### NOTICE:

Notice of the public hearing shall be published in the local newspaper of general circulation in each of two successive weeks, the first publication at least fourteen (14) days before the day of the hearing, and by posting such notice in the City Hall for a period of not less than fourteen (14) days before the day of said hearing.

Notice shall also be mailed, postage prepaid, to:

(a) the applicant, or petitioner;
(b) the Planning Board;
(c) the owners of land abutting the applicant's property, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recently applicable tax list;

(d) the owners of land directly opposite on any public or private street or way;
(e) the owners of all other property deemed by the City Council to be affected;
(f) the Planning Boards of all abutting cities or towns.

The Assessor's Department shall certify to the City Council the names and addresses of parties in interest as defined above and such certification shall be conclusive for all purposes.

The notice shall contain the name of the applicant, the location of the area or premises for which the permit is applied, the street address, if any, the subject matter of the hearing, the nature of the action or relief being sought, and the date and place of the public hearing.

**PUBLIC HEARING:**

The presiding officer at the hearing may administer oaths, summon witnesses, and call for the production of papers.

All hearings shall be open to the public.

**DECISION:**

There must be a detailed record of the Council's proceedings, showing the vote of each member on each question (or if absent or failing to vote). This record must set forth clearly the reasons for the Council's decisions. City Council decision shall be based upon the written determination of the impact on the items of consideration listed in Section 1.4.2.2(e) of this Ordinance. Copies of the record are to be filed with the City Clerk and the Planning Board. Notice of the decision shall be mailed to all parties in interest, and also to each person at the public hearing who so requests.

The Council shall issue to the landowner a certified notice of the granting of any Special Permit, containing the name and address of the landowner, identifying the land affected, and stating that a Special Permit has been granted as set forth in the decision on file with the City Clerk. The permit does not take effect until this decision has been recorded in the Registry of Deeds, with the recording fee paid by the owner.

If an application has been denied by the City Council it may not be again considered on its merits within two (2) years of the decision except with the consent of all but one of the members of the Planning Board.

**APPEALS:**

Any person aggrieved by a decision of the City Council on a Special Permit, whether or not previously a party to the proceeding, or any Municipal Officer or Board may appeal to the Superior Court Department of Essex County, by bringing action within twenty (20) days after the decision has been filed in the Office of the City Clerk. Appeal procedures shall conform to Section 17 of Chapter 40A, M.G.L.

## PART II: COUNCIL RULES ON SPECIAL PERMIT PROCEDURES

As required by Chapter 40A of the General Laws, the Gloucester City Council adopts the following rules for its procedure in acting on Special Permits assigned to the City Council for decision by the Zoning Ordinance:

**1. Preliminary Informal Review**

To promote better communication and avoid misunderstanding, applicants for Special Permits are encouraged to submit preliminary materials for informal review by the City Council or its standing committee, the Planning Board, the Building Inspector, the City Planner, and any other City officials or agency that the applicant considers likely to be considered in the decision. On all major projects, in addition to preliminary informal review, an applicant is encouraged at the 25% design stage, to submit materials for an informal interim review; said materials should show the location, height, density, and architectural treatment of buildings, traffic, environmental and utility considerations and the fiscal impact to the City. It is important, however, for applicants to realize that these preliminary informal reviews are not to be thought of as preliminary approvals, and interim informal reviews are in no way binding on the City Council in its action on the final application.

2. Applications for Council Special Permits

a. The Application shall be submitted on forms available at the City Clerk's Office, which have been prescribed and approved by the City Council.

b. The Special Permit shall include a description of whatever criteria are or may be listed in 1.4.2.2(e); for Major Projects there shall be an additional form listing the criteria in 5.7.5.

c. City staff shall be available to assist applicants in preparing the applications, including when appropriate the Building Inspector and the City Planner.

d. No application shall be received by the City Clerk and placed on the City Council agenda unless it is complete, including the materials required by 1.4.2.2(b), 5.7.2 for a Major Project, and 5.13.5 for Personal Wireless Service Facilities. The City Clerk, in determining the completeness of an application, may at his discretion refer it to the Building Inspector, the City Planner, or other City officials. If it is determined through such review that the project cannot be built unless a zoning variance is granted, the City Clerk shall rule that the application is not complete and return it to the applicant without prejudice, so that the applicant may either appeal to the Board of Appeals for the grant of such variance prior to reapplying to the City Council, or revise the plans to eliminate the need for a variance.

e. The City Clerk shall affix the date of receipt of a complete application for Special Permit on the application form. Such date shall constitute the date of filing as set forth in Chapter 40A, M.G.L.

## 3. First Action by City Council

a. When a completed special permit application, including a report and recommendation from the City Staff Review Committee, is received by the City Council, the Council shall refer same to its Planning & Development Committee for their initial review, to make a date for a site visit and set a date for public hearing before the full City Council.

b. The Planning & Development Committee after review may also make a recommendation to the full City Council on disposition of the application, to be read after the City Council's public hearing.

c. Proper notification of the public hearing before the full City Council (as required by State Statute) to the abutters shall be handled by the City Council. However, the applicant shall be responsible for sending out notices to abutters and parties of interest of the date(s) of Planning & Development Standing Committee Review(s).

d. The public hearing date shall be set within sixty-five (65) days of the filing of the application with the City Clerk.

## 4. Public Hearing

a. The first order of business at the public hearing shall be the reading of the notice of the hearing and a determination that the hearing is being properly held.

b. The second order of business shall be a description of the proposed project and the presentation of arguments in favor of the application by the applicant and by any others who wish to speak in favor of the application. There shall be provided by the applicant and displayed within view of the Council and of those attending the hearing such maps, drawings, models, or other graphic materials required to have been submitted with the application as are necessary to explain the proposal.

c. The third order of business shall be presentation of all advisory reports requested or required under 3.c. above. These reports shall have been submitted in writing, but may be presented and summarized orally either by a representative of the reporting agency if one is present or by the City Planner. For Major Projects, the Council may request the presence of representatives of one or more of the reporting agencies.

d. The fourth order of business shall be arguments opposed to the application. This shall be followed by presentation of all communications not covered in Paragraph 4.c., then by brief opportunities for rebuttal by the proponents and counter-rebuttal by the opponents.

e. With all testimony complete, and all questions concerning the proposal answered to the satisfaction of the Council, the public hearing shall be closed. If testimony is not complete, or questions remain to be answered by the applicant(s), opponent(s) or other source(s) of information, as directed by the City Council, the public hearing shall be continued to a time and date certain, and the record shall remain open for additional written communications.

Upon reopening the public hearing, such additional testimony or information shall be presented as set forth in 4.b., 4.c. and 4.d. above. At the conclusion of such additional testimony or presentation of information and all rebuttals as stated in 4.d. above, the public hearing shall be closed.

f. The final order of business shall be Council action, either final or preliminary. (See 5 below)

**5. <u>Council Action</u>**

a. Final action by City Council on a request for Special Permit shall be taken within ninety (90) days following the public hearing. Failure to take action within said ninety (90) day period shall be considered a grant of the permit applied for.

b. If in the course of the public hearing it appears that the project cannot be built unless a zoning variance is granted, the Council shall rule that the application is not complete and therefore is not properly before it; and the application shall be returned to the applicant without prejudice for such action or revision as he may choose.

c. Final Council action on an application for a Special Permit shall be by adoption, by a two-thirds roll call vote, of a written document which shall have been available to every member of the Council prior to the vote, and subject to normal procedures of debate, amendment, and action.

d. This document shall include a specific finding and judgment, in relation to the case in hand, on each of the considerations listed in 1.4.2.2(e) and, where applicable, each of the criteria listed in 5.7.5, 5.13.3 and 5.13.4. It shall conclude with a summary evaluation of the findings and judgments, supporting one of the following actions:

(1) Denial of the Special Permit;

(2) Approval, subject to specified conditions or modifications;

(3) Approval as submitted, without conditions or modifications.

e. Drafts of this document to be considered by the Council may have been prepared by any member of the Council, or by any City official or employee upon instruction by the Council. Written material may be submitted by either proponents or opponents prior to the close of the public hearing, as set forth under Section 4 of these rules.

f. For a simple or non-controversial case, an acceptable draft of this document may be available to the Council at the time of the public hearing. When this is applicable, the Council will take final action on the application at the close of the public hearing.

g. For a complex or controversial case, the Council at the close of the hearing may or may not be ready to make a decision. If the decision is already clear, the Council may pass a motion instructing a specific official or employee to prepare a document in support of the decision for consideration at the next Council meeting. If the decision is not clear, the Council will defer action to its next meeting, but no additional information will be received or considered in addition to the testimony and information obtained during the course of the public hearing and constituting the record of same.

h. The City Council, on each permit granted, shall specify a time period, of not more than two years, within which substantial use thereof must commence, or in the case of construction, that the construction must commence, except for good cause, including such time required to pursue or await appeals proceedings as provided for in state law.

i. The successful applicant shall be required to provide documentary evidence to the City Council proving that any and all conditions specified by the Council in the Special Council Permit issued have been complied with and there upon, the Council will issue a "Certificate of Conditions Complete" or Occupancy Permit for the premises until the City Council has issued said certification of completion.

**Modification of Application of Rules**

In a specific case the Council may find it necessary or desirable to depart from the letter of one or other or these rules. If or when this is done, the departure will be noted in the record together with the reason for it.

## APPENDIX B: SCHEDULE OF FEES UNDER THE CITY OF GLOUCESTER ZONING ORDINANCE

**Application for City Council Special Permit…….…..$ 350.00**

**Application for City Council Major Project Special Permit…..One percent (1%) of construction costs, but in no event less than $1,000.00 or more than $5,000.00**

**Application for City Council Personal Wireless Service Facility Special Permit……....One percent (1%) of construction costs, but in no event less than $1,000.00 or more than $5,000.00**

**Application to the City Council to amend the Zoning Ordinance…….....…….…..$ 350.00**

**Application for Planning Board Special Permit…….....$ 350.00**

**Application to the Zoning Board of Appeals for Special Permit, Variance or Appeal from the Decision of the Inspector of Buildings……..$ 250.00**

**Building Permit……..... $40.00 plus $7.00 per each $1,000.00 of total construction costs**

**Use Permit……..……..……..$40.00**

**Occupancy Permit ……..…….. No charge**

**Revised as of September 2, 2008. Please consult with the Building Department as to possible subsequent revisions.**

## APPENDIX C - REZONED AREAS

1. Adopted March 9, 1999: To rezone the area of land Northwest of the Goose Cove Watershed from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 25,32,33,42 for the above 500+/- acres.)

2. Adopted March 9, 1999: To rezone the Medium Density Residential R-3 (10,000 SF) corridor along Washington Street between Goose Cove and Folly Cove to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 25,32,33,34,35,43 for the above 547 +/- acres.)

3. Adopted March 9, 1999: To rezone Area 39, Special Study District #5, Medium Density Residential (R-3) (10,000 SF) corridor district along Concord and Atlantic Streets to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 13,14,15,16,24,25 for the above 694 +/- acres.)

4. Adopted March 9, 1999: To rezone Area 46, Special Study District #6, South and West of Concord Street from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 9,10,11,14,15,16 for the above 1241+/- acres.)

5. Adopted March 9, 1999: To rezone Area 40, Special Study District #8, the non-urbanized area of Magnolia (excluding Village Business, Neighborhood Business, Extensive Business) currently zoned Medium Density Residential R-3 (10,000 SF) to Low Density Residential R-2 (20,000 SF) which are not within the Watershed. (Refer to Zoning Map numbers 6,7,16,18,19,20,21,22 for the above 1234+/- acres.)

6. Adopted April 27, 1999: To amend by changing the residential zoning for the Little River Sections of the City, Special Study Districts #3 and #4 in the 1998 Buildout Analysis, from R-3, Medium Density Residential 10,000 sq. Ft. Lot size, to R-2, Low-Density Residential, 20,000 sq. ft. Lot.

7. Adopted July 20, 1999: To rezone the area of 18 Biskie Head Point, Charles and Susan Kelly Owners, Assessor's Map 232, Lot 3 from EB (Extensive Business) to R-3 Medium Density Residential.

8. Adopted October 12, 1999: To rezone a section of land with boundaries as shown on the 1998 Metropolitan Area Planning Council's Buildout Analysis Map of Gloucester as Special Study District #7, including an extension of its southerly boundary to Englewood Road then east to Magnolia Woods Park and north to along the northerly side of Western Avenue to its intersection with Bond Street, all currently zoned R-2, to R-2A, 30,000 sq. Ft. Minimum lot size. In addition, all single and two-family houses within the R-2A district that were in existence or for which a building permit was issued before March 9, 1999, are allowed to be altered, reconstructed, or extended providing they maintain a minimum front yard setback of 20 feet, side yard setback of 10 feet and a rear yard setback of 20 feet.

9. Adopted December 7, 1999: To rezone lots in the Woodbury Street area of North Gloucester from Low Density Residential, (R-2) 20,000 square foot minimum lot size to Rural Residential-B (RR-B), 80,000 square foot minimum lot size on the following City Assessors' Maps and Lots:

Map 150: Lots 1, 2, 3, 6, 7, 8, 9, 11, 12, 16 ; Map 149: Lots 3, 4, 5, 6, 7, 10, 11, 12, 14, 15, 16; Map 148: Lots 4, 8, 20, 22, 23, 24.

10. Adopted August 21, 2001: To remove 20,040 square feet from the General Industrial (GI) Zoning District and then add the exact same area and location to the High Density Residential (R-4) District. As referenced on Assessor's Map 32 (Map dated August 28, 1986, last revised June 12, 1990) the zoning change encompasses Lots 20, 21, 24 and 25.

11. Adopted October 29, 2002: To remove 7,953 square feet at 30 Sadler Street from General Industrial (GI) and then add the exact same area and location to the High Density Residential District (R-4), as referenced on Assessor's Map 262 (Map dated January 1990, last revised May 14, 1998), Lot 9.

12. Adopted March 18, 2003: To rezone 147 Essex Avenue as referenced on Assessor's Map 218, Lot 32 from General Industrial (GI) to Village Business (VB).

13. Adopted April 15, 2003: To rezone 27 Railroad Avenue as referenced on Assessor's Map 24, Lot 59 from General Industrial (GI) to Neighborhood Business (NB).

14. Adopted July 15, 2005: To rezone 88.25 feet along Washington Street, 288.16 feet along Myrtle Square and 190 feet along Maplewood Avenue, by removing 6.74 acres in General Industrial and.4 acres in R-4 high density residential and replacing the exact same area to the Extensive Business district as referenced on Assessor's Map 24, Lot 51.

15. Adopted November 29, 2005: To rezone a parcel off Blackburn Circle and Route 128 as shown on Assessor's Map 262, Lot 13 (33.689 acres), zoned medium/high density residential to Extensive Business to allow for retail buildings and assisted living facilities.

16. Adopted March 21, 2006. To rezone 85-89 Bass Avenue, Assessor's Map 66, Lot 12, from Extensive Business and R-3 medium/high density residential to Neighborhood Business.

17. Adopted January 23, 2007. To rezone 7.9 acres in the General Industrial (GI) district to Extensive Business (EB), and to rezone 4.8 acres in the R-2 district to EB at the intersectiion of Concord Street and Route 128, Assessors Map 234, Lots 38 amd 42 respectively; conditioned upon the five page memorandum of agreement between the City of Gloucester and Demoulas dated 1/3/2007.

18. Adopted February 6, 2007: To rezone approximately 1,806 sq. ft. from Civic Center District (CCD) to Central Business (CB) at 18 and 20 Pleasant Street, Assessor's Map 8, Lots 54 and 84.

19. Adopted December 11, 2007: To rezone parcel at 73 Comcord Street, Assessor's Map 234, Lot 39, from R-2 low/medium residential density to Extensive Business.

## APPENDIX D - INDEX OF ADOPTIONS / AMENDMENTS

| Year | Date | Section | Adoption/Amendment |
|---|---|---|---|
| **1998** | 04/14 | 1.4.2.2(a) | City Council Special Permit Procedures |
| | 04/14 | 1.4.2.2(b)4 | City Council Special Permit: Personal Wireless Service |
| | 04/14 | 5.13.5 | Personal Wireless Service Facility |
| | 09/01 | 1.4.2.2(b)5 | City Council Special Permit: Protein Recovery Plant |
| | 09/01 | 2.3.4, #41A | Protein Recovery Plant |
| | 11/10 | Appendix B, II | One year building moratorium - Wards 4 and 5 |
| | 12/08 | 2.3, 2.3.1 | Use Regulations Schedule-One Family to Two |
| | 12/08 | 3.4, 3.4.1 | Pork Chop Lots: Conditions for Issuance-Minimum Lot Area |
| **1999** | 03/02 | 4.1, 4.1.1 (c) | Off-Street Parking |
| | 03/09 | Appendix C | Rezone: Goose Cove Watershed |
| | 03/09 | Appendix C | Rezone: Washington St. corridor between Goose & Folly Cove |
| | 03/09 | Appendix C | Rezone: Concord and Atlantic Streets |
| | 03/09 | Appendix C | Rezone: South and West of Concord Street |
| | 03/09 | Appendix C | Rezone: Non-Urbanized area of Magnolia |
| | 03/09 | Section VI | Definitions: Lot Area |
| | 03/09 | 5.13.3.3g (1) | Dimensional requirements for Personal Wireless |
| | 04/27 | Appendix C | Rezone: Little River-Districts #3 and #4 |
| | 05/25 | Appendix B, II | One year building moratorium-Wards 1 and 3 |
| | 06/22 | 2.4.3(a) | Use Regulations-Minimum Setbacks, R-RA & R-2 |
| | 06/22 | 3.2 Footnote l | Dimensional Regulations-Yard Setbacks |
| | 07/06 | 2.3.3 - Para. 29 | Open Uses-Permitted Use Area-Casino Boats |
| | 07/06 | 2.3.3 - Ftnote (2) | Definition: Cruise Ship/Casino Ship |
| | 07/06 | Section VI | Definition: Cruise Ship/Casino Ship |
| | 07/06 | 4.1, 4.1.2 | Off-Street Parking-Casino Boat Water Uses |
| | 07/20 | Appendix C | Rezone: Biskie Head Point |
| | 08/10 | Appendix B, II | One year building moratorium - Ward 2 |
| | 10/12 | Appendix C | Rezone: District #7 - Magnolia |
| | 10/12 | Section VI | Definitions: Building Height |
| | 10/26 | 5.5.4 | Lowland Requirements |
| | 12/07 | Appendix C | Rezone: Woodbury Street area |
| **2000** | 05/03 | Appendix B, I | West Gloucester Interim Planning Overlay District |
| | 06/20 | 5.14 | Assisted Living Facilities |
| | 06/20 | 5.7 | Major Projects |
| | 06/20 | 2.3.1 | Residential Use |
| | 08/29 | 1.3.3 (a) | Procedures to Obtain Permits |
| | 08/29 | 1.3.4 | Drainage and Grading Requirements |
| **2001** | 08/21 | Appendix C | Rezone: District-GI to R-4, Map 32, Lots 20, 21, 24, 25 |
| | 10/09 | 1.4.2.2(b) | City Council Special Permits |
| | 11/27 | 3.1.8 | Term usage - “building”, MGL Ch. 41, Sec. 81L |
| | 12/11 | Section VI | Definitions: Dwelling: Two-Family |

| Year | Date | Section | Adoption/Amendment |
|---|---|---|---|
| **2002** | 01/22 | 2.4.3 (a & b) | Non-Conforming Uses, Structures & Lots |
| | 01/22 | 3.2 ftnotes (k & l) | Intensity of Use Schedule Footnotes |
| | 08/20 | 5.15 | Open Space Residential Development |
| | 10/29 | Appendix C | Rezone 30 Sadler Street (7,953 sf) from GI to R-4 |
| **2003** | 02/04 | 5.16 | Village Development Overlay District |
| | 03/18 | Appendix C | Rezone 147 Essex Avenue (Map 218, Lot 32) from GI to VB |
| | 04/15 | Appendix C | Rezone 27 Railroad Avenue (Map 24, Lot 59) from GI to NB |
| | 06/24 | 1.3.6; 1.4.2.1(a); 1.4.2.2(a) | Fee changes |
| | 09/16 | 3.2 Footnote (e); 3.2.1(4); 3.2.2(3) | Building Height |
| **2004** | 07/13 | 5.17 | Drive-Through Facilities Added |
| **2005** | 06/23 | 1.4.2.2(a) | Submittal fee for Special Permits $250.00 to $350.00 |
| | 07/13 | Appendix C | Rezone Myrtle Square area from GI & R-4 to EB |
| | 09/06 | 2.3.1, #4 | Allow by right dwelling units above retail in CB and VB |
| | 09/20 | 3.2.1 | Add VB to R-4 column |
| | 11/15 | 2.3.1, #11A | Assisted Living Residences; change VB to "CCS"and GI to "N" |
| | | 3.2.3 | Assisted Living Residences amended |
| | | 5.14 | Assited Living Residences ordinance amended |
| | 11/29 | Appendix C | Rezone land off Blackburn Circle and Rt. 128 from R-3 to EB; Gloucester Crossing |
| **2006** | 03/21 | Appendix C | Rezone 85-89 Bass Ave. from EB and R-3 to NB |
| | 08/22 | 5.9.7(a) | Cluster Development: replace language |
| | | 5.9.8(a) | Cluster Development: delete second sentence. |
| | | 2.3.1,#11 | OSRD: Change R-4, CCD, NB, VB from "Y" to "N" |
| | | 5.15.7.3(a) | OSRD: Replace language and formula |
| **2007** | 01/23 | Appendix C | Rezone area at intersection of Concord St. & Rt. 128 to EB; Demoulas |
| | 02/06 | Appendix C | Rezone 18 & 20 Pleasant St. from CCD to CB. |
| | 05/15 | 2.3.7, #77A | Commercial Land-Based Wind Energy Conversion Facilties |
| | | 2.3.7, #77A(a) | Wind Monitoring or Meteorological Tower |
| | | 2.3.7, #77B | Residential Land-Based Wind Energy Conversion Facilities |
| | | 5.22 | Commercial Land-Based Wind Energy Conversion Facilities |
| | | 5.23 | Residential Land-Based Wind Energy Conversion Facilities |
| | | 5.24 | Accessory In-Law Apartments ordinance |
| | 12/11 | Appendix C | Rezone 73 Concord St. from R-2 to EB – Demoulas. |
| **2008** | 05/27 | 5.11 | Inclusionary Housing Requirements amended |
| | 09/02 | Sections I, II, III | Amended |

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# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-018

The Gloucester City Council, at a meeting held on, TUESDAY, **March 18, 2008,** at 7:00 p.m. In the Fred J. Kyrouz Auditorium, City Hall voted to approve the following action:

***IN CITY COUNCIL:***

**MOTION: On motion of Councilor Hardy, seconded by Councilor Ciolino the City Council voted by ROLL CALL 7 in favor, 0 opposed to amend the Gloucester Zoning map and corresponding zoning districts by rezoning approximately 3,419 sq. ft. in R-3 medium-high density residential district to Extensive Business (EB) at 82 Bass Avenue, Assessor's Map 185, lot 46, pursuant to an application submitted by Aran Patrican.**

Robert D. Whynott

Robert D. Whynott, City Clerk

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*SIGNED THIS 28 DAY OF March, 2008*

***All Ordinances shall become effective 31 days after passage except:***
***Emergency Orders shall become Effective Next Day***
***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-055

The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008** , at 7:00 p.m. in the Kyrouz Auditorium voted to approve the following action

***IN CITY COUNCIL***:

**MOTION: On motion of Councilor Hardy, seconded by Councilor Ciolino the City Council voted by ROLL CALL 8 in favor, 0 opposed that Gloucester Zoning Ordinance, Sec. 3.2.2 Dimensional Requirements for Multi-family Dwellings and Sec. 3.2.6 Dimensional Requirements for Hotel/Motels be amended by changing minimum lot area and minimum lot area per dwelling unit in R-30 (R-2A) to 60,000 sq. ft. and 15,000 sq. ft. respectively.**

Robert D. Whynott, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

*SIGNED THIS 24 DAY OF Sept., 2008*

***All Ordinances shall become effective 31 days after passage except:***
***Emergency Orders shall become Effective Next Day***
***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-056

The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008** , at 7:00 p.m. in the Kyrouz Auditorium voted to approve the following action
*IN CITY COUNCIL*:

**MOTION: On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted by ROLL CALL 8 in favor, 0 opposed that Gloucester Zoning Ordinance, Sec. 3.1.7 Visibility at Intersections be amended by striking "higher than" and inserting "between 2 ½ feet and 8 feet."**

Robert D. Whynott, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

*SIGNED THIS 24 DAY OF Sept., 2008*

***All Ordinances shall become effective 31 days after passage except:***
***Emergency Orders shall become Effective Next Day***
***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-058

The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008** , at 7:00 p.m. in the Kyrouz Auditorium voted to approve the following action
*IN CITY COUNCIL*:

> **MOTION: On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted by ROLL CALL 8 in favor, 0 opposed to adopt the amendments to Sections I, II and III of the Gloucester Zoning Ordinance, as submitted.**

Robert D. Whynott, City Clerk

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*SIGNED THIS* Sept. *DAY OF* 24, 2008

***All Ordinances shall become effective 31 days after passage except:***
***Emergency Orders shall become Effective Next Day***
***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-057

The Gloucester City Council, at a meeting held on **Tuesday, September 2, 2008** , at 7:00 p.m. in the Kyrouz Auditorium voted to approve the following action
*IN CITY COUNCIL*:

**MOTION: On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted by ROLL CALL 8 in favor, 0 opposed that the Gloucester Zoning Ordinance, Sec. 2.3.4, Use #15 building tradesmen or contractor without outdoor storage of materials or heavy equipment other than one truck with a gross vehicle weight of not more than 12,000 pounds be allowed as of right in all residential districts including the CCD district.**

Robert D. Whynott, City Clerk

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*SIGNED THIS* 24 *DAY OF* Sept., 2008

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# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2008-098

The Gloucester City Council, at a meeting held on, Tuesday, **November 18, 2008** at 7:00 p.m. In the Fred J. Kyrouz Auditorium, City Hall voted to approve the following action: ***IN CITY COUNCIL***:

**MOTION: On motion of Councilor Grow, seconded by Councilor Ciolino the City Council voted 6 in favor, 0 opposed the following: That the City of Gloucester, as in accordance with Massachusetts General Law, Chapter 43D identify and designate 32 Horton Street, Zoning Classification Marine Industrial (MI), Assessors Map 129, Lot 4 as a Priority Development Site.**

Robert D. Whynott

**Robert D. Whynott, City Clerk**

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*SIGNED THIS 24 DAY OF NOV., 2008*

***All Ordinances shall become effective 31 days after passage except:***
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***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

**Gloucester City Council**
**CERTIFICATE OF VOTE**
**Certificate Number: 2009-231**

The Gloucester City Council, at a meeting held on, TUESDAY, **NOVEMBER 17, 2009** at 7:00 p.m. In the Fred J. Kyrouz Auditorium, City Hall voted to approve the following action:

***IN CITY COUNCIL:***

MOTION: On a motion by Councilor Hardy, seconded by Councilor Ciolino, the City Council voted by roll call 7 in favor, 0 opposed to amend the Gloucester Zoning Map and corresponding zoning district by rezoning 19,468 square feet in NB (Neighborhood Business) district, to rezone to Residential (R-30) with savings provision at 447 Western Avenue (Assessor's Map 200, Lot 29) pursuant to an application submitted by Edward A. Wall, Jr., and Patricia A. Wall owner(s).

**Linda T. Lowe, City Clerk**

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor
*SIGNED THIS* 30 *DAY OF* Nov, 2009

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

***All Ordinances shall become effective 31 days after passage except:***
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***Zoning Changes shall be Effective Next Day.***

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054A

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 2.3 Use Tables by changing the allowance of uses in the MI district as follows:**

| Section | Use | Current | New |
|---|---|---|---|
| 2.3.2(14) | Airport, heliport | CCS | N |
| 2.3.3(1) | Agriculture, horticulture, floriculture on lots < 5 acres | Y | N |
| 2.3.3(3) | Sale of products grown pursuant 3.2.3(1&2) | Y | N |
| 2.3.4(10) | Motor vehicle sales or rental | Y | N |
| 2.3.4(11) | Motor vehicle service, fueling, storage or repair | CC | N |
| 2.3.4(13) | Marine related service, storage, or repair limited in the MI primarily commercial vessels and recreational vessels | CC | Y |
| 2.3.4(13) | Marine related service, storage, or repair limited in the MI primarily commercial vessels and recreational vessels | CC | Y |
| 2.3.4(26) | Facilities for water transportation loading and unloading | - | Y |
| 2.3.7(2) | Parking or storage of agricultural machinery used on the premises | Y | N |

**The City Council voted to amend and approve each of the use table items individually as follows:**

**2.3.3(3) by roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**
**2.3.4(10) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**
**2.3.4(11) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**
**2.3.4(13) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**
**2.3.4(26) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**
**2.3.7(2) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.**

**Linda T. Lowe, City Clerk**

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor
*SIGNED THIS* 26 *DAY OF* April *2010*

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

A TRUE COPY ATTEST

*All Ordinances shall become effective 31 days after passage except:*
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*Zoning Changes shall be Effective Next Day.*

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054B

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 7 in favor, 2 opposed (Theken, Mulcahey) to amend the Gloucester Zoning Ordinances, amending Section 2.3 by replacing the existing text of footnote number one, applying to the MI district, with the following:**

**"(1) In the MI District, Supporting Designated Port Area (DPA) Uses, as defined in 310 CMR 9.02, shall not in the aggregate occupy more than 50% of the ground level area on filled tidelands and uplands of a lot within the DPA. Such uses shall also be subject to dimensional requirements of 310 CMR 9.0. Within the water-dependent use zone, as defined in 310 CMR 9.02, in the MI District no use shall be permitted unless it provides access to water-borne vessels."**

Linda T. Lowe, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor
*SIGNED THIS* 26 *DAY OF* April, *2010*

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

***All Ordinances shall become effective 31 days after passage except:***
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***Zoning Changes shall be Effective Next Day.***

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# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054C

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

*IN CITY COUNCIL:*

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 9 in favor, 0 opposed to recommend to amend the Gloucester Zoning Ordinances, Section 2.3.5 Use #5 by adding the following footnote to be numbered #3:**

**"No trailer truck park shall be located within 100 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment."**

Linda T. Lowe, City Clerk

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor
*SIGNED THIS 26 DAY OF April, 2010*

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*All Ordinances shall become effective 31 days after passage except:*
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*Zoning Changes shall be Effective Next Day.*

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# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054D

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

*IN CITY COUNCIL:*

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 5.8 by replacing the existing text with the following Site Plan Review ordinances:

5.8 Site Plan Review

5.8.1 Purpose
The purpose of this section is to facilitate individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on city streets.

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

A) Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet, or any new or expanded industrial or commercial use which requires more than five (5) additional parking spaces;
B) In the MI district and new industrial or commercial projects or additions, change of use, or
project requiring a special permit or variance.
C) The construction or creation of any new parking lot or the expansion, or redesign of any existing parking lot.
D) Driveways in residential districts, which propose more than one curb cut.

5.8.3 Pre-Application
Applicants are invited to submit a pre-application sketch of proposed projects to the Planning Division and are encouraged to schedule a pre-application meeting with the Planning Director and the Inspector of Buildings.

5.8.4 Procedures
Applicants for site plan approval shall submit five (5) copies of the site plan and a digital copy including any supporting materials, to the Planning Board. Application materials shall be distributed to City departments their review and comment. The Planning Board shall review and act upon the site plan at a regularly scheduled meeting within forty five (45) days of the meeting after a project appears on a Planning Board agenda. The Planning Board may impose such conditions as may be deemed appropriate. The decision of the Planning Board shall be a vote of a majority of a quorum of the Planning Board. A written decision reflecting the vote of the Planning Board shall be filed with the City Clerk within 14 days of the vote.

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No building permit or occupancy permit, for activities requiring site plan approval, shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board. Any work done in deviation from an approved site plan shall be a violation of this Ordinance. Approval of a site plan pursuant to Section 5.8 et seq. shall be in addition to any required special permit or other forms of relief as required by the Zoning Ordinance.

5.8.4.1 Relation of Site Plan Approval to Applications for Special Permit or Variance Applications for projects requiring special permit or variance which also requires site plan approval, shall be accompanied by an approved site plan. In the alternative, any special permit or variance granted also requiring site plan approval shall contain the following condition:

"The work described herein requires the approval of a site plan by the Gloucester Planning Board pursuant to Section 5.8 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall be incorporated herein by reference."

5.8.4.2 Where the Planning Board approves a site plan with conditions, and said approved site plan accompanies a special permit or variance application to the City Council or Zoning Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance.

5.8.4.3 Where the Planning Board shall consolidate its site plan review with special permit procedures including but not limited to Major Project reviews.

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

5.8.4.5 No deviation from an approved site plan shall be permitted without approval of modifications by vote of the Planning Board.

5.8.4.6 Site plan approval does not constitute a certification that the proposed plan conforms to applicable zoning regulations, wetland regulations and/or any other City, State or Federal requirements that must be obtained prior to implementation of the elements of the site plan.

5.8.5 Preparation of Plans
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'.

5.8.5.1 Plan Contents. Plan sheets prepared at a scale of one (1) inch equals forty (40) feet or such other scale as may be approved by the Planning Board. Composite plans may be submitted provided details can be easily analyzed. In the case of change of use permits with limited site alterations, the required submission of one or more plans may be waived by the Planning Board upon recommendation by City department staff. Minimum plan requirements shall be outlined on the Site Plan Review Application. The plans to be submitted are as follows:

(A). Site layout plan, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, general circulation plan for vehicles and pedestrians, drive-thru windows, curb cut locations, parking, fences, walls, walkways, outdoor lighting including proposed fixtures, loading facilities, solid waste storage locations, and areas for snow storage after plowing. The plan shall contain an inset 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 Planning Board.

(B) Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling storm water runoff drainage.

(C) Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all these 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, proposed exterior building materials, treatments and colors and architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment. Such plan shall also include the design of any freestanding signs.

(E). Landscaping plan, showing the limits of work, existing tree lines as well as those tree lines to remain, 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 during construction.

(F) Lighting plan, showing the location and orientation of all existing and proposed exterior lighting, including building and ground lighting. The plan shall note the height, initial foot-candle readings on the ground and the types of fixtures to be used.

5.8.5.2 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.

5.8.5.3 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 or provide public access, and any other evidence necessary to indicate compliance with this ordinance.

5.8.5.4 The site plan shall be accompanied by drainage calculations by a registered professional engineer as well as wetland delineations, if applicable. Water utilities, sewer infrastructure and stormwater drainage shall be design to conform to Gloucester Subdivision Rules and Regulations and standards of the Department of Public Works.

5.8.5.5 Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

5.8.6 Waivers The Planning Board may, upon written request of the applicant and recommendation by City department staff, waive any of the submittal or technical requirements of Section 5.8.5 where the project involves relatively simple development plans.

5.8.7 Review Guidelines and Approval
Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant to promote these objectives. New building construction or other site alteration shall be designed in the Site Plan, 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, so as follows:

A) A reasonable effort shall be made to conserve and protect natural features that are of some lasting benefit to the site, it environs and the community at large.

B) Slopes, which exceed ten (10%) percent, shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

C) The placement of buildings, structures, fences, lighting, signs, and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties. Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to shine beyond the perimeter of the site or interfere with traffic.

D) All areas designed for vehicular use shall be paved with a minimum of either a three (3") inch bituminous asphalt concrete, a six (6") inch Portland cement concrete pavement, or other surface, such as brick, cobblestone or gravel, as approved by the Department of Public Works.

E) All parking spaces shall be arranged and clearly marked in accordance with the design and layout standards contained in Section 4.14 of the Zoning Ordinance.

F) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground.

G) All surface water runoff from structures and impervious surfaces shall be disposed of on site; but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies. Drainage systems shall be designed to minimize the discharge of pollutants by providing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration. Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Oil, grease, and sediments traps to facilitate removal of contaminants shall precede all such drainage structures. All calculations shall be for a one hundred (100) year storm. Drainage design shall be in accordance with Department of Public Works regulations as amended.

H) In the MI district development proposals shall comply with the standards and requirements with regard to the placement and dimensions of structures as regulated by G.L. c.91 and 310 CMR 9.00 et seq.

I) Pedestrian safety and vehicular safety to and from the site shall be maximized provided it does not interfere with the proposed use.

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

K) Ensure compliance with the provisions of this Zoning Ordinance.

L) Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of pedestrian or vehicular traffic on a public way.

5.8.8 Lapse
Site plan approval shall lapse after one year from the final approval if a substantial use in accordance with such approved plans has not 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, within this one year period.

5.8.9 Regulations
The Planning Board may adopt, and from time to time amend, reasonable regulations for the administration of this Site Plan ordinance.

5.8.10 Fee
The Planning Board may, from time to time, adopt reasonable administrative fees and technical review fees for site plan review.

5.8.11 Appeal
Any person aggrieved by a decision of the Planning Board rendered pursuant to section 5.8 may appeal such decision to the Zoning Board of Appeals as provided in G.L. c. 40A section 8."

Linda T. Lowe, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor
*SIGNED THIS 26 DAY OF April, 2010*

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

*All Ordinances shall become effective 31 days after passage except:*
*Emergency Orders shall become Effective Next Day*
*Zoning Changes shall be Effective Next Day.*

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054E

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

*IN CITY COUNCIL:*

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted by roll call unanimously 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 2.2.1 by adding the following sentence at the end of the section:**

**"New, or expansion of, commercial, industrial uses and other site alterations, may be subject to Site Plan Review. See Section 5.8 for applicability."**

**Linda T. Lowe, City Clerk**

**APPROVAL OF THE MAYOR**

Carolyn A. Kirk, Mayor
*SIGNED THIS 19 DAY OF May, 2010*

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

*All Ordinances shall become effective 31 days after passage except:*
*Emergency Orders shall become Effective Next Day*
*Zoning Changes shall be Effective Next Day.*

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-054F

The Gloucester City Council, at a meeting held on, TUESDAY, **March 30, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Theken, the City Council voted by roll call 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 5.18 by replacing existing text of the section following the words Special Permit Granting Authority in the first sentence with the following revised language in bold:**

**5.18 Marine Industrial District**

For all uses requiring a special permit in the Marine Industrial (MI) district, and located within (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.5.3, 1.5.4, and 5.7 herein, the Special Permit Granting Authority "**in approving the project must find that:**

1. **The proposed use will not displace an existing water-dependent use with a non water-dependent use;**
2. **The proposed use will not, by virtue of its location, scale, duration, operation, or other aspects, pre-empt or interfere with existing or future development of water-dependent uses of the project site or surrounding property;**
3. **The proposed use is compatible with the working waterfront character of the zone;**
4. **The proposed project will not displace existing commercial fishing vessel berthing in Gloucester Harbor, without providing equivalent space and draft at a suitable alternative site not already used by commercial fishing vessels;**
5. **The proposed use will not adversely affect the preservation of water-dependent uses on surrounding properties.**

**In exercising its power under this section, the Special Permit Granting Authority may impose reasonable modifications, conditions, or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not result in any of the above adverse impacts or otherwise adversely affect the primary character of the area as a working waterfront."**

Linda T. Lowe, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor
*SIGNED THIS 19 DAY OF May, 2010*

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

*All Ordinances shall become effective 31 days after passage except:*
*Emergency Orders shall become Effective Next Day*
*Zoning Changes shall be Effective Next Day.*

A TRUE COPY ATTEST

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2010-063

The Gloucester City Council, at a meeting held on, TUESDAY, **April 27, 2010** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following action:

***IN CITY COUNCIL:***

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #8 associated allowance as follows:**

**#8 Commercial land-based wind energy conversion facilities (See Section 5.22)**

| R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| CCS | CCS | N | CCS | N | N | N | N | N | N | N | N | N | N | N |

**Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #9 associated allowance as follows:**

**#9 Commercial land-based wind energy conversion facilities on city-owned land (See Section 5.22)**

| R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| CCS | CCS | CCS | CCS | CCS | CCS | CCS | N | N | N | N | N | N | CCS | N |

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #10 associated allowance as follows:**

**#10 Temporary monitoring tower for use numbers 8 & 9 above (See Section 5.22)**

| R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Y | Y | Y | Y | Y | Y | Y | N | N | N | N | N | N | Y | N |

A TRUE COPY ATTEST

Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (a) in its entirety and amending by inserting a new section 5.22.3(a) so that it reads as follows:

(a) The construction of a commercial wind energy conversion facility shall be permitted in the R-80, R-40, and R-30 zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.6, Other Principal Uses Numbers 8 & 9).
The construction of an accessory commercial wind energy conversion facility shall be permitted in the MI, GI and BP zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.7, Accessory Use Number 15)

Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (b) in its entirety and amending by inserting a new section 5.22.3(b) so that it reads as follows:

(b) Wind monitoring or meteorological towers shall be allowed by-right on a temporary basis, in the MI, GI, BP, R-80, R-40, and R-30 districts and on municipally owned land subject to the issuance of a building permit (see Section II, 2.3.6, Other Principal Uses Number 10; Section II, 2.3.7 Accessory Use Number 17).

Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.6 Special Permit Regulation of the Zoning Ordinance by inserting a new 5.22.6(b)iii and renumbering the existing iii and iv to iv and v, respectively, so that it reads as follows:

iii) In the R-80, R40, and R-30 residential districts, with the exception of city-owned land, the minimum lots size for a wind energy conversion facility shall be 12.5 acres and the minimum lot frontage shall be 100 feet. The minimum distance of a proposed turbine to any existing residential dwelling shall be equal to the height of the wind turbine to the tip of its rotor blade at its highest point.

iv) The setbacks should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The City Council may reduce the setbacks as appropriate, based on site specific considerations, and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable.

v) Such reduction of required setbacks, if granted, shall not constitute a variance from the Zoning Ordinance.

Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor 0 opposed to amend Section 2.3.1, footnote (3) of the Zoning Ordinance by adding "with the exception of wind energy conversion facilities" after the word "lot," so that it reads as follows:

(3) Not more than one principal building per lot, with the exception of wind energy conversion facilities.

Linda T. Lowe, City Clerk

APPROVAL OF THE MAYOR

Carolyn A. Kirk, Mayor
*SIGNED THIS* 6 *DAY OF* May, *2010*

VETOED BY THE MAYOR

Carolyn A. Kirk, Mayor

***All Ordinances shall become effective 31 days after passage except:***
***Emergency Orders shall become Effective Next Day***
***Zoning Changes shall be Effective Next Day.***

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2011-126

The Gloucester City Council, at a meeting held on **Tuesday, June 14, 2011** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following actions:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances as follows:**

**Amend Section 2.3.1 Use table by deleting Section 5 and replacing it with:**

**Section 5(a) Conversion to or new mixed use building with not more than one (1) dwelling unit.**
**5(b) Conversion to or new multi-family or apartment dwelling, up to two dwelling units.**
**The uses permitted by right and by special permit for section 5 remain the same for sections 5(a) and 5(b).**

Linda T. Lowe, City Clerk

Date: JUN 20 2011

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 21 DAY OF June, 2011

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become Effective the Next Day

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2011-127

The Gloucester City Council, at a meeting held on **Tuesday, June 14, 2011** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following actions:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor McGeary, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances as follows:**

**Amend Section 3.2.3 by adding footnote g. to both VB and NB districts:**

**g. The front, side and rear yard setback distances for buildings used as of right for any of the business uses described in Section 2.3.4 of this ordinance or mixed use business as defined in the Ordinance thereto which (1) were in existence on or before March 9, 1999 or for which are building permit was issued on or before March 9, 1999; and 2) are located in those portions of R-20 and R-30 districts identified by the street lists in the Appendix to section 3.2 at the end of Section 3.2 of this Ordinance shall be the same as front, side and rear setbacks for single and two-family dwellings on the designated streets as set out in the said Appendix.**

Linda T. Lowe, City Clerk

Date: JUN 20 2011

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 21 DAY OF June 2011

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become Effective the Next Day

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2011-128

The Gloucester City Council, at a meeting held on **Tuesday, June 14, 2011** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following actions:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances as follows:**

**Amend Section 2.2.3 by deleting the current language and replacing it with the following:**

**2.2.3 Mixed Uses**

**Where a building or structure or land is proposed to be used for more than one principal use, whether the uses are in separate buildings or in the same building either vertically or horizontally connected, all of which uses are permitted in the zoning district in question and none of which is accessory to one another, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.**

Linda T. Lowe, City Clerk

Date: JUN 20 2011

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 21 DAY OF June 2011

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become Effective the Next Day

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2011-129

The Gloucester City Council, at a meeting held on **Tuesday, June 14, 2011** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following actions:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances Section VI Definitions by replacing the definition of Dwelling, Multi-Family or Apartment with the following:**

**Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenancy, including row or town house structures; or a structure containing one or more permitted non-residential uses on the ground floor or on the ground and other floors, and also containing more than one dwelling unit above the ground floor.**

Linda T. Lowe, City Clerk

Date: JUN 20 2011

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 21 DAY OF June, 2011

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become Effective the Next Day

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2011-275

The Gloucester City Council, at a meeting held on Tuesday, November 29, 2011 at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 absent, to AMEND pursuant to MGL c. 40A, §5 and Gloucester Zoning Ordinance Sec. 1.11 and Sec. 1.11.2(e) by DELETING in Sec. 1.5.3(a) references to "11 copies thereof"; and Sec. 1.5.3(b) "five (5) full size sets and eleven (11) 11" x17" sets" and Sec. 1.5.3 (c) "five (5) full size sets and eleven (11) 11" x 17" sets of"; and ADDING "one original and one copy thereof provided that the applicant also provides the application and all required submissions in digital form. Digital submission is strongly preferred, otherwise eleven (11) 11" x 17" (11x17 inches) and five (5) copies 2' 3' (2 feet x 3 feet) must be provided"; and by AMENDING Gloucester Zoning Ordinance "Appendix A – Rule 25: Rules of Procedure Special Permit Procedures" – Part I and Part II to be consistent with Sec. 1.5.3 as amended.**

Linda T. Lowe, City Clerk

Date: DEC 02 2011

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 5 DAY OF Dec, 2011

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become effective the next day

A TRUE COPY ATTEST

City Clerk

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2012-180

The Gloucester City Council, at a meeting held on **Tuesday, August 28, 2012** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Tobey, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Theken) absent to grant a zoning change for the property at Prospect Street #76, Assessors Map #26, Lot #45 from its present zoning classification of R-5 (High Density) to NB (Neighborhood Business), and to amend the Zoning Map accordingly.**

Linda T. Lowe, City Clerk

Date: AUG 3 1 2012

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 4 DAY OF Sept, 2012

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

City Clerk

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2012-088

The Gloucester City Council, at a meeting held on Tuesday, May 8, 2012 at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Theken) abstained, under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.25 entitled "Hotel Overlay District" for the parcel located at 47 Commercial Street, Assessor's Map 1, Lot 33 as submitted to the City Clerk's office on May 2, 2012, which is attached hereto and incorporated by reference, and AMEND the Gloucester Zoning Map to create a Hotel Overlay District located at 47 Commercial Street, Assessor's Map 1, Lot 33 in the Marine/Industrial District as shown on the plan entitled "Exhibit" to accompany an amendment to the Gloucester Zoning Ordinance Hotel Overlay District, by Beals Associates, Inc. dated May 8, 2012.**

Linda T. Lowe, City Clerk

Date: MAY 1 4 2012

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 14 DAY OF May, 2012

All Ordinances shall become effective 31 days after passage except:
Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

CITY CLERK
GLOUCESTER, MA

12 MAY -2 AM 11:12

## 5.25 HOTEL OVERLAY DISTRICT

### 5.25.1 Purpose

It is the purpose of the Hotel Overlay District (HOD) to encourage the use of property within its boundaries for a Hotel, as defined in Section 5.25.3, which has long been lacking in the downtown area. The HOD is designed to strengthen the area's existing uses and infrastructure by permitting the development of a Hotel, consistent with the goals of the City's planning, including but not limited to the City's Harbor Plan (December 2009) and the Gloucester Harbor Economic Development Plan (May 2011). Among the objectives of the HOD are:

(a) To facilitate development in the HOD of a Hotel together with uses accessory thereto;

(b) To stimulate the general economy of the City by creating jobs and generating real estate and other tax revenue;

(c) To encourage the appropriate use of land;

(d) To provide public access to open space.

### 5.25.2 Overlay District

#### 5.25.2.1 Definitions

For the purposes of the HOD only, "Hotel" shall be defined as follows:
A structure or structures providing not less than 80 sleeping rooms for residents of transient guests, which also provides one or more of the following:
parking facilities and/or parking structure, restaurant (with or without outdoor seating), meeting/conference/event facilities, fitness center, pool or other recreational facilities (indoor or outdoor), spa, retail sales, retail services and such other amenities and uses as may commonly be found in hotels.

For the purposes of the HOD only, "Guest Unit" shall be defined as follows:
A bedroom or suite of rooms, including a bedroom, in a Hotel, as defined in this Section 5.25, to be rented as a separate unit to transient guests.

#### 5.25.2.2 Map

The HOD is an overlay district which encompasses land shown on Gloucester Assessors' Map 1, Lot 33. The land in the HOD is shown on the map entitled "Exhibit to

Accompany an Amendment to the Gloucester Zoning Ordinance – Hotel Overlay District" dated May 2, 2012, incorporated herein by reference and hereby made a part of the City's official zoning map. A copy of said map is on file with the City Clerk's Office and the Community Development Department.

**5.25.2.3 Establishment**

The HOD is an overlay district superimposed on the underlying zoning district and the land affected thereby. The underlying zoning shall remain in full force and effect. To the extent that any provision in this Section 5.25 is in contradiction or conflicts with any other provision of this ordinance, the provisions of this Section 5.25 shall control.

**5.25.2.4 Applicability**

The City Council shall be the special permit granting authority for special permits granted pursuant to this Section 5.25, and such special permits shall satisfy the criteria set forth in this Section 5.25. Notwithstanding the foregoing, Section 5.18 of this ordinance, Footnote 1 in Section 2.3.1, Footnote 1 in Section 2.3.4 and, Footnote 1 in Section 2.3.7 shall not be applicable to any Hotel use or uses accessory thereto, proposed to be made pursuant to this Section 5.25.

Notwithstanding anything to the contrary contained in this ordinance, in any instance where the City Council has jurisdiction to issue a special permit for a Hotel pursuant to this Section 5.25, it shall also be the sole special permit granting authority for all other special permits required by this ordinance for such use and/or development. The Planning Board shall continue to be the issuer of any decisions relating to site plan approval under Section 5.8 of this ordinance.

**5.25.2.5 Standard to be Applied**

Special Permits under this Section 5.25 shall be granted under the standards of Section 1.8.3 (Special Permits), Section 5.7.5 (Major Projects), Section 5.5.4 (Lowlands), Section 3.1.6 (Height), Section 4.1 (Off-Street Parking) and Section 4.3 (Signs).

**5.25.3 Uses**

**5.25.3.1 Uses Allowed by Right**

Uses allowed by right in the underlying zoning district shall be allowed by right in the HOD.

**5.25.3.2 Uses Authorized by Special Permit**

In addition to the uses permitted as of right or by special permit in the underlying zoning district(s), the following uses shall be permitted subject to the issuance of a special permit issued by the City Council:

(a) Hotel, as defined in 5.25.2.1; and

(b) The accessory uses authorized by the definition of "accessory use" in Section VI and by Section 2.3 of this ordinance, and other uses customarily accessory to a Hotel, whether or not specifically mentioned in Section 2.3.

### 5.25.3.3 Prohibited Uses

Any use not specifically allowed by right or by special permit within the HOD as provided in Section 5.25.3.1 and 5.25.3.2 or in the underlying zoning district[s] is prohibited, and any such prohibited use can only be authorized by a use variance from the Zoning Board of Appeals.

No Hotel, or portion thereof, shall be used as a condominium, cooperative, time share, and no guest shall be permitted to occupy a room for a period of time in excess of 90 consecutive days. No casino is allowed in the HOD.

## 5.25.4 Dimensional Requirements

### 5.25.4.1 Dimensional Table

All buildings and structures permitted pursuant to the HOD shall conform to the following dimensional requirements, which requirements shall be deemed to be a part of Section 3.2.6 under an HOD designation:

| | |
|---|---|
| Minimum lot area (sf) | 60,000 (f) |
| Minimum lot area per two guest units(sf) | 1,250 (f) |
| Minimum open space per two guest units (sf) | 0 (f) |
| Minimum lot width (ft) | 0 |
| Minimum frontage (ft) | 125 |
| Minimum front yard (ft) | 10 (g) |
| Minimum side yards (ft. each) | 0 |
| Minimum rear yard (ft) | 0 |
| Maximum building height | 40 (h) |
| Distance between principal buildings | 0 |

(f) In the HOD District, Lot Area shall be defined as the horizontal area of a lot, exclusive of any street or way open to public vehicular use. In calculating lot area in the HOD District, land below elevation 7.0 (NAVD 1988) shall be excluded from Lot Area.

(g) In the HOD District, a yard of ten feet from a lot line shall be provided when a building on an adjacent lot and existing at the time of the adoption of this Section 5.25, is located within ten feet of that lot line.

(h) In the HOD District, Building Height for a Hotel shall not include (a) mechanicals, (b) other non-habitable rooftop structures or (c) non-habitable towers or other architectural features which do not have a footprint greater than 400 s.f. and do not exceed the ridge height of a Hotel by more than 20 feet. Building Heights greater than 40 feet for a Hotel or tower heights greater than 20 feet above ridge height of a Hotel may be authorized by Special Permit issued by the City Council, using the standards as provided in Section 3.1.6 of the Ordinance.

### 5.25.5 Off-Street parking and Loading Requirements

#### 5.25.5.1 Off-Street Parking Requirements

The parking requirement for a Hotel within the HOD shall require a minimum of one space per guest unit plus one space for each three employees working during the largest shift, with no additional parking required for any use determined by the City Council to be accessory to a Hotel. If a proposed Hotel within the HOD does not conform with any parking provision in this ordinance, the special permit granting authority may authorize such nonconformance by the grant of a special permit under the standard set forth in Section 4.2.1. Without limiting the generality of the foregoing, the special permit granting authority may grant a special permit to authorize shared, valet and/or tandem parking, on and off-site, regardless of the distance of the off-site parcel from the principal use and to modify the design and layout standards of Section 4.1.4.

In connection with any special permit application hereunder, the special permit granting authority may allow by special permit the use of a lot off-site to provide parking accessory to a Hotel located within the HOD, provided that such off-site lot is not located within a residential district, and a Hotel use on such off-site lot is allowed as of right or by special permit. Such off-site lot(s) may be a shared lot, served by a valet and/or may have tandem parking if so authorized by the special permit granting authority.

#### 5.25.5.2 Off-Street Loading Requirements

The loading requirements for a Hotel within the HOD shall require a minimum of one loading bay.

### 5.25.6 Signs

Section 4.3 of this ordinance shall govern signage in the HOD.

### 5.25.7 Submissions

#### 5.25.7.1 Contents

Any application for a special permit under the HOD shall include a plan or plans with the information required by Section 1.5.3(c) and 1.5.3(d)of this ordinance,

being the submittal requirements for "CCS" special permits and for a Major Project (See Section 5.7.1). In addition, any other special permits required pursuant to this ordinance, for which the City Council is designated under this Section 5.25 as the special permit granting authority, shall include the information required in this ordinance. Review of an application for a special permit shall comply with the procedural requirements of Section 1.5 of this ordinance as applicable to City Council special permits, including the requirements of notice and a public hearing and deadline for the same and for the issuance of a decision thereon.

### 5.25.7.2 Lowland Requirements Applicability

Any application hereunder shall conform to the requirements of Section 5.5.4 of this ordinance, as applicable.

### 5.25.7 Relief by Special Permit

Except as provided in Section 5.25.3.3, in any instance where a Hotel, including any uses determined by the City Council to be accessory uses to a Hotel, does not comply with any provisions of this Section 5.25 or with respect to any provision of this ordinance other than those contained in Section II, regulating use, the City Council is authorized to issue zoning relief for such non-compliance by the issuance of a special permit. In granting a request for a special permit, the City Council may condition its grant on the provision of certain open space, or traffic or pedestrian improvements or other amenities.

### 5.25.7 Submissions

#### 5.25.7.1 Contents

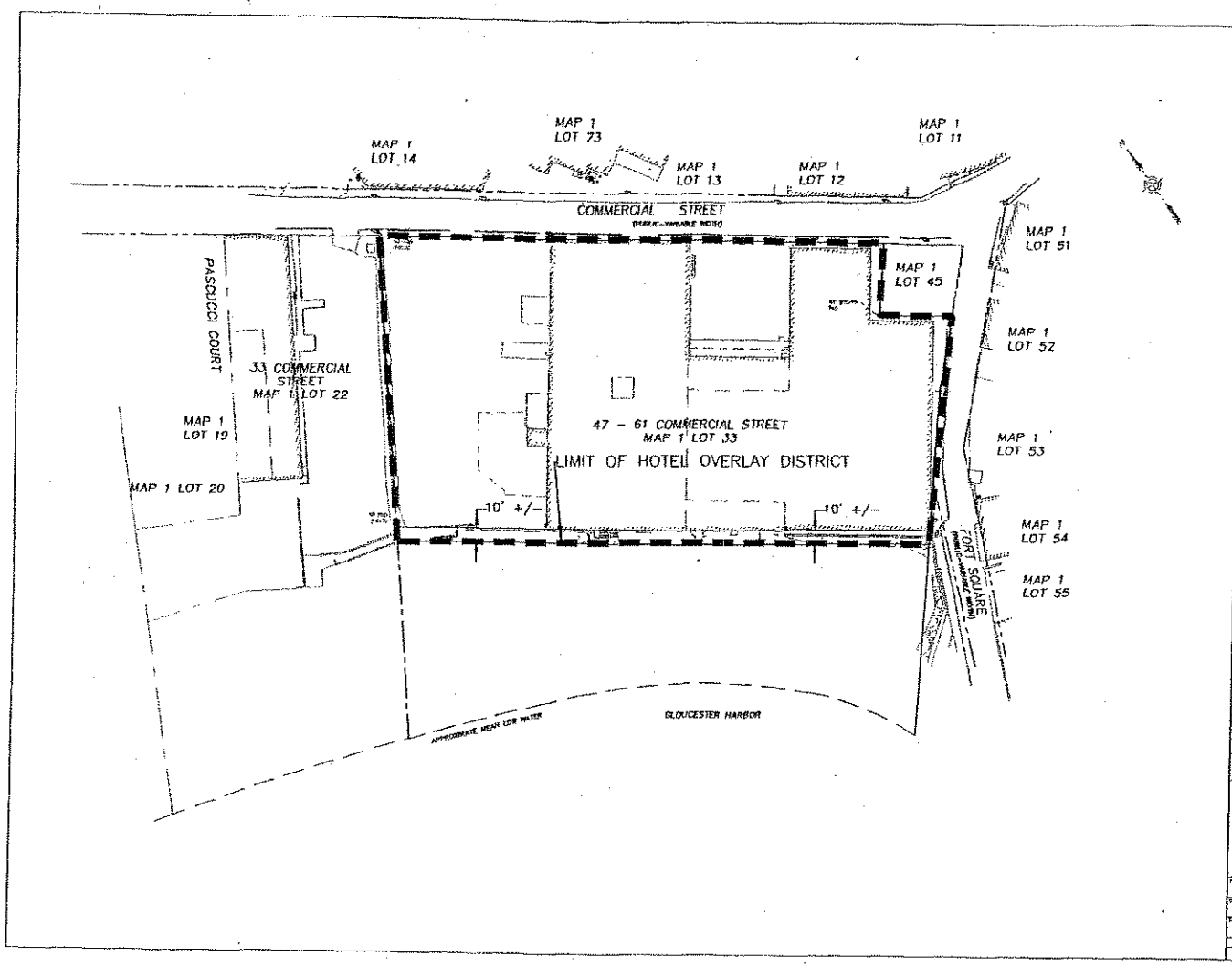
Any application for a special permit under the HOD shall include a plan or plans with the information required by Section 1.5.3(c) and 1.5.3(d)of this ordinance, being the submittal requirements for "CCS" special permits and for a Major Project (See Section 5.7.1). In addition, any other special permits required pursuant to this ordinance, for which the City Council is designated under this Section 5.25 as the special permit granting authority, shall include the information required in this ordinance. Review of an application for a special permit shall comply with the procedural requirements of Section 1.5 of this ordinance as applicable to City Council special permits, including the requirements of notice and a public hearing and deadline for the same and for the issuance of a decision thereon.

#### 5.25.7.2 Lowland Requirements Applicability

Any application hereunder shall conform to the requirements of Section 5.5.4 of this ordinance, as applicable.

### 5.25.7 Relief by Special Permit

Except as provided in Section 5.25.3.3, in any instance where a Hotel, including any uses determined by the City Council to be accessory uses to a Hotel, does not comply with any provisions of this Section 5.25 or with respect to any provision of this ordinance other than those contained in Section II, regulating use, the City Council is authorized to issue zoning relief for such non-compliance by the issuance of a special permit. In granting a request for a special permit, the City Council may condition its grant on the provision of certain open space, or traffic or pedestrian improvements or other amenities.




PREPARED FOR:

BEAUPORT GLOUCESTER, LLC

BEALS ASSOCIATES INC.

2 Technology Street Charlestown, MA 02129
Phone: 617-242-1100 Fax: 617-242-1370

NOTE:

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GRAPHIC SCALE

| NO. | REVISION/ISSUE | DATE |
|---|---|---|
| | | |

EXHIBIT A

EXHIBIT TO ACCOMPANY AN AMENDMENT TO THE GLOUCESTER ZONING ORDINANCE - HOTEL OVERLAY DISTRICT

| | | |
|---|---|---|
| PROJECT: 6234 | DESIGN: TPM | SHEET: 1 OF 1 |
| DATE: Jan 9, 2012 | CHECKED: TPM | |
| SCALE: AS NOTED | DRAWN: TPM | |

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P:\6234\DWG\Site Plan\Hotel Overlay District.dwg

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2012-221

The Gloucester City Council, at a meeting held on **Tuesday, October 23, 2012** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL VOTE 9 in favor, 0 opposed under Gloucester Zoning Ordinance sec. 1.11.5 to AMEND the Zoning Ordinance by enacting a new sec. 5.26 entitled "107 & 125 Atlantic Road Hotel Overlay District" for the parcels located at # 107 and #125 Atlantic Road, Assessors Map 72, Lots 1 and 3 in the R-20 District as shown on the plan entitled "Structure Location Plan at 107 & 125 Atlantic Road located in Gloucester , MA.", signed by Richard G.Loud,R.P.L.S., dated 9/12/12 , to accompany an amendment to the Gloucester Zoning Ordinance "107 & 125 Atlantic Road (fka Backshore Existing ) Hotel Overlay District",dated October 23,2012 and presented and authenticated by the petitioners' attorney,J.Michael Faherty and incorporated herein and attached hereto.**

Linda T. Lowe, City Clerk

Date: 11/14/2012

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 15 DAY OF NOV, 2012

**VETOED BY THE MAYOR**

N/A

Carolyn A. Kirk, Mayor

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

October 23, 2012 J Michael Farley

## 5.26 107 & 125 ATLANTIC ROAD HOTEL OVERLAY DISTRICT

### 5.26.1 Purpose

It is the purpose of the 107 & 125 Atlantic Road Hotel Overlay District ("ARHOD") to encourage the continued use of properties within its bounds for a hotel, motel, or motor inn (hereinafter singularly or collectively referred to as a "Hotel"). The ARHOD is designed to encourage expansion of the area's existing uses and economic vitality by permitting the alteration, expansion, or replacement of existing Hotels and supporting uses, consistent with the goals of the City. Among the objectives of the ARHOD are:

(a) To facilitate the alteration, expansion, replacement of existing or new Hotels in the ARHOD together with uses accessory thereto;

(b) To stimulate the general economy of the City by creating jobs and generating real estate and other tax revenue; and

(c) To encourage the appropriate use of land.

### 5.26.2 Overlay District

#### 5.26.2.1. Map

The ARHOD is an overlay district that encompasses land shown on Gloucester Assessors' Map 72, Lots 1 and 3. Such land is also shown on the map entitled "Structure Location Plan at 107 & 125 Atlantic Road, Located in Gloucester, MA," dated September 21, 2012, incorporated herein by reference and hereby made a part of the City's official zoning map.

#### 5.26.2.2 Establishment

The ARHOD is an overlay district superimposed on the underlying zoning district(s). The underlying zoning shall remain in full force and effect. To the extent that any provision in this Section 5.26 is in contradiction or conflicts with any other provision of this ordinance, the provisions of this Section 5.26 shall control.

#### 5.26.2.3 Applicability

The City Council shall be the special permit granting authority for any required special permits granted pursuant to this Section 5.26, and the issuance of such special permits shall satisfy the procedural criteria set forth in this Section 5.26 and other relevant sections of this Ordinance.

#### 5.26.2.4 Standard to be Applied

Special Permits required under this Section 5.26 shall be granted under the standards of Section 1.8 (Special Permits) and Section 5.7 (Major Projects).

### 5.26.3 Uses

#### 5.26.3.1 Uses Allowed by Right

(a) Uses allowed by right in the underlying zoning district(s) shall continue to be allowed by right in the ARHOD.

~~(b) Any continuation of the use of an existing Hotel or any alteration, expansion, or replacement of an existing Hotel that results in a Hotel with no more than 10 additional guest units than currently exist at that Hotel as of the date of the adoption of this Section 5.26, and which complies with the dimensional requirements of the ARHOD shall be allowed by right in the ARHOD.~~

(b) Existing principal Hotel uses and existing uses accessory or incidental to a Hotel use shall also be allowed by right.

#### 5.26.3.2 Uses Authorized by Special Permit

In addition to the uses permitted by right or by special permit in the underlying zoning district(s), the following uses shall be permitted subject to the issuance of a Special Permit issued by the City Council:

(a) Alterations, expansions, or replacement of an existing Hotel~~ that would result in a Hotel with more than 10 additional guest units than currently exist at that Hotel as of the date of the adoption of this Section 5.26~~; and

(b) ~~Independent~~ New independent accessory uses and other new uses customarily accessory to or incidental to a Hotel use.

~~(c) Alterations, expansions, or replacement of an existing Hotel, or construction of a new Hotel that would result in a Hotel that encroaches across the common boundary between the two lots in the ARHOD as such lots exist as of the date of the adoption of this Section 5.26, regardless of the number of guest units.~~

#### 5.26.3.3 Prohibited Uses

Any use not specifically allowed by right or by Special Permit within the ARHOD or in the underlying zoning district(s) is prohibited.

## 5.26.4 Dimensional Requirements

### 5.26.4.1 Dimensional Table

All buildings and structures permitted pursuant to the ARHOD shall conform to the following dimensional requirements, which shall be incorporated into a separate table under ARHOD:

| | |
|---|---|
| Minimum lot area (sf) | 40,000 |
| Minimum lot area per guest unit (sf) | 750 |
| Minimum open space per guest unit (sf) | 200[i] |
| Minimum lot width (ft) | 100 |
| Minimum frontage (ft) | 80 |
| Minimum front yard (ft) | 30[ii] |
| Minimum side yards (ft) (each) | 20[ii, iii] |
| Minimum rear yard (ft) | 30[ii] |
| Maximum building height (ft) | 30[iv] |
| Distance between principal buildings (ft) | 10[v] |
| Maximum lot coverage | 35% |

(i) Or, at the option of the land owner, a contiguous area of "open space," as currently defined in this Ordinance of not less than 10,000 square feet all located in the front yard of the premises.

(ii) Or the setback existing on site on the date of the adoption of this amendment to the Zoning Ordinance, whichever is less. For new construction outside the footprint of the buildings that exist as of the date of the adoption of this Section 5.26, the setbacks listed above shall apply.

(iii) For the purpose of alterations, expansions, or replacement of an existing Hotel pursuant to Section 5.26.3.~~1~~2(a) only: if a side yard abuts a lot containing a one- or two-family residential dwelling, the setback for an addition to a Hotel higher than the existing height of the Hotel building as of the date of the adoption of this Section 5.26, but not for any addition to or alteration or replacement of the Hotel at or below the existing height, from only the side yard property line that abuts the lot containing the one- or two-family dwelling, shall be ~~90~~ 75 feet.

Additionally, any such upper portion set back from a side yard property line pursuant to this footnote shall not contain any windows facing that side yard unless installed for ventilation purposes only.

(iv) In the ARHOD ~~District~~, features such as chimneys, skylights, television antennae, and building mechanicals shall not be included in the

determination of building height.~~maximum building height shall not include mechanicals and other non-habitable rooftop structures.~~ The City Council may authorize an increase in building height above the maximum by special permit pursuant to Section 3.1.6.

(v) For principal buildings existing on site on the date of the adoption of this Section 5.26: 10 feet or whatever currently exists on site on the date of the adoption, whichever is less. For new construction, no principal building shall be closer to another principle building on the same site than the sum of their respective heights; provided however, that the City Council may by special permit authorize a reduction in said distance upon a finding that such reduction does not pose an impediment to service access or access for public safety.

### 5.26.5 Off-Street Parking Requirements

#### 5.26.5.1 Off-Street Parking Requirements

The minimum parking requirements for an existing Hotel within the ARHOD shall be the number of parking spaces on site on the date of the adoption of this amendment to the Zoning Ordinance, which shall be verified by the Building Inspector. With respect to any alteration, expansion, or replacement of an existing Hotel, the minimum number of required parking spaces shall be the sum of the actual number of spaces required under Section 4.1.2(b) of this Ordinance for the existing Hotel and any additional required spaces due to the alteration, expansion, or replacement, but in no circumstances less than the minimum number of spaces existing upon the date of the adoption of this amendment to the Zoning Ordinance.

If a proposed alteration, expansion, or replacement of an existing Hotel does not conform with any parking provision in this ordinance, the special permit granting authority may authorize such nonconformance by the grant of a special permit.

### 5.26.6 Submissions

#### 5.26.6.1 Contents

Any application for a special permit required under the ARHOD shall include a plan with the information required by Section 1.5.3(c) of this ordinance, being the submittal requirements for "CCS" special permits, unless the proposed use is a Major Project (*see* Section 5.7.1), in which case, the application shall comply with the requirements of Section 1.5.3(d) of this ordinance. In addition, any other special permits required pursuant to this ordinance, for which the City Council is designated as the special permit granting authority, shall include the information required in this ordinance.

Review of an application for a special permit shall comply with the procedural requirement of Section 1.5 of this ordinance as applicable to City Council special permits, including the requirements of notice and a public hearing and deadline for the same and for the issuance of a decision thereon.

### 5.26.7 Relief by Special Permit

In any instance where a Hotel development does not comply with any provision of this Section 5.26 or any other provision of this ordinance, the City Council is authorized to issue zoning relief for such noncompliance by special permit(s) and not variance(s).

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2012-226

The Gloucester City Council, at a meeting held on **Tuesday, October 23, 2012** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Tobey, seconded by Councilor Verga , the City Council voted BY ROLL CALL VOTE 9 in favor, 0 opposed to AMEND the Gloucester Zoning Ordinance sec. 3.1.8 by DELETING in its entirety the definition of "lot frontage" as set forth therein , and ADDING a new definition of "lot frontage" as follows :**

**"Lot Frontage: That portion of a lot fronting upon and having access to a street or public way. Except as authorized by the Planning Board pursuant to section 5.20, compliance with the lot frontage requirement shall be determined by measuring the shortest distance, on a line parallel with the frontage street or way, within that portion of a lot between the frontage street or way and the principal building. Unless authorized by variance from the Board of Appeals, access to a lot must be over its frontage."**

Linda T. Lowe, City Clerk

Date: 11/15/2012

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

**N/A**

Carolyn A. Kirk, Mayor

SIGNED THIS 15 DAY OF NOV, 2012

All Ordinances shall become effective 31 days after passage except
Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-175

The Gloucester City Council, at a meeting held on **Tuesday, July 23, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed to AMEND the Gloucester Zoning Ordinance by ADDING a new section under GZO Sec. 5.27 Temporary Moratorium on Medical Marijuana Treatment Centers" as follows:**

**"5.27 Medical Marijuana Treatment Centers Moratorium**

**5.27.1 Purpose. This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts became effective January 1, 2013, and that the Massachusetts Department of Public Health is to promulgate regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in the City of Gloucester shall provide an opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations with statewide regulations and permitting procedures.**

**5.27.2 Definition. A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center as defined in Sec. VI, Definitions.**

**5.27.3 and 5.27.4 Reserved.**

**5.27.5 Moratorium: Interim Restriction. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Gloucester so long as this section 5.27 is effective, as set forth in Section 5.27.6 below.**

**5.27.6 Expiration. Section 5.27 shall be effective through December 31, 2013; provided, however, that the City Council shall revisit this matter within 30 days of the effective date of the promulgation by the Commonwealth of Massachusetts, Department of Public Health regulations to be codified at 105 CMR 725 and said moratorium can be further extended by the City Council following advertisement and public hearing."**

Linda T. Lowe, City Clerk

Date: JUL 2 5 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 25 DAY OF July, 2013

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-176

The Gloucester City Council, at a meeting held on **Tuesday, July 23, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed to AMEND under the Gloucester Zoning Ordinance Section 1.11.2(e) by ADDING a new definition of "Medical Marijuana Treatment Centers in GZO Sec. VI Definition as follows:**

**"GZO Sec. VI, Definitions: Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not for profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies; or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations."**

Linda T. Lowe, City Clerk

Date: JUL 25 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 25 DAY OF July, 2013

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-195

The Gloucester City Council, at a meeting held on **Tuesday, August 27, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 3 absent, to amend the Gloucester Zoning Ordinances by DELETING, pursuant to Sec. 1.11.2(3), Section 5.5.4 entitled "Lowlands."**

Linda T. Lowe, City Clerk

Date: SEP 0 3 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 4 DAY OF Sept, 2013

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-196

The Gloucester City Council, at a meeting held on **Tuesday, August 27, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 3 absent, to amend the Gloucester Zoning Ordinance as follows by:**

**ADDING under Section VI "Definitions": "Self-Storage Service Facility – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property and other non-hazardous durable goods, excluding vehicles. The use of units for other than dead storage is prohibited."**

**MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 3 absent, to amend the Gloucester Zoning Ordinance as follows by:**

**ADDING under Section 2.3.5 "Industrial Uses" new subsection 8: "Self-Storage Service Facility (4)**

| R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| N | N | N | N | N | N | N | N | N | N | N | Y | Y | Y | Y |

**(4) With the exception of the MI District, no self-storage service facility may be permitted on land with an elevation less than 13 relative to the North Atlantic Vertical Datum (NAVD)."**

Linda T. Lowe, City Clerk

Date: SEP 03 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 4 DAY OF Sept, 2013

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

A TRUE COPY ATTEST

CITY CLERK

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-238

The Gloucester City Council, at a meeting held on **Tuesday, October 8, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On a motion by Councilor Verga, seconded by Councilor Cox, the City Council under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted by ROLL CALL 8 in favor, 0 opposed, 1 absent to change the zoning designation for Norman Avenue #18 (Assessors Map 170, Lot 43) from R-20 (Low-Medium Density Residential) to VB (Village Business).**

**The Zoning Map will be amended accordingly.**

Linda T. Lowe, City Clerk

Date: OCT 1 0 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 11 DAY OF Oct., 2013

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2013-253

The Gloucester City Council, at a meeting held on **Tuesday, November 12, 2013** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On a motion by Councilor Verga, seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 absent, to Amend the Gloucester Zoning Ordinances by DELETING Sec. 5.27 in its entirety and by ADDING the following under a new Section 5.27 entitled "Medical Marijuana Treatment Center and Medical Marijuana Cultivation Facilities as follows:**

**"5.27 Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities**

**5.27.1 Definitions.**
**A "Medical Marijuana Treatment Center" is defined in Section VI of this ordinance.**
**A "Medical Marijuana Cultivation Facility" is defined in Section VI or this ordinance.**

**5.27.2 Purpose.**
**It is the purpose of this section titled "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities," to address and mitigate the secondary effects of the presence of Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities and drug dispensing and cultivation oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the City, adverse impacts on the property values of residential and commercial properties and adverse impacts on the quality of life in the city. All of said secondary impacts are adverse to the health, safety and general welfare of the city and its inhabitants. It is the purpose of this ordinance to establish specific standards and procedures for local licensing permitting of medical marijuana dispensaries, medical marijuana infused products, manufacturers and medical marijuana cultivation operations. The provisions of this ordinance have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials. Similarly, it is not the purpose or intent of this ordinance to restrict or deny access by adults to Medical Marijuana Treatment Centers or to other related matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors of such materials may have to sell or distribute such materials. Neither is it the purpose or intent of this Ordinance to legalize the sale, rental, or distribution of illicit or other illegal matter or materials."**

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 absent, to Amend the Gloucester Zoning Ordinances by ADDING the following under Section 2.3.2 Use Table (Community Service Uses):**

| | Fn | R-80 | R-40 | RC-40 | R-30 | R-20 | R-10 | R-5 | CCD | CB | VB | NB | EB | MI | GI | BP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Medical Marijuana Treatment Center | * | N | N | N | N | N | N | N | N | N | N | N | N | N | N | CCS |
| Medical Marijuana Cultivation Facility | * | N | N | N | N | N | N | N | N | N | N | N | N | N | N | CCS |

**And a new footnote:**

- **In accordance with restrictions set out in section 5.27 below.**

**MOTION: On motion by Councilor Verga, seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 absent, to delete the Temporary Moratorium on Medical Marijuana Treatment Centers adopted by City Council on July 23, 2013.**

Linda T. Lowe, City Clerk

Date: November 14, 2013

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 15 DAY OF NOV., 2013

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2014-037

The Gloucester City Council, at a meeting held on **Tuesday, February 11, 2014** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 absent, to grant a zoning change for the property at Whittemore Street #52, Assessors Map #21, Lot #7 from its present zoning classification of General Industrial (GI) to R-10 (Medium/High Density Residential) and to amend the Zoning Map accordingly.**

Linda T. Lowe, City Clerk

Date: FEB 13 2014

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 13 DAY OF Feb., 2014

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.

# Gloucester City Council
# CERTIFICATE OF VOTE
# Certificate Number: 2014-167

The Gloucester City Council, at a meeting held on **Tuesday, May 27, 2014** at 7:00 p.m. in the Kyrouz Auditorium, City Hall, voted to approve the following:

***IN CITY COUNCIL:***

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council, under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted by ROLL CALL 7 in favor, 0 opposed, 2 absent, to amend the Gloucester Zoning Ordinance by amending the Gloucester Zoning Map and corresponding zoning districts by rezoning 78 Thatcher Road (Assessors Map 179, Lot 44) from EB (Extensive Business) to R-10 (Medium/High Density Residential).**

Linda T. Lowe, City Clerk  Date: MAY 29 2014

**APPROVED BY THE MAYOR**

Carolyn A. Kirk, Mayor

**VETOED BY THE MAYOR**

Carolyn A. Kirk, Mayor

SIGNED THIS 30 DAY OF May, 2014

All Ordinances shall become effective 31 days after passage except Emergency Orders and Zoning Amendments shall become effective the next day.