



2020

Request for Proposal – Civil Engineering and Land Survey

CREATED FOR SUTTON DOUGLAS DEVELOPEMENT

TIMOTHY FLYNN, FLYNN GROUP CONSULTING



November 14, 2020

RFP for Civil Engineering

Sutton Douglas Development – 61 Duval Road, Sutton MA 01590

Project Assumptions

Sutton Douglas Development owns two parcels of land located in a rural area of Sutton, Massachusetts (5.01 AC) and Douglas, Massachusetts (124.46 AC) areal map attached. The site currently has one home located in Sutton.

Access to the existing house through a paved road utilizing septic and well water.

The existing building will be unoccupied during construction and rehabbed for resale. Sutton Douglas Development intends to develop the land with a minimum of a cul de sac consisting of a new maximum of parcels.

Sutton Douglas Development's goals for the project are to maximize land use and create a subdivision that would complement the neighborhood.

Sutton Douglas Development expects to select a Civil Engineering partner in the next few weeks so they can move quickly to position the project for preliminary submission.

Proposal format and submission information on second page



Flynn Group Consulting, LLC

2 Summer Street Suite 8, Natick MA 01760

Proposal Format

Please provide the following information in your proposal:

- Background on your firm and experience with comparable projects.
- Proposed team who would be working on the project, including a list of proposed sub-consultants.
- Price proposal for full design services, assuming a project of approx. 2000 - 2,500s.f. and 15-25 residential homes.
 - Rooms: 8
 - Beds: 4
 - Baths: 2 full 1 half
 - Living Area: 2500
 - Garage: 2
 - Parking: 6
 - Fireplace: 1
 - Acre: 2.3 per parcel or less
 - Well Water
 - Septic
- Please provide a detailed breakdown of the proposed fee that includes: (1) Existing Document Review (2) Conceptual design phase; (3) Schematic Design; (4) Design Development; (5) Construction Documents; (6) Bid Process; (7) Construction Administration. Please also provide an estimated timeline for each phase of design work. Please separate for preliminary submission needs and definitive plan submission.
- Three references.

Exhibits Attached

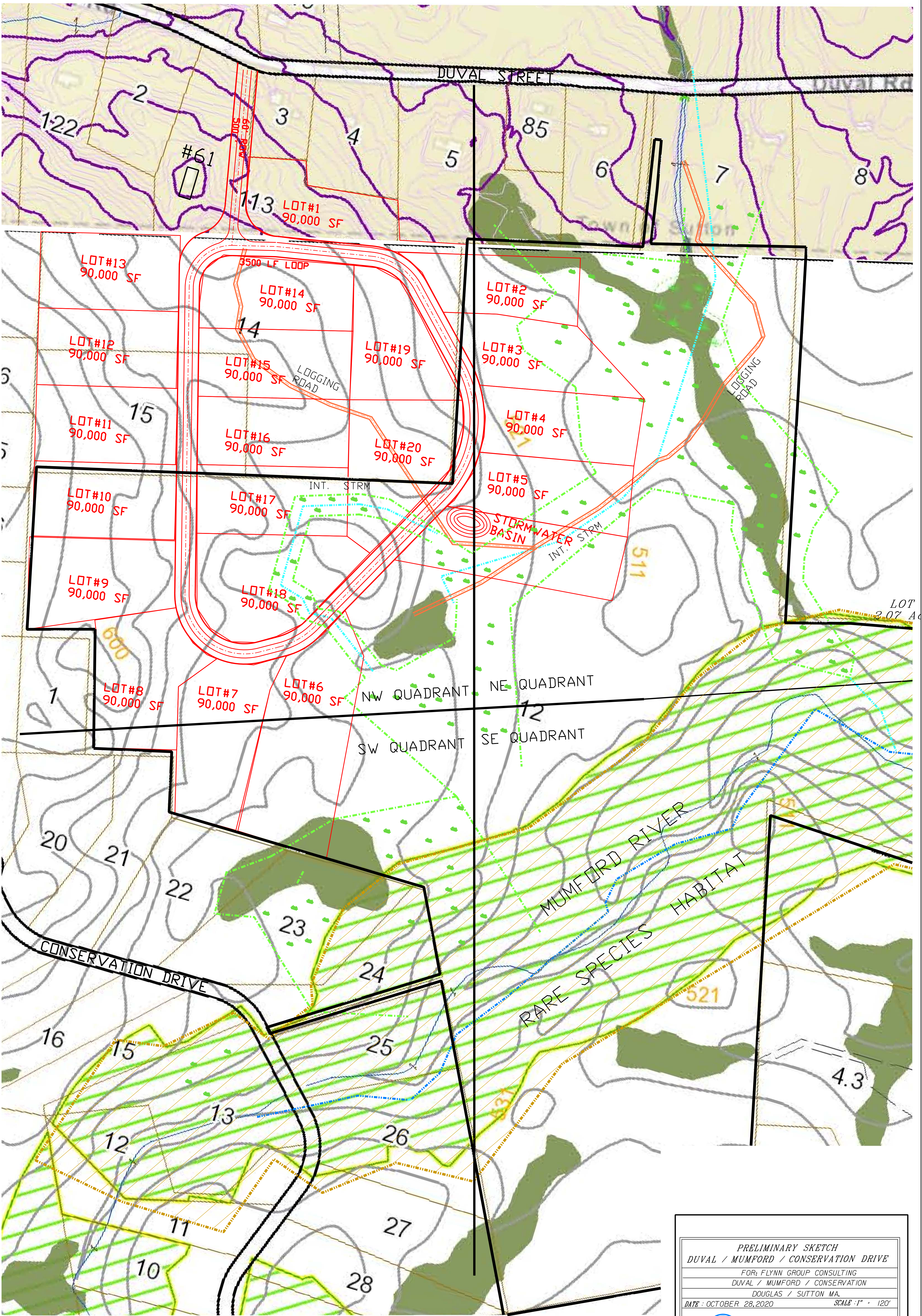
- (a) Conceptual Plot Plan
- (b) Preliminary Environmental Review
- (c) Douglas Subdivision Regulations
- (d) Zoning Regulations
- (e) Wetlands Bylaws

Submission Requirements

Proposals are due **December 1, 2020** by end of day. Proposals should be submitted electronically and addressed to:

**Sutton Douglas Development
c/o Timothy Flynn
Flynn Group Consulting
2 Summer Street, Suite 8
Natick, MA 01760**

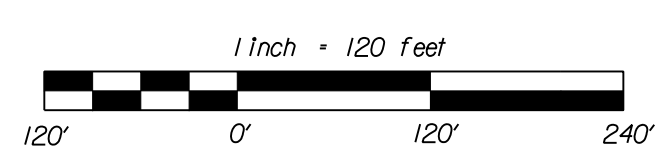
tflynn@flynngroupconsulting.com Flynn Group Consulting expects to hold interviews to discuss proposals during the week of **December 7, 2020**.



LEGEND	
WETLAND	
STREAM	
RARE SPECIES HABITAT	
EXST. LOGGING ROADS	
PROPOSED DEVELOPMENT	

DOUGLAS ZONING	
MIN. AREA	90,000 SF
FRONTAGE	200 LF
FRONT OFFSET	50'
SIDE OFFSET	25'
REAR OFFSET	25'

PLAN BOOK	787	PLAN	24
DEED BOOK	27939	PAGE	293
OWNER	EVENINGSIDE REALTY		
ASSESSORS MAP	135	LOT	12
LOCUS	MUMFORD STREET		
LOT	PARCEL A		
ZONE	RURAL AGRICULTURAL		



PRELIMINARY SKETCH
DUVAL / MUMFORD / CONSERVATION DRIVE

FOR: FLYNN GROUP CONSULTING
DUVAL / MUMFORD / CONSERVATION
DOUGLAS / SUTTON MA.

DATE: OCTOBER 28, 2020

SCALE: 1" = 120'

CIVIL SITE ENGINEERING
80 MAPLE STREET
DOUGLAS MA 01916
508-476-0011

SITE PLANNING SEPTIC DESIGN WETLANDS

PROJ. # S20162.DGN

**DOUGLAS / SUTTON
MUMFORD ST., DUVAL ROAD AND CONSERVATION DRIVE
PRELIMINARY ENVIRONMENTAL REVIEW**

The following report, including the attached sketch, help illustrate the potential build out of this 110-acre parcel that is located in Douglas and Sutton, and is surrounded by Mumford St., Duval Road, and Conservation Drive (AM 135-12). The intent of this report is to help focus future resources on the most feasible developable locations on this parcel and to minimize wetland impacts.

DOCUMENTATION REVIEWED

- Douglas and Sutton Assessor maps and Assessor cards.
- Char Mak Hill Definitive Subdivision Plan dated March 21, 2008
- Conceptual Subdivision Plan dated May 1997
- The Plan of Land for Eveningside Realty Trust, dated May 23, 1996
- Natural Resource Conservation Service Soil Maps
- MA GIS OLIVER – Rare Species Habitat

WETLAND ONSITE REVIEW

A Professional Wetland Scientist and Engineer walked the property limits and located various wetland resource areas; with a portable TopCon GPS hand held survey instrument. The wetland survey was general in nature, to confirm and to estimate extent of the wetland resource areas and location within this parcel. Wetland locations on the attached plan are intended to be used as a guide and not meant to be used for any formal wetland filing. A formal wetland delineation and location with an on the ground survey instrument will be required to accurately locate and quantify wetlands on this parcel. Accessibility and extent to upland areas were the primary focus during the onsite field review.

WETLAND RESOURCE AREAS IDENTIFIED & PERMITTING*

- **Riverfront Area** – Based on field evidence and the USGS Topographic mapping this parcel contains the Mumford River and several intermittent streams. A 200' Riverfront Area that extends laterally along the entire length and on both sides of the Mumford River is considered a jurisdictional wetland resource area. The MA Wetland Protection (WPA) limits the amount of disturbance that is allowed within the Riverfront area. Both the Conservation Drive and Mumford Road Access points are within the Riverfront area. Also any development on the south side of the Mumford River would require an expensive river crossing that would have to comply with the MA Stream Crossing Standards, and would most likely involve a bridge design. Permitting this option, would not only be extensive, filing with the MA DEP, local Conservation Commission and Federal Army Corps of Engineers would be required. See attached plan.
- **Rare and Endangered Species Habitat.** Areas along the Mumford River have been identified by the Natural Heritage and Endangered Species Program as habitat for Rare Species. Any alteration in this area would require review by NHESP and may not be allowed. See attached Plan.
- **Intermittent Streams** – Several Intermittent streams were identified on this parcel. All intermittent streams have a 100' Buffer Zone that extend laterally from the banks of the stream. The MA Stream Crossing Standards and Bank Replication could apply for any stream crossings.

**DOUGLAS / SUTTON
MUMFORD ST., DUVAL ROAD AND CONSERVATION DRIVE
PRELIMINARY ENVIRONMENTAL REVIEW**

- **Bordering Vegetated Wetlands** – Numerous isolated, connected and Bordering Vegetated Wetland (BVW) Areas were identified throughout the Site. Vegetated wetlands have important environmental values and are protected at the local, state and federal level. Design considerations would be required to minimize and mitigate impacts to BVW.

WETLAND BYLAWS

The town of Douglas and Sutton both have additional Wetland Permitting bylaws that are more restrictive and involve more permitting requirements than the MA Wetland Protection Act and Regulations, 310 CMR 10.00.

SOILS

Based on mapping from the Natural Resources Conservation Service (NRCS) several soil types prevail throughout this parcel. In the potential buildable areas, as illustrated on the attached sketch, soils have been identified as Montauk, Scituate and Canton Soils. These soils are suitable for onsite soil absorption systems. Some areas are considered extremely stony, with high groundwater, which was evident on site. On site deep hole soil evaluations will be required to confirm soil characteristics.

VEGETATION

Most of this parcel would be considered a forested upland, shrub / red maple swamp, open marsh or forested riverfront area. Dominant upland trees consist of various Oak species, Red and Norway Maples, White Pines and Beech Trees. Shrub layer was thick with Mountain Laurel and Black Huckleberry in select upland locations.

A thick shrub and herbaceous layer dominate the open wetland marsh areas, with red maples, northern winterberry and high bush blueberry dominating the forested swamp areas. The following table lists a few of the dominant wetland species identified.

Name	Scientific Name	Indicator
Boneset	<i>Eupatorium perfoliatum</i>	FACW
Cinnamon Fern	<i>Osmunda cinnamomea</i>	FACW
Soft Rush	<i>Juncus effusus</i>	FACW+
Sphagnum Moss	<i>Sphagnum palustre</i>	OBL
Various Sedges	<i>Carex, Scirpus</i>	OBL
Sweet Pepperbush	<i>Clethra alnifolia</i>	FAC+
Wool grass	<i>Scirpus cypernus</i>	FACW+
Red stem aster	<i>Aster puniceus</i>	OBL
Black Alder	<i>Ilex verticillata</i>	FACW+
Highbush Blueberry	<i>Vaccinium corymbosum</i>	FACW+
Swamp Azalea	<i>Azalea viscosum</i>	OBL
Red Maple	<i>Acer rubrum</i>	FAC+
Cattail	<i>Typha latifolia</i>	OBL

**DOUGLAS / SUTTON
MUMFORD ST., DUVAL ROAD AND CONSERVATION DRIVE
PRELIMINARY ENVIRONMENTAL REVIEW**

HYDROLOGY

Based on field observations, drainage patterns and evidence of groundwater near and at the surface in several locations, many of the wetland areas identified are most likely connected and part of a larger wetland complex. Connected wetlands typically have more protection than isolated wetland areas. Therefore it is important to note that the onsite field observations were conducted in September and October during very dry conditions. Additional field evaluations during typical spring conditions could reveal additional hydrological connections and any potential vernal pools.

CONCLUSION

Wetlands are very dynamic systems and a much more thorough wetland delineation and field survey would be required to accurately describe the jurisdictional wetland resource areas on this parcel. The intent of this report and attached sketch is meant to be a guide in an effort to focus the potential buildable areas on this site.

The 110 acre parcel has been subdivided into four quadrants to simplify and to describe existing conditions and buildable feasibility.

Northeast Quadrant

Access from Duval Road. Due to the flat low lying topography, high groundwater, Bordering Vegetated Wetlands and a significant intermittent stream, development in this area would have to be selective and creative to minimize impacts to wetlands.

Southeast Quadrant

Access from Mumford St. Due to flat and low lying topography, high groundwater, Bordering Vegetated Wetlands, Rare Species Habitat and Riverfront Area, this quadrant has limited developable potential.

Southwest Quadrant

Access from Conservation Drive. Similar to the SE quadrant, impacts to BVW, Rare Species Habitat and Riverfront area, makes this quadrant limited or unavailable to any potential development.

Northwest Quadrant

Access from Duval Road. This quadrant appears to have the most buildable potential. Due to the higher and sloping terrain, this area has the least amount of wetlands that would be impacted due to development. There is evidence of rock outcrops or large boulders. On site soil testing would determine if the rock outcrops were large boulders or surface ledge. NRCS soil mapping identifies this area with extremely stony subsoil.

**DOUGLAS / SUTTON
MUMFORD ST., DUVAL ROAD AND CONSERVATION DRIVE
PRELIMINARY ENVIRONMENTAL REVIEW**

DOUGLAS ZONING REQUIREMENTS

Since the majority of the buildable area is in Douglas, with potential access through Duval Street, Sutton, it is assumed that the Douglas Zoning requirements will apply. Potential build out scenarios under the current Douglas zoning regulations would be:

- Conventional subdivision – see attached sketch illustrating potential 20 Lot subdivision with a 4,000' long, 60' Right of Way, public roadway. Potential number of lots is approximate. A detailed survey, wetland delineation and design would be required. The actual number of lots could be significantly more or less than what is shown on the attached sketch.
- Residential Compound Lot – requires 100' of frontage on a public way. Maximum build out would be 10' lots, with a common private roadway.
- Chapter 40B Development.

*It is important to note that the regulatory authority for the determination of wetland jurisdiction lies with the local, state and federal environmental authorities. An Abbreviated Notice of Resource Area Delineation (ANRAD) is recommended for all large projects early in the Design Phase.

\$10.00

RULES AND REGULATIONS
GOVERNING THE SUBDIVISION
OF LAND
DOUGLAS, MASSACHUSETTS

ADOPTED SEPTEMBER 17, 1975

REVISED November 24, 1998 & May 26, 2009

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RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND
DOUGLAS, MASSACHUSETTS

Adopted under the Subdivision Control Law Sections 81-K to 81-GG inclusive, Chapter 41, G.L.

SECTION 1.0 PURPOSE (MGL Ch 41 §81M)

According to MGL Ch 41 §81M: *“The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Douglas by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a Planning Board and a Board of Appeals under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning or bylaws; for securing adequate provision for water distribution, sewerage, drainage and other municipal services, protection of natural water sources, flood control wetland areas, and other requirements; and for coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions. Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable.”*

SECTION 2.0 AUTHORITY

Pursuant to Chapter 41, General Laws of the Commonwealth of Massachusetts, Sections 81K-81GG inclusive as most recently amended, the Planning Board of the Town of Douglas, Massachusetts, issues the following regulations governing all subdivisions of land in the Town of Douglas, all plans thereof and all procedures relating thereto.

SECTION 3.0 GENERAL

3.1 Basic Requirements

No person shall make a subdivision of any lot, tract or parcel of land within the Town, or proceed with the planning improvement, or sale of lots in a subdivision, without first submitting to the Planning Board for approval a Definitive Plan of such subdivision.

3.2 Definitions

Unless specified otherwise, definitions, terms and standards referenced in the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges shall apply herein.

For the purpose of these rules and regulations, the following terms used herein are defined as follows and are to be used in conjunction with MGL ch 41 §81L:

- 1) **ACCESS:** Each lot proposed for acceptance in a definitive plan or a plan not requiring subdivision control (81P) shall have direct access for use by emergency and other vehicles from the street on which its frontage is measured.
- 2) **APPLICANT:** *“Applicant shall include an owner, or his agent or representative, or his assigns.”* (MGL Ch 41 §81L)
- 3) **BOARD:** The Planning Board of the Town of Douglas.
- 4) **DEVELOPER:** A person (as hereinafter defined) who proposes to develop a subdivision under a plan of a subdivision approved pursuant to Section 4.2 of these Rules and Regulations. The Developer may or may not be the Applicant.
- 5) **LOT:** A tract of land having specific boundaries which conform to minimum zoning dimensional requirements of area and frontage for building that are in effect at the time that said lot is being created.
- 6) **PARCEL:** A tract of land having specific boundaries which do not conform to minimum zoning dimensional requirements of area and frontage for building in effect at the time that said parcel is being created.
- 7) **STREETS:**
 - a) **Residential Street:** A street which generally serves only those residents living on that street and which can be considered to permanently serve the exclusive function of being a residential street.

- b) **Secondary Street:** A street which connects or may eventually connect two or more subdivisions or two or more groups of streets within the same subdivision or connects two or more streets in the town.
- c) **Principal Street:** A street which handles or is expected to handle a considerable volume of traffic and provides inter-town access between Douglas and adjoining communities.
- 8) **SUBDIVISION:** The division of a tract of land into two or more lots including resubdivision, and, when appropriate to the context, the process of subdivision of the land or territory subdivided.
- 9) **SUBDIVIDER:** The Property Owner(s), their Agents or representatives, or their assigns.

3.3 Plan Believed Not to Require Approval (“ANR Plan”)

3.3.1 Administration/General (MGL Ch. 41 §81P)

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit the following to the Town Clerk:

- a) The original plan with four (4) prints thereof,
- b) two (2) application Form A's (see Appendix), and
- c) The appropriate filing fee.

The notification shall be accompanied by the necessary evidence to show that the plan does not require approval. Or, if delivered to the Board, said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.

If the Board determines that the plan does not require approval, it shall, without a public hearing and within twenty-one (21) days of submission, endorse on the plan the words; "Planning Board Approval under the Subdivision Control Law Not Required". A majority of the Board shall endorse said Plan. Said Plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within (twenty-one) 21 days of submission of said plan so inform the

applicant and return the plan. The Board shall also notify the Town Clerk of its determination in writing.

3.3.2 Presentation

The plan shall be prepared and stamped by a Massachusetts Registered Professional Land Surveyor and shall be legible at a scale of 1 inch equals 40 feet, or such other scale that the Board may deem suitable to show details clearly and accurately.

3.3.3 Contents

The following shall be clearly shown on the submitted plan.

1. The names and addresses of the Record Owner and the Applicant, the name and seal of the land surveyor who prepared the plan, and the names of all property abutters including map and parcel references and appropriate plan and deed references;
2. The statement “Approval under Subdivision Control Law is Not Required,” and with sufficient space for the date and signatures of all members of the Planning Board;
3. A locus map showing the location of the subject parcel;
4. The statement “Planning Board Endorsement does not necessarily mean that this plan conforms to the current zoning requirements;”
5. Plan and Deed references of Record Owner(s), as appropriate;
6. The plan shall be prepared in conformance with the requirements of 250 CMR 6.00 including, but not limited to the existing boundary with reference to at least two permanent boundary monuments on or off the land to which the plan relates. Providing a reference to previous submittals or plans is not adequate to show a relationship to the relevant monuments;
7. The boundary lines of proposed lots, with accurate areas and dimensions, bearings and distances to permanent monuments;
8. Existing and proposed easement dimensions and purpose;
9. The names, locations and identification of ways as public or private;
10. Highway Monuments within 500-feet of the lot and Highway Layout Stationing along the lot frontage;

11. Existing structures, bounds, walls and other monuments;
12. Existing culverts with size and type clearly labeled on the plan;
13. North arrow, date of survey and scale;
14. Any pertinent information such as zoning and overlay districts, clearly indicating limits of each;
15. Notice of any decisions or variances issued by the Zoning Board of Appeals, including but not limited to variances and special permits regarding the land and any buildings thereon;
16. Access limiting features including, but not necessarily limited to ledge, wetlands (in accordance with 310 CMR 10.00), water bodies, topography, and corner sight distance on the way access is being obtained;
17. Table showing zoning dimensional requirements for relevant zoning districts;
18. Limits of relevant overlay districts.

3.3.4 Site Access

The area from the street line to the proposed building area shall be mapped for the full width showing the following features; Topography over 10%; wetlands; site line triangles appropriate to the travel speeds of the road in accordance with AASHTO standards.

SECTION 4.0 PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

4.1 Preliminary Plan

4.1.1. Administrative/General

In accordance with MGL Ch41 §81S: "In the case of a subdivision showing lots in a residential zone, any person, before submitting his definitive plan for approval, may submit to the planning board and to the board of health, a preliminary plan, and shall give written notice to the clerk of such city or town by delivery or by registered mail, postage prepaid, that he has submitted such plan.

In the case of a nonresidential subdivision, any person before submitting his definitive plan for approval shall submit to the planning board and the board of health, a preliminary plan, and shall give notice to the clerk of such city or town by delivery or by registered mail, postage prepaid, that he has submitted such plan.

In either case, if the notice is given by delivery, the city or town clerk shall, if requested, give a written receipt therefor. Within forty-five days after submission of a preliminary plan, each board shall notify the applicant and the clerk of the city or town, by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the board or agreed upon by the person submitting the plan, or that the plan has been disapproved and in the case of disapproval, the board shall state in detail its reasons therefor. The planning board shall notify the city or town clerk of its approval or disapproval, as the case may be. Except as is otherwise provided, the provisions of the subdivision control law relating to a plan shall not be applicable to a preliminary plan, and no register or deeds shall record a preliminary plan."

4.1.2. Filing Procedure

The Plan, accompanied by a properly executed application Form B (see Appendix), shall be submitted by delivery at a regularly scheduled meeting of the Board, or by registered or certified mail to the Board, postage prepaid in care of the Town Clerk. If so mailed, the date of receipt shall be the date of submission of the plan. In addition, written notice shall be given by the applicant to the Town Clerk by delivery or by registered or certified mail, that he has submitted such a plan. The Town Clerk shall give a written receipt, if requested, to the person who delivered such notice.

A deposit to cover the cost of administration and engineering expense, as required by the most recent Town of Douglas Planning Board Fee Schedule, shall be submitted at the time of Preliminary Plan submittal.

4.1.3 Presentation

The Preliminary Plan shall be drawn at a scale adequate to show pertinent details about the project, two 24"x36" prints and twenty "Half Scale" reduced (12" x 18") prints shall be filed with the Planning Board office. Fewer or additional copies may be requested by the Planning Board. Groups of prints shall be bound along the left edge and shall be folded in a manner to properly display the project title block when folded. The transmission shall include a written narrative detailing specifics about the project. The specifics about any particular project shall include, but not necessarily be limited to the following:

- a) United States Geological Survey (USGS) Topographic Quadrangle Sheet indicating Site Locus;
- b) Current Douglas Tax Assessors Map Detailing Site Location;
- c) Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Mapping indicating site locus, map panel ID number, and date of map;
- d) United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey of Worcester County, Massachusetts, Southern Part indicating site locus and including soil tables and descriptions, as appropriate;
- e) Traffic Impact and Safety;
- f) Stormwater Management;
- g) Anticipated Waiver Requests (if any) (MGL Ch41 §81R).

The Preliminary Plan should show sufficient information about the subdivision to form a clear basis for discussion of the layout and design for the preparation of the definitive plan. The applicant/developer is encouraged to review the zoning bylaw to become familiar with the various development options. Further, the applicant/developer should be prepared to justify to the Planning Board the submitted plan as it relates to such options under said bylaw. The chosen development plan should be the best fit for the parcel(s) and the development objectives while maintaining as reasonably as possible the amenities of the surrounding neighborhood. This submittal may be combined with the information required under Section 4.1.4.r.

4.1.4. Contents

The following shall be clearly shown on the submitted plan(s):

- a) If more than one page, each page must contain in the lower right-hand corner, the subdivision name, the page number, the date of plan preparation, and, when applicable, provisions for recording any and all revision dates, and space for Planning Board action. In addition, the first page shall indicate what information is to be found on each page of the plan;
- b) The locus of the land shown on the plan, at a scale of 1,000-feet (1000') to the inch;
- c) Title reference, date of deed, the book and page number, and Land Court certificate number (when applicable) for the subject parcel(s) being subdivided;
- d) Subdivision name, perimeter boundaries, north point, date and scale; or Subdivision name, perimeter boundaries as compiled from record plans and deeds, north point, date and scale. The approximate boundary lines of proposed lots shall be shown with the approximate areas and dimensions. Each lot shall be numbered sequentially. An on the ground field survey will only be required for Preliminary Plan submittals when a Flexible Development Special Permit will be sought;
- e) Name and address of record owner, subdivider, and Registered Professional Engineer and Registered Land Surveyor, as appropriate;
- f) In the case of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, a plan showing in a general manner the proposed overall use of all of said land, if any;
- g) Approximate topography of the land with two-foot contour intervals;
- h) Names of all abutters as they appear in the most recent tax list;
- i) Site information showing approximate flood plains and zones, waterways and wetland resources areas (GIS database) pursuant to the Massachusetts Wetlands Protection Act and the Douglas Wetlands Protection Bylaw (on site and within 100 feet of the property);
- j) Zoning classification and location of any zoning district boundaries that lie within the locus of the plan, including any overlay zoning districts, including but not

limited to, the Flood Plain, Historic Districts, Scenic Roads, Water Supply Protection zones, Aquifer Protection District, etc.;

- k) Existing and proposed lines of streets, ways, lots, easements, and public or common areas within the subdivision;
- l) Location, names and present widths of adjacent streets;
- m) The profiles of existing grades and approximate proposed finished grades of the roadway and underground utilities. Vertical scale of one inch to four feet (1" = 4') and a horizontal scale of one inch = forty feet (1" = 40;). Profiles of proposed streets may be submitted on separate sheets;
- n) Site line triangles and profiles of all proposed intersections;
- o) Proposed systems of sewage disposal, drainage including detention/retention basins, adjacent existing natural waterways, and water installations and other underground utilities, including easements, in a general way;
- p) A general indication of existing soil conditions, based of USDA-NRCS Soil Survey Map;
- q) Waiver list from Definitive Plan Requirements and explanation of how the granting of the waiver would be in the public interest. Demonstrate how the subdivision could be built without any waivers from the definitive plan (MGL Ch41 §81R);
- r) Review of alternative development scenarios, e.g., flexible development, low impact development, residential compound, etc.

4.1.5. Approval

The Planning Board may give such Preliminary Plan its approval, with or without modifications. Such approval does not constitute approval of a subdivision, but does facilitate the procedure in securing approval of the Definitive Plan.

In the case of disapproval, the Board will provide a detailed statement of the reasons for its action.

It is the intent of the Planning Board to work constructively with any Applicant to ensure that any proposed subdivision and its ways are of high quality and preserves the amenities indigenous to the Town of Douglas.

4.2 Definitive Plan (MGL Ch41 §81U)

4.2.1. General

The Definitive Plan should conform substantially to the Preliminary Plan as approved but may constitute only that portion which is proposed to be recorded and developed at the time.

4.2.2. Filing Procedure

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

1. Twenty-two individually bound copies of the following:
 - a) Cover/transmittal letter summarizing the specific contents of the complete Application;
 - b) Form C – Application Form for the Approval of a Definitive Subdivision Plan signed by all Property Owners;
 - c) Fee Calculation Worksheet and copies of the check(s) submitted;
 - d) Written Narrative description of the existing conditions of the project and the proposed improvements to the project site. The description shall include sections on Environmental Impacts, Water Supply Impacts, Drainage Impacts, Sewage Disposal Impacts, Soils/Topographic Impacts, Traffic Impacts, and School Impacts, Natural and Cultural Resource Impacts;
 - e) Copy of the Assessors Map and accompanying Certified Abutters List for all property abutters within 300-feet of the project site;
 - f) Copy of the most recent United States Geological Survey (USGS) Locus Map indicating the project site location;
 - g) Copy of the most recent Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) indicating the project site location;
 - h) Copy of the Natural Resource Conservation Service (NRCS) Worcester County Soils Map indicating the project site location. Accompanying this figure should be copies of the relevant sections for soils narrative and engineering properties of the soil;

- i) Copies of any additional field soil testing results or groundwater elevation data that is available. This may include Title V soil evaluation for surrounding properties;
 - j) Waiver list from Definitive Plan Requirements and explanation of how the granting of the waiver would be in the public interest. Demonstrate how the subdivision could be built without any waivers from the definitive plan (MGL Ch41 §81R);
 - k) Copies of the deeds for the subject parcel(s);
- 2. Application Fee(s) as detailed in the Douglas Planning Board Regulations Governing Fees and Fee Schedules;
 - 3. Two full size sets of engineering drawings and twenty-two reduced (12" x 18") drawings which satisfy the minimum requirements detailed in Section 4.2.3;
 - 4. Two bound copies of the stamped and dated Stormwater Management Calculations as required under Section 4.2.3. i. 13.

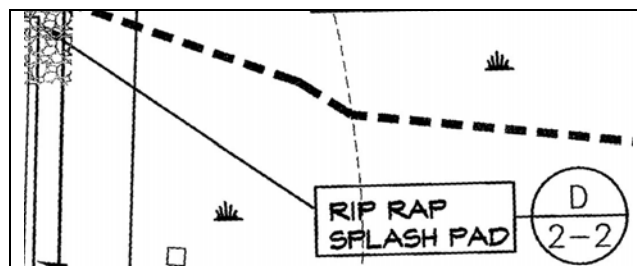
The Applicant shall file a Definitive Subdivision Plan at a regularly scheduled meeting of the Planning Board or by registered mail to the Planning Board Office. In the event of mailing, then mailing receipt is the date of submission (Chapt. 169 of the Acts of 1994).

4.2.3. Contents

The Definitive Plan shall be prepared by a Massachusetts Registered Professional Engineer and a Massachusetts Registered Professional Land Surveyor and shall be presented in a clear and legible manner. The plan shall be at a scale of one inch equals forty feet (1" = 40') or such other scale as the Board may accept to show details clearly and adequately. Sheet sizes shall not exceed 24" x 36" and shall not be less than 12" x 18". The Definitive Plan Drawings shall consist of the following plan sheets:

- a) **Cover Sheet** – The cover sheet shall show the project locus; the project name; the original date of submittal and all subsequent plan revision dates; an index of all drawings included in the set; the names, addresses and telephone numbers of the Owner(s), Applicant(s), Engineer(s), Surveyor(s) and all authorized Representative(s);
- b) **Key Plan** – This sheet will provide a layout of all drawings included in a set giving an overview of the sheet layout relative to the project limits. The Key Plan and Overall Site Plan may be combined if they can be presented in a clear and legible manner;

- c) **Overall Site Plan** –This sheet will show the entire site on one sheet with both existing and proposed conditions shown. The Key Plan and Overall Site Plan may be combined if they can be presented in a clear and legible manner;
- d) **Recordable Drawing(s)** – This set of drawing(s) will be those used to file at the Worcester County Registry of Deeds. They should be presented to meet the Registry Standards, include property boundary information and meet the requirements of 250 CMR;
- e) **Existing Conditions Sheet(s)** –This sheet will reflect the existing site conditions and shall be presented in a clear and logical manner so it is easily legible for the scale that it is drawn. ;
- f) **Proposed Conditions Sheet(s)** – This sheet will reflect the proposed site improvements and shall be presented in a clear and logical manner so it is easily legible for the scale that it is drawn and so it is easily distinguishable from the existing conditions that are shown on the drawing. Furthermore, the proposed conditions sheets shall use leaders and labels referencing specific details by detail letter and detail sheet number (see figure below for example).



Sample Plan View Label: “D” refers to the detail letter and 2-2 refers to the plan sheet where this detail is found.

- g) **Plan & Profile Sheet(s)** – This sheet will present the road and utility profiles. It will also show any centerline soil testing performed and show the approximate elevation for high groundwater and refusal at each hole. Compliance with the American Association of State Highway and Transportation Officials (AASHTO) Horizontal and Vertical Curve design requirements and sight distance requirements shall be included on these sheets. This set of sheets shall also include a corner sight distance profile demonstrating compliance with the AASHTO.
- h) **Detail Sheet(s)** – These sheets should provide information for the construction of all components of the project. The individual details shall be arranged in the order that

they will be constructed (ie. the erosion control detail would be first and the tree planting detail should appear last). Further, each detail shall be labeled sequentially with a letter (ie. Detail A – erosion control detail, also see figure below).



Sample Detail Label: “D” refers to the detail letter and 1-2 refers to the sheet where this proposed item is shown on the plan view.

- i) **Other Sheet(s)** – Other sheets may include, but are not necessarily limited to, landscaping plans, utility plans, renderings, etc.

Furthermore, the Drawings shall contain the following information:

- 1) Subdivision name including the way or ways on which it is situated, boundaries, north point, scale, benchmark and datum. All elevations to refer to North American Datum 1983 (NAD83) datum and horizontal control shall be tied to the Massachusetts State Plane coordinate system.
- 2) Name and address of record owner, Applicant, Registered Professional Engineer and Registered Land Surveyor, including professional stamps.
- 3) Names and addresses of all direct abutters as they appear in the most recent tax list. A list of all property owners within 300 feet should be provided with the Application.
- 4) Existing and proposed lines of streets, ways, lots, easements, waterways, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Board).
- 5) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line and to establish these lines on the ground.
- 6) Location of all permanent monuments properly identified as to whether existing or proposed and linked to the nearest public way monuments within 1,000 feet of center of the property entrance.

- 7) Location, names and present widths of ways bounding, approaching or within the subdivision.
- 8) Existing and proposed topography at two (2) foot contour intervals.
- 9) Lengths, radii and central angles of all curves in lot lines and street lines.
- 10) Zoning classifications of all areas shown on the Plan.
- 11) Areas of lots with lot numbers and areas of other adjacent land of applicant, or which Applicant or Owner has an interest in that is not included in the subdivision.
- 12) Size and location of existing and proposed water supply facilities.
- 13) A storm drainage system will be shown on a separate sheet. The Plan shall include invert and rim elevations of all catch basins and manholes together with surface elevations of all waterways within the subdivision at 100-foot intervals. Test pits or borings shall be performed at the expense of the applicant at 100-foot intervals along the centerline of the proposed roadways to determine the foundation material for road construction and to determine the seasonal high ground water elevation. Surface elevation and approximate depth of water shall be shown at each point where the drainage pipe ends at a waterway.

Drainage calculations prepared by the applicant's engineer, including design criteria used, drainage area and other information sufficient for the Board to check the size of any proposed drain, culvert or bridge shall be included.
- 14) All areas regulated by Wetlands Protection Act 310 CMR and rock outcrops, (unless otherwise specified by the Board), and other significant features.
- 15) Minimum building set-back lines on all lots. On lots adjacent to future roadways, as required in Section 5.1.1 c., the building set back line shall be as required for frontage along the proposed roadway.
- 16) Location of all the following improvements; street paving, sidewalks, street signs, street lighting standards (if required), all utilities above and below ground, curbs, gutters, street trees, storm drainage and all easements. (May be on a separate sheet).

17) A legend denoting any signs and symbols used on the plan and not otherwise explained.

18) Suitable space to record the signatures of the seven members of the Board.

4.2.4. Profiles of Proposed Streets

(May be made on a separate sheet) Profiles shall be drawn with:

- a) A horizontal scale of 1 inch to 40 feet (1"=40').
- b) A vertical scale of 1 inch to 4 feet (1"=4').
- c) Existing centerline keys with elevations shown every 50 feet.
- d) Existing right sideline in fine black dotted line.
- e) Existing left sideline in fine black dotted line.
- f) Proposed centerline grades and elevations, with elevations shown at every fifty (50) foot station, except that in vertical curves elevations shall be shown at twenty-five (25) foot station and at Point of Vertical Curvature (PVC) and Point of Vertical Tangency (PVT).
- g) All existing intersection walks and driveways shown on both sides of proposed and existing ways.
- h) All elevations referred to the North American Datum 1983 (NAD83) bench marks.
- i) Proposed grades of ways shall be shown.
- j) Size and location of existing and proposed utilities and their appurtenances and surface drains and their appurtenances.
- k) All center lines, street lines and curb lines (with elevations every 25 feet) of streets for a distance sufficient to meet AASHTO regulation either side of each intersection on a connecting street.
- l) Profiles shall show vertical location of all water lines, drainage lines and other utilities as well as required new waterways. Sizes of all pipes shall be shown as well as inverts of all pipes at each manhole or catch basin, together with invert elevation and rim elevation of each manhole or catch basin. Profiles

shall be included for each proposed water and sewer lines and all proposed drainage lines whether or not within the subdivision. All pipe slopes, diameters and constructions should also be included.

4.2.5. Performance Guarantee (MGL Ch41 §81U)

Before endorsement of a Definitive Plan of a subdivision the subdivider shall either, (1) file a performance bond secured by surety or deposit money or negotiable securities in an amount and form determined by the Board to be sufficient to cover, (a) the cost of all of the improvements specified in Section 6.0, (b) the maintenance of such improvements for one year, and, (c) a 10 percent contingency factor or, (2) follow the procedure outlined in "2" below.

1) Approval with bonds or surety (Forms G, G-1, H, I & J)

Such bond or security if filed or deposited shall be approved as to form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer and shall be contingent on the completion of such improvements within two years from the date of issuance of the first building permit for the project or the first building permit in that particular phase of the project, as appropriate.

Upon its own motion or a written request of the subdivider the Board may decide at any time during the term of the performance bond that improvements have been installed in a satisfactory manner in sufficient amount to warrant reduction in the face amount of such bond, the face value of such performance bond may be modified by an appropriate amount. The 10 percent contingency shall be retained until road acceptance is final.

2) Approval with a covenant (Forms F and F-1, F-2, F-3)

Instead of filing a bond or depositing surety, the subdivider may request approval of his Definitive Plan on condition that a covenant running with the land has been duly executed and recorded and inscribed on the Plan, or on a separate document referred to on the plan, in accordance with Section 81-U of Chapter 41 G.L. Such covenant shall provide in part that no lot may be built upon or sold until all of the improvements as required in these regulations have been completed and approved as provided hereafter.

In this case, before approval of a Definitive Plan, there shall be filed by the subdivider a properly executed Approval Agreement (Form F), in accordance with Section 4.2.2.

Prior to delivering to the subdivider a Release of Restrictions (Forms F-1, F-2 & F-3) whereby the restrictions relating to the lot or lots listed therein shall be terminated, the Board shall determine to its satisfaction that such improvements specified in

Section 6.0 have been completed so as to adequately serve such lot or lots, in part by requiring that the subdivider submit to the Board the following:

- 1) As-built plan or partial as-built plan of the improvements made to date with a certification from the design engineer that all improvements made conform to the approved design plans, or shall list any deviations from the approved design plans;
- 2) Written documentation from the Town Engineer that required improvements conform to the Planning Board requirements in accordance with the approved Definitive Plan.
- 3) Written documentation from a majority of the Water Commissioners or from their Agent that the mains and hydrants conform to their specifications and the Planning Board requirements in accordance with the approved Definitive Plan.
- 4) A performance guarantee as permitted herein and by the subdivision control law (MGL ch 41 §81U) in an amount determined by the Board to be sufficient to cover the cost of any remaining or uncompleted work. Release of the check or bond shall be subject to the written approval of the Planning Board that the work has been completed in accordance with requirements.
- 5) A completed Release of Restrictions (Form F-1, F-2 or F-3) for signature by a majority of the Planning Board, if approved.
- 6) Submit copies of deeds and easements that have been reviewed and approved by Town Counsel for any lots for which release is sought.

Upon completion of such required improvements the subdivider shall so notify the Planning Board and the Town Clerk, by hand delivery or registered mail, requesting release from such covenant. The Board shall act on such request within forty-five days.

4.2.6. Suitability of the Land

1) Board of Health Review (MGL Ch41 §81U)

When a Definitive Plan of a subdivision is submitted to the Planning Board, a copy thereof shall also be filed with the Board of Health. The Board of Health shall, within forty-five (45) days after the Plan is so filed, report to the Planning Board in writing its approval or disapproval of said Plan, and in the event of disapproval, shall make specific findings as to which, if any, of the lots shown on such Plan cannot be used for building sites without injury to the public health, and include such specific

findings and the reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof. Failure to so report within the time limit shall be deemed approval for a subdivision served only by municipal sewage.

2) Conservation Commission Review

No work within an approved subdivision shall commence until such time as the provisions of the Massachusetts Wetlands Protection Act (MGL Ch 131 Sec. 40) and the Town of Douglas Wetlands Bylaw (Article 8 of the Douglas General Bylaws) have been complied with.

4.2.7. Public Hearing

In accordance with MGL Ch41 §81T: ... *“Before approval, modification and approval, or disapproval, of the Definitive Plan is given, a public hearing shall be held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Douglas once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing the applicant shall mail by certified return receipt a copy of such advertisement to all property owners within 300' of the land included in such Plan as appearing on the most recent tax list.”*

4.2.8. Decision (MGL Ch41 §81U)

The Board shall issue a decision within 135 days of submittal of a definitive plan or within 90 days when a preliminary plan has been filed. The action of the Board in respect to such Plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board, but not until the statutory twenty day appeal period has elapsed with no appeal having been filed with the Town Clerk and following the filing of a certificate of action (Form C-1, C-2) of the Board to the Town Clerk. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with five (5) prints and one copy suitable for reproduction thereof. Also, upon endorsement, the Applicant shall submit one electronic file (.dxf, .dwg, etc) of the entire submittal to the Board, as acceptable.

Approval of the Definitive Plan does not constitute the laying out, or acceptance by the Town of streets within a subdivision.

4.2.9. Monthly Reporting

Monthly engineering reports shall be submitted to the Planning Board by the applicant's Engineer. Said report shall, at a minimum, indicate the status of the subdivision in terms of schedule for completion and to describe in reasonable detail any problems or delays encountered with the construction of the project.

4.2.10 As-built

The Board shall require the submission of partial and final "as-built plans" to assist with the review of Applicants requests for Surety reduction and for recommendation on final road acceptance. The As-built plans shall be submitted showing all changes, modifications, deletions, or additions made to the approved definitive set of plans including but not limited to rights of way, drainage, utilities, water and sewer, easements, roadway cross section and profile. One full-size set (24" x 36") of partial as-built plans that are certified by a professional engineer and a land surveyor shall be submitted to the Town Engineer for review along with any surety reduction requests. The Engineer and/or Land Surveyor shall provide the following stamped certification on all progress and final as-built plans:

"I certify that to the best of my knowledge and ability that the lines, elevations, locations and information depicted on this drawing are true and accurate and are based upon final in-place field conditions as of the date indicated on this drawing.

Signature: _____ Date: _____ "

The final set of As-Built drawings shall include one full size mylar set of the entire project and 1 full size reproduction thereof. Electronic copies (.dxf, .dwg, etc.) of the as-built plans shall accompany each request for surety reduction, as appropriate.

Upon completion of the public improvements the developer shall provide the Planning Board with legal descriptions and mapping that is acceptable to the Town Counsel and the Board of Selectmen of all land that is to be conveyed to the Town or where easements are to be provided.

4.3 Residential Compounds

4.3.1. Purpose

The purpose of this Section is to provide an option for the development of a parcel of land under an alternative design, called a Residential Compound, where and only where the Board determines that such Residential Compound will promote development of the parcel in the best interests of the Town, considering the factors specified herein. A Residential Compound Plan shall be treated as a Definitive Plan for the purposes of the Subdivision Control Law. Because the Residential Compound Plan contains various

waivers from the otherwise applicable Rules and Regulations of the Planning Board, the approval of a Residential Compound is within the informed discretion of the Board pursuant to G.L. c. 41 s. 81R. Denial by the Board of a request to submit an application for a Residential Compound, or denial of an application for a Residential Compound, shall not be construed as denial of the right to subdivide the property, and the applicant shall retain all rights to submit a Definitive Plan pursuant to G.L. c. 41, s. 81U and these Rules and Regulations. Applicants are advised to see Section 4.4 of the Zoning By-Law for provisions regarding reduced lot frontage within a Residential Compound.

4.3.2. Eligibility

Applicants may request that a proposal be handled as a Residential Compound Plan (RCP). Prior to investing in extensive professional design costs for preparation of a RCP, the applicant is invited to review the proposed development of the parcel of land with the Board, in order to explore general conditions involving the site and to discuss potential problems. Pencil sketches, which need not be professionally prepared, will assist in this discussion, and should show the critical features required herein.

To qualify for consideration as a RCP, the subdivision must satisfy all of the following conditions; provided, however, that satisfaction of the following conditions shall only result in rendering the plan eligible for further consideration by the Board pursuant to this Section, and does not guarantee approval.

- a. The RCP must create at least two but not more than **10** lots and have a minimum of **100** feet of frontage on an existing public way.
- b. All lots created by the RCP shall have ingress and egress to a Common Private Way.
- c. Each lot shall have at least 50 feet of frontage on the Common Private Way and shall contain at least one hundred fifty (150%) percent of the minimum area requirement for the district in which it is located.
- d. The Common Private Way shall extend from a public way, and shall end in a cul-de-sac, as described below.
- e. Not more than one (1) RCP subdivision shall be created from a property, or a set of contiguous properties held in common ownership as of **May 26, 2009**. Documentation to this effect shall be submitted to the Planning Board along with the application for RCP approval.
- f. A buffer zone of at least 100 feet in width of indigenous vegetation shall separate any structures in the development from any adjacent public way. No vegetation shall be removed from this buffer zone after the development of the residential compound, nor shall any building or structure be placed therein.

4.3.3. Criteria for Planning Board Approval

The Planning Board may approve an RCP subdivision upon a determination that the RCP, as compared to an orthodox subdivision of the same parcel, is likely to:

- a. reduce the number of lots having egress onto existing public ways;
- b. reduce the number of lots having frontage on existing public ways;
- c. reduce cut and fill in road construction and subdivision development;
- d. promote public safety and welfare, particularly with regard to traffic and pedestrian safety;
- e. be constructed in a manner which will minimize the visual impact of the development of the subject parcel of land as viewed from the public way providing access to the RCP subdivision, or from adjacent properties; or
- f. produce less irregularly shaped or contorted lot configurations.

4.3.4. Application

In order to facilitate application for an RCP, the applicant shall submit a plan containing the following information, in a format acceptable to the Registry of Deeds and the Planning Board:

- a. centerline profile of proposed Common Private Way;
- b. location of any wetlands;
- c. proposed drainage;
- d. proposed utilities and road construction design;
- e. proposed lot lines and building sites;
- f. scale and area of vegetative screening separating the Common Private Way and RCP lots from adjacent public way;
- g. names of abutters from the latest available Assessor's records.

Such plan shall be prepared by Registered Professional Engineer, Land Surveyor, Architect, or Landscape Architect, unless this requirement is waived by the Planning Board. The Planning Board reserves the right to request any information not set forth above but otherwise required for the submittal of a Definitive Plan.

4.3.5. Filing Fee

An application fee as set forth in the Planning Board Fee Schedule shall be submitted with the application form to cover costs of processing and initial engineering review. The Planning Board may require additional fees in accordance with its Rules and Regulations.

4.3.6. Conditions

Any plan approved as an RCP must contain or refer to recorded covenants regarding each of the following:

- a. The Common Private Way shall remain permanently a private way, which shall not be extended.
- b. The Common Private Way shall not be connected to any other way except where it originates on a public way.
- c. All lots created by the RCP shall obtain access exclusively from the Common Private Way and not the public way serving the locus.
- d. Ownership of any lot shown on the RCP shall constitute membership in a homeowners association responsible for all liability, maintenance and snow removal from the Common Private Way. This condition shall be placed in the deed to each lot. The documents establishing the homeowners association and all deeds shall be approved as to form by the Planning Board's legal counsel prior to Execution.
- e. The Common Private Way shall be conveyed to the homeowners association which shall permanently retain all rights in the Common Private Way.
- f. The Common Private Way does not meet the standards of the Town for acceptance for new ways and shall not be proposed for such acceptance.
- g. Owners of lots in the RCP shall be subject to betterments for Common Private Way repairs and improvements, even though the Common Private Way shall not be accepted by the Town.
- h. The homeowners association shall indemnify, hold harmless and release the Town from liability for any damages resulting from an action brought by a third party or the association in any court due to the repair, use, or maintenance of the Common Private Way.

4.3.7. Common Private Ways

Common Private Ways shall have:

- a. A staging area shall be provided to promote ease of access from the Common Private Way to the abutting public way, and to minimize the discharge of water and sediment from the common private way onto the abutting public way. The staging area shall be at least 40 feet in length from the pavement on the public way, with a minimum width of 20 feet of pavement in accordance with the Subdivision Regulations, and sloped not more than 6% grade for the 40 feet it extends from the pavement on the public way;
- b. A centerline intersection with the street centerline of not less than 60 degrees;

- c. A roadway surface, on that portion of the Common Private Way extending beyond the staging area, of a minimum of 6 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown, where appropriate; provided, however, that the applicant may seek a waiver of this provision upon a demonstration that alternative construction standards meet the access and safety standards of this provision;
- d. Proper drainage appurtenances, where required, to prevent washout and excessive erosion, with particular attention to the staging area, so that water draining onto the street surface from the staging area is eliminated to the maximum extent feasible;
- e. A roadway surface, on that portion of the Common Private Way extending beyond the staging area, with a minimum width of 16 feet for its entire length, and a minimum right-of-way width of 30 feet for its entire length;
- f. A turnaround or cul-de-sac of not less than 30 feet in depth and 40 feet in width provided at the end of the Common Private Way;
- g. A buffer zone of not less than 30 feet in width of indigenous vegetation separating the Common Private Way from any pre-existing residential lot line.

4.3.8. Decision

The Planning Board shall render a decision regarding a RCP in accordance with the provisions of G.L. c. 41, ss. 81U and 81R and Section 3, herein. The Planning Board may grant a waiver from these requirements in granting any approval.

SECTION 5.0: DESIGN STANDARDS

Unless specified otherwise, definitions, terms and standards referenced in the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges shall apply herein.

5.1 Streets

5.1.1. Location and Alignment

- a) All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- b) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided. These access ways are to be deeded either in fee or by easement to the town prior to release of any bond.
- c) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- d) Street jogs with centerline offsets of less than one hundred and twenty-five (125) feet shall not be permitted.
- e) The minimum centerline radii of curved streets shall comply with the American Association of State Highway Transportation Officials (AASHTO).
- f) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
- g) Property lines and right of way lines at street intersections shall be rounded or cut back to provide for curb radius of not less than twenty (20) feet.

5.1.2. Width

The minimum width of street rights-of-way shall be sixty-feet (60'). Rights-of-ways reserved prior to the implementation of these regulation revisions may maintain a minimum 50-foot wide right of way over the area reserved. Greater width shall be

required by the Board when deemed necessary for present and future vehicular travel. Item Number 6 of Section 3.2 herein provides definitions for the three types of streets.

5.1.3. Grade

- a) Grades of streets shall be not less than 1.0%. Grades shall not be more than 6.0% for principal streets nor more than 10.0% for secondary streets.
- b) All changes in grade exceeding one-half ($\frac{1}{2}$) percent shall be connected by vertical curves of sufficient length to afford adequate sight distance.
- c) Streets and lots shall be aligned and graded to facilitate connection with the existing and proposed sewerage system where applicable.
- d) Vertical alignments shall be in compliance with AASHTO.
- e) Grades at all street intersections and at all cul-de-sacs shall not exceed 2.0% for a distance one-hundred fifty feet (150') as measured from the centerline intersection or the end of the cul-de-sac.

5.1.4. Dead-End Streets

- a) Dead-end streets shall not be longer than one thousand (1,000) feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.
- b) Dead-end streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100) feet, and a property line diameter of at least one hundred and twenty (120) feet.
- c) Through streets indicated on the plan, that are not constructed to provide through traffic, shall provide for temporary turnarounds to be approved by the Board, or its agent, before any houses on such streets shall be occupied.
- d) Any easement in a turn-around other than an easement appurtenant to a lot abutting the turn-around shall terminate upon the approval and recording of a plan showing extension of said way, except in such portion of said turn-around as is included in said extension, and upon the recording of a certificate by the Board of the construction of said extension.

5.2 Easements

- 1) Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve (12) feet wide to the town Right of Way.
- 2) Where a subdivision is traversed by a drainage way, the Board may require that there be provided to the town, a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such drainage way, to provide for construction of other necessary purposes, and to provide for extension of such drainage ways on adjoining property.
- 3) All public improvements to be constructed on private property must be substantially complete prior to the transfer of title of that piece of property. As-built plans and Inspection Forms shall be submitted to, and approved by the planning board for determination of substantial completion.
- 4) All easements and rights to drain shall be in a form acceptable to the Town Counsel and the Board of Selectmen.
- 5) Gravel drives providing access to public improvements shall be a minimum of 12' wide with an 8" layer of gravel meeting the Mass Highway specifications for gravel borrow.

5.3 Recreational Areas (MGL ch41 §81U)

Before approval of a Definitive Plan, the Board may require the Plan to show a park or parks suitably located for playground or recreation.

The Board may, by appropriate endorsement on the Plan, require that no building be erected upon such park or parks without its approval for a period of three (3) years. The Board shall not require dedication of such recreation areas without just compensation to the owner.

5.4 Protection of Natural Features

Due regard shall be shown for all natural features, such as topography, large trees, water courses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

SECTION 6.0 REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

Unless specified otherwise, definitions, terms and standards referenced in the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges shall apply herein.

6.1 Street and Roadway

- 1) The entire area of each way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
- 2) All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with common borrow or other suitable material permitted by the Board.
- 3) All roadways shall be brought to a finished grade as shown on the profiles of the Definitive Plan with at least the top twelve (12) inches of gravel borrow conforming to MassHighway M 1.03.0 type b compacted to 95% dry density to a width of the roadway base course plus two (2) feet on both shoulders.
- 4) Adequate disposal of surface water shall be provided and shall meet the standards of treatment outlined in the Massachusetts Department of Environmental Protection (DEP) Stormwater Policy Manual. Catch basins shall be pre-cast concrete structures with extended base sections that are located at low points and sags in the roadway, near the corners of the roadway at intersecting streets, and at intervals along the roadway that are determined by the contributing flowrate and the inlet grate capacities but in no instance shall they be located more than 300-feet apart from each other.
- 5) A four (4) inch compacted thickness of Class I bituminous concrete pavement, Type I-1, shall be placed on all roadways in conformance with the Massachusetts Highway Department Standard Specifications for Highways and Bridges. Two and one half (2 ½) inches of coarse mix (binder) bituminous concrete shall be laid, then upon which shall be laid a one and one half (1 ½) inch course of fine mix (finish) bituminous concrete.

A Building Permit shall not be granted by the building department until the base course of pavement is installed, sidewalks are installed and grass strips are prepared for loam and seeding to the satisfaction of the Planning Board. Within 21 days of a written request of the applicant the Planning Board will issue a letter to the building department documenting the developer's compliance.

- 6) All unpaved areas, within the road right-of-way, and all slopes immediately adjacent to the road shall be loamed and seeded.
- 7) The developer shall be responsible for maintaining in good repair all roads in a subdivision until they are accepted by Town meeting. This maintenance shall include sweeping, cleaning of catch basins, repair of any settlements or cracking and adjustment of castings within the pavement. The developer shall be responsible for keeping the roads clear & accessible at all times. This shall include, but not be limited to, plowing and sanding as required for public safety. The Town shall have the ability to contract outside snow removal/sanding vendors, at the expense of the Applicant, if the snow is not cleared within a reasonable amount of time. A “reasonable amount of time” is determined by the Planning Board or its Agent.
- 8) Driveways. All driveways extending from the completed road surface to the lot line must have a topping of at least two (2) inches of bituminous concrete. All driveway slopes must end at the street right of way, then continue forward to the completed road surface in the same grade as the sidewalk strip and/or shoulder in order to allow proper drainage of surface water. The driveway apron shall be placed to form a one (1) inch lip (elevation differential) when the final course of pavement is placed.
- 9) Underdrains shall be provided along the roadway in all areas where groundwater is indicated by mottles within 36" of the finished grade and where required in cuts along the right of way to ensure no ground water seeps onto the roadway or driveways.

6.2 Curbs and Berms

In instances where the Planning Board so requires, curbs and berms shall be installed in accordance with the following minimum requirements and the construction specifications enumerated herein.

Curbing shall be installed in accordance with the construction standards put forth in Standard Specifications for Highways and Bridges by the Massachusetts Highway Department. Cape Cod bituminous concrete berms shall be required throughout the development except where granite curbs are otherwise required. Cape Cod berms shall be installed directly on top of the binder course of the pavement.

Type VA-4 granite curbs shall be installed at all curb inlets for catch basins, All street intersections on the curve and extending 6 feet beyond the tangent points; and On all inside curves wherever the interior angle is less than 110 degrees.

6.3 Utilities

- 1) The Planning Board has the authority to require the Applicant to connect to public utilities, as the Board deems appropriate.
- 2) All developments connecting to a public sewer system shall construct the system in conformity with specifications and requirements of the Water and Sewer Department.
- 3) In areas reasonably available to a public water system, water pipes and related equipment, such as hydrants and main shut-off valves, shall be constructed to serve all lots on each street in the subdivision in conformity with specifications of the Water and Sewer Department.
- 4) Hydrants shall be installed by the developer so that all dwellings in the development are within 300 feet of a hydrant when public water is available.
- 5) Underground distribution systems shall be provided for any and all utility services, including electrical and telephone services. Adequate street lighting shall be provided of a design subject to approval by the Planning Board when required.

6.4 Sidewalks

Five-foot wide sidewalks shall be installed on both sides of the proposed road. The sidewalk shall be constructed of poured concrete, shall have evenly spaced control joints, and shall have an 8-inch gravel base. All sidewalks and ramps shall be in compliance with all American with Disabilities Act (ADA) and applicable Massachusetts regulations.

Projects that are looped in a hairpin fashion to connect to the same pre-existing supply road or connect to a different road within a reasonable short distance shall provide a poured concrete sidewalk along the existing roadways and between the new roadways, so that the sidewalk may provide a loop.

6.5 Grass Strips

A minimum five-foot wide grass strip shall be constructed between the road curb and front edge of the sidewalk. This strip shall be loamed with not less than four inches compacted depth of good quality screened loam seeded with lawn seed and rolled. Seeding and mulching shall be done at appropriate time of the year and in a manner to insure growth of grass and shall be done in accordance with the Massachusetts Standard Specifications for Highways and Bridges.

6.6 Trees

In accordance with Planning Board policy, trees shall be installed at an average spacing of one hundred feet on both sides of proposed roadways. All trees must be hardwoods, one and

one-half (1-1/2) to two (2) inches in diameter, ten (10) to twelve (12) feet tall with good straight stems. These trees shall be planted in the five-foot grass strips.

All trees that do not survive shall be replaced prior to final road acceptance.

6.7 Monuments Street Signs and other Appurtenances

- 1) Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points, where, in the opinion of the Board, permanent monuments are necessary. Such monuments shall conform to the standard specifications of the Board and shall be set according to such specifications. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed. Each project shall provide permanent horizontal and vertical control on these or other accessible monuments to the Planning Board.
- 2) The Planning Board requires that traffic control and street name signage be installed along any street or way that leads to a building lot for which a Certificate of Occupancy is being sought, prior to the Building Inspector issuing said certificate. The signage shall be installed in accordance with the approved subdivision drawings.
- 3) The Applicant shall provide permanent central mailbox units (CMU) as part of the project. These CMU's shall be approved as to style and location by the local Postmaster General of the United States Post Office. Post Office authorization shall be forwarded to the Planning Board for their record.

6.8 Clean Up

- 1) All removed trees, stumps, brush and boulders shall be properly disposed of in accordance with all applicable Local, State & Federal regulations. Before sale of a lot, the subdivider shall clean up any debris thereon caused by construction of public improvements.
- 2) Upon completion of work in the subdivision, all equipment shall be removed and the entire area cleaned of debris and other objectionable material so as to leave a neat and orderly appearance.

6.9 Inspection of Required Improvements

6.9.1. General

Inspections shall be coordinated with the Town Engineer prior to starting subdivision construction. The Town Engineer will sign this checklist after satisfactory completion of each step by the contractor. Inspections shall be requested three work days in advance of

each inspection by written notice or phone call to the Town Engineer with a copy to the Town Engineer or the Planning Board Agent. Inspections shall be made after each step indicated below. All weight slips for bituminous material shall be furnished to the Town Engineer.

6.9.2 Pre-Construction & Progress Meetings

A mandatory pre-construction meeting is required to be held between the Town Engineer, the Planning/Conservation Agent, the Applicant, the project construction superintendent, the Design Engineer and any other relevant parties to the construction process. This meeting is intended to establish construction control requirements, project scheduling and facilitate communication between all parties involved in the construction project. The Onsite progress meetings (inspections) will occur at a minimum on a monthly basis or more frequently as required by bond reductions, site control or as needed.

6.9.3. Site Preparation

Site preparation shall include, but not necessarily be limited to, mobilization to the site; erection of erosion controls; construction of stormwater management structures and establishment of staging areas, field trailers, and stockpile areas. Site preparation inspections shall be performed by the Town Engineer or the Planning/Conservation Agent.

6.9.4. Clearing and Grubbing

Clearing and grubbing shall be performed in accordance with the limits shown on the approved drawings. Clearing and grubbing shall be coordinated in an organized fashion. Separate areas for trees, stumps, brush and rock/boulders shall be maintained. Burial of organic materials (trees, brush or stumps) is prohibited. Burial of rock/boulders shall be prohibited unless burial is pre-approved by the Planning Board, the Town Engineer or the Planning/Conservation Agent. Clearing and grubbing inspections shall be performed by the Town Engineer or the Planning/Conservation Agent.

6.9.5. Excavation and Subgrade Preparation

Site Excavation, grading and subgrade preparation shall be in accordance with the limits shown on the approved drawings. In areas where roads, stormwater management utilities, or other structures or utilities are proposed, excavation of unsuitable material (ie. debris, organic material, etc.) is required. Only suitable native or compacted soils shall be permitted to be located below roads, stormwater management utilities, or other structures or utilities. Site Excavation, grading and subgrade preparation inspections shall be performed by the Town Engineer or the Planning/Conservation Agent.

6.9.6. Installation of Utilities

Site Drainage – Underdrains, storm and surface drains shall be installed as specified and in conformity with the approved Definitive Plan. Construction of stormwater management structures and utilities shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

Water - Water mains and related equipment such as valves, thrust blocks, fire hydrants, pump stations, and water storage tanks shall be installed as specified and in conformity with the approved Definitive Plan. Construction of water mains and related equipment shall be inspected and approved by the Water & Sewer Department or their Agent and the Fire Chief or their agent. Written certification from the Water & Sewer Superintendent and the Fire Chief is required indicating that the construction of the water main has been installed as approved and meets the required specifications and testing requirements of the appropriate local, state and federal agencies. Backfilling and other peripheral activities associated with water utilities are also inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

Sewer - Sewer mains and related equipment such as valves, manholes, and pump stations shall be installed as specified and in conformity with the approved Definitive Plan. Construction of sewer mains and related equipment shall be inspected and approved by the Water & Sewer Department or their Agent. Written certification from the Water & Sewer Superintendent is required indicating that the construction of the water main has been installed as approved and meets the required specifications and testing requirements of the appropriate local, state and federal agencies. Backfilling and other peripheral activities associated with water utilities are also inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

Electric, Telephone & Cable – Installation of the underground (or aboveground) electric, telephone, and cable utilities shall be inspected and approved by their respective private supply companies. Backfilling and other peripheral activities associated with these utilities may also be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

Other – Generally, other utilities not listed herein shall be installed as shown on the approved Definitive Plans and inspected by the governing department or agency. Where no governing agency or department exists, then these utilities may be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.5 Backfill, Fill and Rough Grading

Backfill, fill and rough grading shall be performed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Backfill, fill and rough grading shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.6. Gravel Base

Gravel Base shall be installed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Gravel Base shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.7. Binder Course of Pavement Construction

Binder Course of Pavement shall be installed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Binder Course of Pavement shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.8. Curb and Berm Installation

Granite curb and Bituminous Concrete Berm shall be installed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Granite curb and Bituminous Concrete Berm shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.9. Sidewalk Construction

Sidewalks shall be installed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Sidewalks shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.10. Trees and Planting

Trees and plantings shall be installed in accordance with the approved definitive plans. Trees and plantings shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.11. Loaming, Seeding and Mulching

Loaming, Seeding and Mulching shall be installed in accordance with the approved definitive plans or as needed to repair disturbed areas. Loaming, Seeding and Mulching shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.12. Street Signs and Monuments

Street Signs and Monuments shall be installed in accordance with the approved definitive plans. Street Signs and Monuments shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.13. Street Lights

Street Lights shall be installed in accordance with the approved definitive plans. Street Lights shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.14. Top/Finish Course of Pavement Construction

Top/Finish Course of Pavement shall be installed in accordance with the approved definitive plans and in accordance with the current version of the Commonwealth of Massachusetts Highway Department Standard Specifications for Highways and Bridges. Top/Finish Course of Pavement shall be inspected by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

6.9.15. Final Clean-up

Upon completion of the subdivision construction, The Developer shall clean all stray trash or unnecessary materials located around the site. All staging areas, field trailers, trees, brush, and excess materials shall be removed from the site. All stormwater management utilities are to be cleaned and prepared for a final inspection. Final cleanup inspection shall be performed by the Town Engineer, the Planning/Conservation Agent or other individual designated by the Planning Board.

SECTION 7.0 ADMINISTRATION

7.1 Authority

The Planning Board shall be the administrative agency of these regulations and shall have all the powers assigned them by Section 81A to 81GG of Chapter 41 of the General Laws of Massachusetts.

The Planning Board may assign as their agents appropriate town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the subdivider.

In accordance with MGL Ch 41§81W: The Board “...on its own motion or on the petition of any person interested, shall have the power to modify, amend or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan. ...”

7.2 Waiver of Compliance (MGL Ch41 §81R)

Strict compliance with the requirements of these rules and regulations may be waived only when, in the judgement of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. In waiving strict compliance the Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived.

7.3 Inspection

Inspection shall be carried out at appropriate times during the improvement of the subdivision as spelled out in Section 6.0 of these regulations and in the attached Inspection Check List (Form P).

The responsible agency shall appoint a qualified person or shall make arrangements with a professional person or firm to carry out such inspection.

The cost of such inspection shall be borne by the developer, as required by the most recent Town of Douglas Planning Board Fee Schedule.

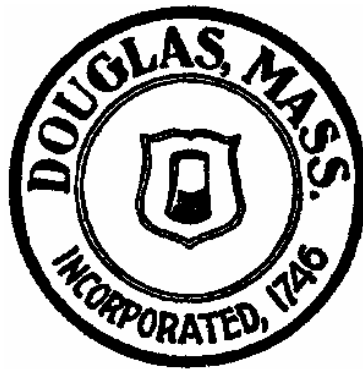
7.4 Separability

If any section, paragraph, sentence, clause, or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective.

7.5 Amendments

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board after a public hearing on its own motion or by petition.

ZONING BY-LAW
TOWN OF DOUGLAS, MASSACHUSETTS
ADOPTED BY TOWN MEETING
OCTOBER 25, 2004



Prepared by: Master Plan Implementation Committee

Assistance from: Douglas Planning Board &
Attorney Mark Bobrowski

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SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE

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

1.2 AUTHORITY

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

1.3 SCOPE

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

1.4 APPLICABILITY

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

1.5 AMENDMENTS

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

1.6 SEPARABILITY

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

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT

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

RESIDENTIAL:

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

BUSINESS:

- CB - Central Business
- C - Commercial

INDUSTRIAL:

- I - Industry

OPEN SPACE:

- SFOS - State Forest Open Space

2.2 OVERLAY DISTRICTS

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

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

2.3 MAP

The location and boundaries of the zoning districts are hereby established as shown on a map entitled, "Zoning Map, Town of Douglas," dated May 1979, as amended. Said map is on file in the office of the Town Clerk. All explanatory legend and memoranda thereon or attached thereto are hereby declared to be a part of this By-Law. Any change in the location of boundaries of a zoning district hereafter made through the amendment of this By-Law shall be indicated by the alteration of such Map, and the Map, thus altered, is declared to be a part of the By-Law thus amended. Photographic reductions of this Zoning Map may serve as copies of the Zoning Map.

2.4 INTERPRETATION OF MAP

The following provisions shall govern interpretation of the Zoning Map:

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

- 2.4.2** Where a boundary is shown approximately parallel to a street, railroad, utility line or water course, it shall be deemed parallel to the nearest line thereof and at such distance there from as indicated on the Zoning Map.
- 2.4.3** Where boundary lines specifically follow private, public or institutional property lines, said zoning boundaries shall be considered fixed as of the date the zoning districts were established.
- 2.4.4** Where a boundary line divides an existing lot, the regulations applying to the portion of such lot in the less restricted district may be considered as extending up to fifty (50) feet into the more restricted portion, but only if the lot has frontage on a street in the less restricted district.

2.5 SPLIT LOTS

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

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES

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

3.1.1 Symbols

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

Y	-	Permitted as of right
N	-	Prohibited
BA	-	Special permit/Board of Appeals
PB	-	Special Permit/Planning Board
SB	-	Special Permit/Selectboard

3.1.2 If Classified Under More than One Use

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

3.1.3 Table of Use Regulations

SEE APPENDIX A

3.2 ACCESSORY USES

3.2.1 Accessory Uses in the Residential Districts

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

1. Renting rooms and furnishing of board to no more than two nontransient persons.
2. Family day care and adult day care as set forth in the table of Principal Uses.
3. Home Occupation - As of Right. A home occupation may be allowed as of right, provided that it:

- A. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
 - B. is clearly incidental and secondary to the use of the premises for residential purposes;
 - C. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
 - D. does not utilize exterior storage of material or equipment;
 - E. does not exhibit any exterior indication of its presence or any variation from residential appearance, except for a sign or name plate in compliance with the sign by-law;
 - F. does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees;
 - G. is registered as a business with the Town Clerk.
4. Home Occupation - By Special Permit. A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:
- A. fully complies with Sections B, C, D, and G, above.
 - B. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premise, by not more than two additional employees;
 - C. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with the sign By-Law;
 - D. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.
5. Garaging or Parking of Commercial Motor Vehicles. As of right, one (1) commercial vehicle of 26,000 gvw or less may be garaged or parked on a residential premises. By special permit, the Board of Appeals may authorize more than one such commercial vehicle or a larger commercial vehicle upon a finding that such garaging or storage will not be detrimental to the neighborhood.

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

3.2.2 Accessory Uses in All Districts

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

3.2.3 Accessory Uses in the Industrial District

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

3.3 ACCESSORY APARTMENTS

3.3.1 Purpose

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

1. To provide a variety of types of housing to meet the needs of its residents, including those with low or moderate income levels; and
2. To expand the permitted types of housing to provide an opportunity for older persons who cannot physically or financially maintain their own home to live in homes of relatives; and
3. To protect the stability, property values and the single family residential character of the neighborhood and at the same time accommodate so-called in-law apartments; and
4. To authorize the creation of such accessory apartments and at the same time encourage the Town to monitor conversions for code compliance.

3.3.2 Special Permit Required

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

3.3.3 Standards

1. The owner(s) of the residence in which the Accessory Apartment is located shall occupy one of the dwelling units.
2. Either the occupants of both units shall be related by blood or marriage, or one of the units shall be occupied by an individual hired to provide medical assistance, or custodial care to one or more individuals in the other unit. In the alternative, the accessory apartment shall be rented at a price affordable to persons or families qualifying as low or moderate income for a period of not less than fifteen (15) years. The rental price for such apartment shall be affordable for persons or families in the Worcester area earning less than 80% of the median income, as set forth in the applicable guidelines of the Commonwealth's Department of Housing and Community Development.
3. Prior to the initial lease or any subsequent lease of the apartment, lease documents complying with the terms set forth above shall be approved as to form by the Board's legal counsel.
4. Only one (1) Accessory Apartment may be created within a one family dwelling.
5. An Accessory Apartment may only be created in a dwelling which would otherwise be classified as a one family dwelling.
6. The design of the Accessory Apartment is such that the appearance remains that of a one family residence. Any new additions required for the Accessory Apartment shall conform to the minimum yard sizes and maximum height requirements for a single family dwelling of the district where the building is located.
7. The Accessory Apartment shall be clearly secondary in nature to the principal dwelling, and it shall not exceed nine hundred (900) square feet in area.
8. At least three (3) off-street parking spaces must be provided for any one family dwelling which has an Accessory Apartment.
9. No Accessory Apartment may be created in a detached structure.
10. If the lot is not connected to public sewer, prior to obtaining a building permit, the Board of Health shall certify that the septic system is in compliance with Title 5 of the State Environmental Code and the Board's Regulations.
11. The construction of any Accessory Apartment must be in conformity with the State Building Code Requirements.

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

3.3.4 Time Limit

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

3.4 NONCONFORMING USES AND STRUCTURES

3.4.1 Applicability

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

3.4.2 Nonconforming Uses

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

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

3.4.3 Nonconforming Structures

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

- a. Reconstructed, extended or structurally changed;

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

3.4.4 Variance Required

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

3.4.5 Nonconforming Single and Two Family Residential Structures

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

- a. alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,
- b. alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
- c. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.
- d. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

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

3.4.6 Abandonment or Non-Use

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

3.4.7 Reconstruction after Catastrophe or Demolition

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

1. Reconstruction of said premises shall commence within three years after such catastrophe or demolition.
2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.
3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such reconstruction.

3.4.8 Reversion to Nonconformity

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

SECTION 4.0 DIMENSIONAL AND TIMING REQUIREMENTS

4.1 GENERAL

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

4.1.1 One Structure per Lot

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

4.1.2 Change of Lot

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

4.1.3 Table of Dimensional Requirements

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

SEE APPENDIX B

4.2 PHASED DEVELOPMENT

4.2.1 Purpose

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

4.2.2 Applicability

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

4.2.3 Phasing

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

4.2.4 Special Permit Relief

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

1. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than **fifteen** building permits in any 12-month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit. In making such determination, the Board shall consider whether the applicant has offered **one or more** of the following improvements or amenities which have a positive impact upon:
 - a. schools and other public facilities;
 - b. traffic and pedestrian safety;
 - c. recreational facilities, open spaces, agricultural resources, and unique natural features;
 - d. housing for senior citizens and people of low or moderate income;
 - e. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.
 - f. reduction in otherwise allowable residential density. Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more.
2. Where the tract of land will be divided into more than **one hundred fifty (150) lots**, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

4.2.5 Zoning Change Protection

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

4.2.6 Relation to Real Estate Assessment

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

4.3 LOT FRONTAGE EXCEPTION

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

4.3.1 Area

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

4.3.2 Location

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

4.3.3 Building Line

The building line shall be at least one hundred and fifty (150) feet in the RA zone and seventy-five (75) feet in the VR zone and designated on the plan.

4.3.4 Lot Shape

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

4.3.5 Lot Width

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

4.3.6 Limits

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

4.3.7 Rear and Side Yard

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

4.3.8 Setback from Street

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

4.4 RESIDENTIAL COMPOUND LOTS

~~The Planning Board may approve Residential Compound subdivision plans with reduced frontage requirements for any lot(s) in accordance with the applicable provisions in the Planning Board's Rules and Regulations Governing the Subdivision of Land.~~

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

SECTION 5.0 GENERAL REGULATIONS

5.1 OFF-STREET PARKING REGULATIONS

5.1.1 General

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

5.1.2 Table of Off-Street Parking Regulations

Off-street parking shall comply with the following Table:

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

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

5.1.3 Shared Parking

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

1. Evidence is submitted that parking is available within four hundred (400) feet of the premises, which lot satisfies the requirements of this By-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.
2. A proposed contract, agreement, or suitable legal instrument acceptable to legal counsel, shall be filed with the Planning Board specifying the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.
3. Any reduction in area required for parking because of these joint use provisions may be required as reserved landscaped open space.
4. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this By-law if subsequently the joint use of parking facilities shall terminate.

5.1.4 Parking Standards

The following standards shall apply to off-street parking:

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

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

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

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

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

5.1.5 Additional Parking Standards for Areas with More than Five Spaces

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

1. *Surface.* The area and access driveways thereto shall be surfaced with a durable material (ie. bituminous or cement concrete, or other environmentally friendly surface) and shall be graded and drained so as to dispose of all surface water accumulation away from adjacent public ways.

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

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

5.1.6 Landscaping in Parking Areas

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

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

5.1.7 ~~Relief~~ Special Permit

~~Relief from any parking requirement may be granted by the Board of Appeals during the Site Plan Approval process where the applicant demonstrates that such relief shall not cause substantial detriment to the neighborhood or to public safety.~~ Relief from any parking requirement may be authorized by the grant of a special permit from the Board of Appeals where the applicant demonstrates that such relief shall not cause substantial detriment to the neighborhood or to public safety.

5.2 *LOADING REQUIREMENTS*

5.2.1 General

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

5.2.2 Same Lot

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

5.2.3 No Queues or Backing onto Street

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

5.2.4 Shared Loading

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

5.2.5 Screening

Loading areas shall be screened in accordance with Section 5.1.6.1.

5.2.6 Size

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

5.2.7 Location

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

5.2.8 Special Permit

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

5.3 GENERAL LANDSCAPING REQUIREMENTS

5.3.1 Purpose

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

5.3.2 Applicability

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

5.3.3 Landscaping Requirements for Property Lines

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

C or CB	10 feet
I	20 feet

5.3.4 Landscaping Requirements for Street Frontage of Nonresidential Uses

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

5.3.5 Planted Area Requirements

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

1. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.
2. Grass is preferable to mulch where practical.
3. Existing trees with a caliper of six inches (6") or more shall be preserved wherever feasible.
4. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

5.3.6 Coordination with Site Plan Approval

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

5.3.7 Maintenance of Landscaped Areas

The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section and shall have a continuing obligation to comply with the provisions set forth herein.

All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

5.3.8 ~~Relief~~ Special Permit

~~The Board of Appeals may grant a reduction in the requirements of this section pursuant to Section 9.4 Site Plan Review, where such reduction will not result in substantial detriment. By special permit, the Board of Appeals may authorize a reduction in the requirements of this section, where such reduction will not result in substantial detriment.~~

5.3.9 Guidelines

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

5.4 ENVIRONMENTAL PERFORMANCE STANDARDS

5.4.1 General

~~No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant, provided, however, that any activity in any district which is subject to a site plan review shall be exempt from this section. After a permit is issued in accordance with this section, continuing compliance is required. When the Building Inspector suspects a subsequent violation the inspector may, as necessary, obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the town. The following standards are hereby established.~~

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

5.4.2 Noise

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

5.4.3 Solid Waste Storage

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

5.4.4 Miscellaneous Standards

1. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties and the night sky.
2. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

3. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten (10) percent in line voltage off the premises.
4. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.
5. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

SECTION 6.0 SPECIAL REGULATIONS

6.1 EARTH REMOVAL

6.1.1 Purpose

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

6.1.2 Applicability

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

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

6.1.3 Exemptions

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

1. Excavation incidental to the construction of all buildings for which all permits required for construction have been issued, nor to the installation of walks, driveways, septic systems, swimming pools, or other accessory uses and expansions thereto, provided the quantity of materials removed shall not exceed that displaced by the portion of the building or accessory use below finished grade;
2. Excavation in the course of normal and customary agricultural use of land,
3. Excavation in the normal use of a cemetery,
4. The By-law shall not apply to excavations lawfully in existence at the time of the adoption of this Bylaw to the extent that such excavations are protected by G.L. c. 40A, s. 6.

6.1.4 Application

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

1. Property lines, names and addresses of all abutters and other interested parties in interest as defined by G.L. c. 40A, s. 11;
2. Existing contours at five-foot intervals in the area from which materials are to be excavated and in the surrounding areas, together with the contours at fivefoot intervals below which no excavation shall take place;
3. Natural features such as wetlands, the 100-year floodplain, ground cover and surface groundwater. Watertable elevation shall be determined by test pits and soil borings. A log of soil borings shall be included, taken to the depth of the proposed excavation, congruent with the size and geological make-up of the site;
4. A topographical map showing drainage facilities, final grades and proposed vegetation and trees to be planted during restoration;
5. Erosion and sediment control plan; and,
6. The amount and cost of proposed restoration materials, and where the applicant intends to get them.

6.1.5 Decision

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

1. The health, safety and general welfare of the inhabitants of the Town;
2. Derogation or detriment to the neighborhood;
3. Effect on natural resources, including but not limited to the recharge of the water table or condition of the surface water.

6.1.6 Conditions

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

1. Bond Required. The Board shall require as a condition to the granting of the permit that the applicant shall furnish a performance bond or other security satisfactory to the Board sufficient to insure satisfactory performance of the requirements of this Bylaw and of such other conditions as may be imposed in the permit. The security shall not be released until the surveyor or engineer has filed with the Board an "as-built" plan and has also certified that the restoration has been completed in compliance with the permit and the plans.
2. Every permit shall contain the condition that inspection of the operation may be made at any reasonable hours by an Agent of the Board to determine if conditions of the permit are being adhered to.
3. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of an existing public way or an adjacent property line;
4. Excavation not intended for approved building purposes or any other activity or building shall not be within one hundred (100) feet of a wetland as defined under G.L. c. 131, s. 40, and the Town of Douglas Wetland Protection Bylaw or the 100-year flood elevation of any waterbody, except where the appropriate regulatory agency has specifically ordered such excavation as part of a compensatory-storage plan;
5. No area shall be excavated so as to cause accumulation of free standing water unless the Board shall permit creation of a pond in an area not used for drinking water. Permanent drainage shall be provided in accordance with good conservation practices. Drainage shall not lead directly into streams or ponds.
6. No excavation shall be made at less than ten (10) feet above the annual high water table, as established from test pits and soil borings. Observation well(s) shall be monitored to verify this elevation. The Board has the right to adjust the depth of the excavation based upon well monitoring information. The information shall be shown on the topographic plan and a permanent monument shall be erected upon the property.
7. All top soil and subsoil stripped from operation areas shall be stock-piled, seeded with an erosion control seed mixture, and used in restoring the area.
8. Any shelters or buildings erected on the premises for use by personnel or storage of equipment shall be screened from public view and shall be removed from the premises within sixty (60) days after they are no longer needed for work upon that site.
9. The active excavation operation shall be determined by the Board but, in no instance, shall it exceed a total of ten (10) acres at any one time. Natural vegetation shall be left and maintained on undisturbed land for screening and noise reduction purposes.

10. Trucking routes and methods shall be specified by the Board which shall seek the advice of the Chief of Police with regard thereto.
11. All access roads leading to public ways shall be treated with suitable material to reduce dust and mud for a distance of 200 feet back from the public way.
12. Access roads shall be constructed at an angle to the public way or with a curve so as to help screen the operation from public view.
13. Standard Massachusetts accepted road signs warning of "Trucks Entering" shall be placed on the road on each side of the entrance.
14. The boundaries of the area of operation must be clearly marked by the applicant and maintained at all times.
15. Operators shall immediately clean up any spillage on public ways.

6.1.7 Restoration

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

1. Restoration shall be carried on simultaneously with excavation, so that when any active excavation operation area, as determined in Section 6.1.6, Paragraph 9, has been excavated, at least two-thirds (2/3) of the active excavation operation acreage shall be restored before work commences, including building haul roads, on the next contiguous active excavation operation. Final restoration work shall be complete within 120 days after excavation or withdrawal of a permit or upon cessation of operations.
2. No slope shall be steeper than 2:1. 4:1 if preferred for erosion control and shall be required in sensitive areas.
3. All debris, stumps, etc. shall be removed from the site and disposed of in an approved location or, in the case of inorganic material, buried and covered with at least two (2) feet of soil.
4. Retained subsoil and topsoil shall be spread over the disturbed area to a minimum depth of four inches and treated with three tons of lime per acre (unless otherwise determined by permit conditions) and seeded with a grass or legume mixture prescribed by the Southern Worcester County Conservation District or the Massachusetts Department of Public Works for slope erosion control. Trees or shrubs of prescribed species will be planted to provide screening and reduce erosion during the establishment period.

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

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

6.1.8 Limit

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

6.1.9 Revocation

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

6.1.10 Special Permit Relief

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

6.1.11 Survey

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

6.1.12 Application to Town

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

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

6.1.13 Regulations

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

6.1.14 Violations

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

6.2 UNREGISTERED MOTOR VEHICLES

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

6.3 COMMON DRIVEWAYS

6.3.1 Purpose

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

6.3.2 Applicability

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

6.3.3 Special Permit Granting Authority

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

1. The Planning Board shall consider recommendations from the Police Chief, the Fire Chief, the Highway Superintendent and the Town Engineer.
2. The Planning Board may establish and assess reasonable fees for the permit application.

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

6.3.4 Administration

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

6.3.5 Design Requirements

1. Lots to be served shall have at least the minimum required frontage on a town way as required by the Zoning By-law in effect at the time they were created.
2. Lots to be served by a common driveway must meet the dimensional standards of the Zoning By-law in effect at the time they were created.
3. The common driveway shall be located entirely within the boundaries of the lots being served thereby.
4. The Grade of the Common Driveway shall not exceed 10% unless the Planning Board shall grant a waiver of this requirement after a determination that said driveway will provide safe and reasonable access for vehicles.
5. The Driveway Centerline intersection with the street centerline shall not be less than 45 degrees.

6.3.6 Construction and Operational Requirements

1. The Common Driveway shall have a minimum cleared width of eighteen (18) feet if less than or equal to three hundred (300) feet in length, and twenty-two (22) feet if greater than 300 feet in length.
2. Driveways shall be constructed with a durable material, graded and suitably maintained to the extent necessary to avoid any nuisance by reason of erosion or water flow onto adjoining property.

3. A paved apron of at least 20 feet in length shall be constructed at the Common Driveway – street intersection to ensure that dirt and debris is not tracked into the street.
4. No parking shall be allowed on the commonly used portion of the common driveway.

6.3.7 Required Documents

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

1. Said documents shall be recorded at the Registry of Deeds, and a copy of said recorded documents shall be provided to the Planning Board prior to issuance of a building permit for any structure to be served by the common driveway.
2. A covenant shall be entered into between the owner or developer and the Town, in a form acceptable to the Planning Board, prohibiting the issuance of an occupancy permit for any structure to be served by the common driveway until such time as the common driveway has been constructed in accordance with this Bylaw.

6.4 LANDFILL FACILITIES

6.4.1 General

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

1. Recharge areas of surface drinking water supplies as shall be reasonably defined by rules and regulations of the Massachusetts Department of Environmental Protection (DEP); and
2. Areas subject to G.L. c. 131, s. 40 and the regulations promulgated thereunder by the DEP; and
3. Areas within the zone of contribution of existing or potential public supply wells as defined by DEP.

6.5 PERSONAL WIRELESS SERVICE (PWS) FACILITIES

6.5.1 Purpose

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

6.5.2 Special Permit Granting Authority

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

6.5.3 PWS Regulations

1. A PWS facility is a permitted use in all zoning districts if totally enclosed in a structure which exists for purposes other than to house wireless communications facilities.
2. A PWS facility which includes an extension of up to 20 feet in height above the height of a structure, as defined herein, on which it is mounted may be authorized by special permit granted by the Planning Board in all zoning districts provided that the Planning Board finds after review of comments from other Town boards, departments, agencies, and their staff, that reasonable measures shall be or already have been taken to:
 - A. mitigate against negative impacts on visual quality affecting properties and streets by incorporating reasonable design, siting and screening methods; and
 - B. protect against potential damage to properties and streets from structural failure or collapse or from falling ice.
3. A free-standing PWS facility of up to 130 feet in height may be authorized by special permit in Industrial Zoning Districts only.

6.5.3 Conditions

PWS facilities shall conform to the following standards.

1. Any PWS facility shall be located such that if it were to fall or collapse, it would fall or collapse entirely within the boundaries of the parcel on which it is to be located.
2. Any ground-level PWS facility shall be sited, designed and constructed in such a manner that existing vegetation is preserved to the maximum extent practicable.

3. Any fencing proposed shall be screened by a landscape buffer.
4. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.
5. To the extent technologically feasible, all interconnections from the PWS facility shall be via land lines.
6. Lattice-style towers requiring three or more legs and/or guy wires for support are prohibited.
7. The applicant shall demonstrate that the proposed technology is the safest and least obtrusive to the landscape currently available.
8. PWS facilities proposed to be enclosed in a structure, as defined herein, shall be concealed from view and shall not significantly alter the exterior of such "existing structure within which the PWS facility is to be enclosed.
9. Freestanding PWS facilities shall be sited and designed in a manner which minimizes its visibility from properties and streets and shall not be located within three hundred (300) linear feet of a public or private way or an existing residential dwelling and must be set back a minimum of three hundred (300) linear feet from all property lines. No freestanding PWS facilities may be located less than three hundred (300) linear feet from another zoning district as measured from all property lines of the proposed use.
10. PWS facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
11. PWS facilities which are side mounted shall blend with the existing structure's architecture and, if over five (5) feet square, shall be painted or shielded with material which is consistent with the design features and materials of the existing structure.
12. The total height of a free-standing PWS structure, including attached accessories, shall not exceed 130 feet in height as measured from the ground level at the base of the structure.
13. The PWS facility shall be designed to accommodate co-location of multiple users, on the same facility, to the maximum extent technologically practicable in order to reduce the number of PWS facilities or sites which will be required to be located in the Town.
14. Proposed PWS facilities must demonstrate within the application for a special permit that existing or already approved facilities cannot accommodate the equipment planned for the new facility.

6.5.4 Waiver

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

6.5.5 Application

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

1. A drawing to-scale accurately depicting the proposed facility within the context of the site on which it is to be located and the surrounding area;
2. A report or reports prepared by professional engineers describing:
 - A. the technical, economic and other reasons for the facility height, location and design;
 - B. the capacity of the facility, including the number and type of transmitters and receivers it can accommodate and the basis for the calculation of the capacity;
 - C. how the proposed facility complies with all applicable Federal and State standards;
 - D. Statements of compliance with, or exemption from, the regulations of all federal and state agencies governing personal wireless service facilities or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health;
3. A demonstration of the visual impact of the proposed PWS structure by raising a balloon, or a temporary structure, on the proposed site to the height of the proposed structure for such period of time as the Planning Board determines to be necessary.

6.5.6 Review Costs

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

6.5.7 Term

1. Special permits authorized under this section shall be limited to an initial term of two years and shall be renewed every two years thereafter provided the special permit holder has filed with the Board annual certification demonstrating continuing compliance with the special permit and with applicable federal and state regulatory requirements.
2. Any parts of the PWS facility which have not been used for one year shall be dismantled and removed at the permit holder's expense. The permit holder shall post a bond or other financial security with the Town Treasurer in an amount deemed sufficient to cover demolition and removal of PWS facilities in the event of discontinuance of use.

6.5.8 Municipal Exemption

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

SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS

7.1 CONVERSION TO TWO-FAMILY OR MULTIFAMILY DWELLING

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

7.2 FLEXIBLE DEVELOPMENT

7.2.1 Purpose

The purposes of this section, Flexible Development, are:

1. to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
2. to preserve historical and archeological resources; to protect the natural environment, including the Town's varied landscapes and water resources;
3. to protect the value of real property;
4. to promote more sensitive siting of buildings and better overall site planning;
5. to perpetuate the appearance of the Town's traditional New England landscape;
6. to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
7. to offer an alternative to standard subdivision development;
8. to promote the development of housing affordable to low, moderate, and median income families; and
9. to promote the development of housing for persons over the age of fifty five.

7.2.2 Definitions

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

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

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

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

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

7.2.3 Applicability

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

7.2.4 Procedures

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

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the Planning Board may require appropriate documentation.
3. Data on proposed wastewater disposal, which may be referred to a consulting engineer for review and recommendation. The cost for which shall be borne by the Applicant.
4. The Planning Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

7.2.5 Design Process

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

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
3. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.
4. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns.
5. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

7.2.6 Modification of Lot Requirements

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

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Planning Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood or best serves the intent of this by-law.
2. At least 50% of the required side and rear yards in the district shall be maintained in the Flexible Development.

7.2.7 Basic Maximum Number of Dwelling Units

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

7.2.8 Density Bonus

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

1. For each additional ten percent (10%) of the site (over and above the required forty percent) set aside as contiguous open space, a bonus of five (5%) percent of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 25% of the Basic Maximum Number.
2. For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.
3. For each transfer lot, as defined in Section 10.0, two (2) dwelling units may be added as a density bonus; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.
4. For the construction of active recreation facilities that are available for public use, one (1) dwelling unit may be added per two (2) acres of recreation land or per two thousand five hundred (2,500) feet of trail meeting Planning Board Approval; however, this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number. The Planning Board shall establish minimum criteria for said recreation land and trails.
5. A density bonus may be permitted when the proposed subdivision provides permanently affordable housing opportunities, whether within the Open Space Residential Subdivision or elsewhere in Douglas. When located within the Open Space Residential Subdivision, affordable units shall be developed concurrently with the market rate units.

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

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

6. A density bonus unit shall be allowed for each contribution made of cash or cash equivalent for public purposes to the Town of Douglas by any developer, such as but not limited to:
 - Contribution to Douglas Public Library for purchase of books.
 - Purchase of Douglas Police or Douglas Fire equipment.
 - Contribution to a Douglas town property to update or renovate public facilities, such as Highway Garage, Skate Park, Sports field, etc.
 - For scholarships to Douglas High School Graduates.
 - To repave existing Douglas town roads, correcting drainage problem or other public preservation, purchase of open space or any other public purpose approved by the Planning Board.

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

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

7.2.9 Affordable Units

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

1. 10% of the units shall be affordable to persons or families qualifying as low income;
OR
2. 15% of the units shall be affordable to persons or families qualifying as moderate income. Right of first refusal upon the transfer of such restricted units shall be granted to the local Housing Authority for a period not less than 120 days after notice thereof.

7.2.10 Types of Buildings

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

7.2.11 Roads

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

7.2.12 Parking

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

7.2.13 Contiguous Open Space

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

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 7.2.1 and 7.2.13.2. In no case shall the percentage of contiguous open space which is wetlands exceed fifty (50%) of the tract.
2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
3. The contiguous open space shall remain unbuilt upon, provided that the Planning Board may permit up to ten (10%) percent of such open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.
4. Underground utilities to serve the Flexible Development site may be located within the contiguous open space.

7.2.14 Ownership of the Contiguous Open Space

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

1. the Town or its Conservation Commission;

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

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

7.2.15 Buffer Areas

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

7.2.16 Drainage

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

7.2.17 Decision

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

7.2.18 Relation to Other Requirements

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

7.3 ASSISTED LIVING FACILITIES

7.3.1 Purpose

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

1. assisted living facilities (ALF) within a residential environment that offer supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and
2. the development of ALF in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and
3. the development of ALF in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

7.3.2 Definitions

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

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

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

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

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

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

Land - Land, including areas covered by water.

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

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

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

7.3.3 Special Permit Required

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

7.3.4 Special Permit Granting Authority

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

7.3.5 Application

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

1. The following plans:

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

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

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

2. The following narrative reports or data:

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

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

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

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

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

7.3.6 Standards

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

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

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

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

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

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

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

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

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

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

7.3.7 Number of Units/Bedrooms

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

7.3.8 Buildings - Design and Architectural Character

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

7.3.9 Accessory Structures and Uses

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

7.3.10 Affordable Units

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

7.3.11 Conversion of Existing Structures

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

7.3.12 Action by Planning Board

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

1. The proposed ALF complies with the requirements of this section;
2. The proposed ALF does not cause substantial detriment to the neighborhood after considering the following potential consequences:
 - A. noise, during the construction and operational phases;
 - B. pedestrian and vehicular traffic;
 - C. environmental harm;
 - D. visual impact caused by the character and scale of the proposed structure(s).

SECTION 8.0 OVERLAY DISTRICTS

8.1 WATER RESOURCE PROTECTION OVERLAY DISTRICT (WRPOD)

8.1.1 Purpose

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

8.1.2 Definitions

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

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

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

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

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

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

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

Primary Recharge Area: Those areas surrounding municipal wells including the stratified deposits in the area which are affected by a projected cone of influence that would develop by pumping the wells continuously (24 hours a day) for 180 days.

Secondary Recharge Area: Those areas of stratified drift outside, but upgradient of the projected 180 day cone of influence. The water contained therein will eventually intersect and flow into the cone of influence thereby providing secondary recharge to the well.

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

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

Waste: Including but not limited to the following:

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

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

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

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

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

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

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

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

8.1.3 Authority

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

8.1.4 Zoning Administrator

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

8.1.5 Establishment

Water Resource Districts are herein established to include all specified lands within the Town of Douglas. The intent of these districts is to include lands lying within primary and secondary recharge areas of groundwater aquifers. The map entitled "Town of Douglas Massachusetts Aquifer Study: Plate 5" and dated March, 1986, on file with the Town Clerk delineates the boundaries of the district. This map is hereby made part of this By-law.

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

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

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

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

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

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

8.1.6 Use Restrictions

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

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

A. PERMITTED USES

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

1. Conservation of soil, water, flora, and fauna.
2. Outdoor recreation such as boating, fishing, hunting where permitted, hiking, biking, horse riding and the like.

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

4. Farming, gardening, nursery, conservation, forestry, harvesting, grazing uses provided that fertilizers, pesticides, herbicides, manure and other leachable substances are not stored improperly so as to result in groundwater contamination.
5. Residential development density within the Water Resource Districts shall be no more than one (1) single family dwelling unit or duplex dwelling with on-site septic system per lot. Dimensional requirements in this instance shall conform to those established under RA Zones.

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

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

B. PROHIBITED USES

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

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

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

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

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

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

b. Normal agricultural operations; and

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

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

6. Commercial wood preserving and/or furniture stripping.

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

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

- a. Very small quantity generators, as defined by 310 CMR 30.00;
- b. Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
- c. Waste oil retention facilities required by MGL Chapter 21, Section 52A; and
- d. Treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

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

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

- a. Normal household use and outdoor maintenance or the heating of a structure;
- b. Waste oil retention facilities required by MGL Chapter 21, Section 52A;
- c. Emergency generators required by statute, rule or regulation; or
- d. Treatment works approved by the Massachusetts Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters, provided that such storage listed in a-d of this subsection is either in a free standing container within a building or in a free standing container above-ground level with protection adequate to contain a spill the size of the container's total storage capacity; however, replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline is allowed consistent with State and Local requirements.

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

- a. The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and
- b. Treatment works approved by the Department designed for the treatment of contaminated ground or surface waters.

C. SPECIAL PERMIT USES

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

1. Any use involving the retention of less than thirty per cent (30%) of lot area in its natural state with no more than minor removal of existing trees and ground vegetation.
2. Rendering impervious more than twenty percent (20%) of the lot area.
3. On-site wastewater disposal of more than fifteen thousand (15,000) gallons per day regardless of lot area.
4. Expansion of on-site wastewater disposal.
5. Removal of soil, loam, sand, gravel or other earthen materials and/or mining of land except for uses incidental to permitted uses including but not limited to installing or maintenance of structural foundations, utility conduits or on-site sewage disposal systems. Any such removal requiring a Special Permit shall leave not less than ten (10) feet of material from the maximum high groundwater elevation as determined on a site-by-site basis by a qualified hydrogeologist. The cost of such determination shall be the responsibility of the applicant.
6. Campgrounds, picnic areas and commercial recreation areas.

8.1.7 Drainage

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

8.1.8 Special Permit Granting Authority (SPGA)

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

8.1.9 Procedures for Issuance of Special Permits

1. This Special Permit procedure must precede the granting of any other required permit by the Town of Douglas.

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

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

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

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

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

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

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

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

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

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

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

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

8.1.10. Nonconforming Uses

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

8.1.11 Violation

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

8.1.12 Enforcement

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

8.1.13 Penalty

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

8.1.14 Conflict with Other By-laws

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

8.2 ADULT ENTERTAINMENT OVERLAY DISTRICTS (AEOD)

8.2.1 Purpose and Authority

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

8.2.2 Intent

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

8.2.3 Applicability

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

8.2.4 Overlay District

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

8.2.5 Special Permit Grant Authority

The Special Permit granting authority shall be the Planning Board.

8.2.6 Special Permit Uses

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

1. Adult Store;
2. Adult Motion Picture Theater;
3. Adult Live Entertainment Establishment.

These uses shall be known as Adult Entertainment Establishments.

8.2.7 Submittal Requirements

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

1. Name and address of the legal owners of the establishment and the property, as well as the manager of the proposed establishment;
2. The total number of employees;
3. Proposed security precautions;
4. The external and internal physical layout of the premises;
5. Full description of the intended nature of the business.

8.2.8 Standards for Adult Entertainment

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

1. Location Conditions. No Adult Entertainment Establishment may be located outside of an Adult Entertainment Overlay District and less than 300 feet from a residential zoning district, school, library, church or other religious use, child care facility, park, playground, recreational areas, any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12, or another Adult Entertainment Establishment. The 300 feet shall be measured from all property lines of the proposed use.
2. Display Conditions. No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, s. 31 shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

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

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

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

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

8.2.9 Permit Conditions

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

1. There is a change in the location of the adult use; or
2. There is a sale, transfer or assignment of the business or the license; or
3. There is any change in ownership or management of the applicant.

8.2.10 Lapse

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

SECTION 9.0 ADMINISTRATION AND PROCEDURES

9.1 ADMINISTRATION

9.1.1 Permits

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

9.1.2 Enforcement

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

9.1.3 Penalties

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

9.2 BOARD OF APPEALS

9.2.1 Establishment

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

9.2.2 Powers

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

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

3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

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

9.2.3 Regulations

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

9.2.4 Fees

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

9.3 SPECIAL PERMITS

9.3.1 Special Permit Granting Authority

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

9.3.2 Criteria

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

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

9.3.3 Procedures

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

9.3.4 Conditions

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

9.3.5 Plans

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

9.3.6 Regulations

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

9.3.7 Fees

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

9.3.8 Lapse

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

9.4 SITE PLAN REVIEW

9.4.1 Applicability

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

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

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

9.4.2 Procedures

1. An application for a building permit to perform work as set forth in Section 9.4.1 shall be accompanied by an approved Site Plan. Prior to the commencement of any such activity, the project proponent shall obtain site plan approval from the Board of Appeals.

Applicants for site plan approval shall submit five (5) copies of the site plan to the Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Sewer Commission, applicable water district, Board of Health, Highway Department, Police Chief, Fire Chief, the Building Inspector, Planning Board, and the Conservation Commission for their advisory review and comments. Failure of such board or official to respond within thirty-five days of submittal shall be deemed a lack of opposition thereto. The Board of Appeals shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Board of Appeals shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Building Inspector without the written approval of the site plan by the Board of Appeals, or unless 60 days lapse from the date of the submittal of the site plan without action by the Board of Appeals.

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

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

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

9.4.3 Preparation of Plans

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

9.4.4 Contents of Plan

The contents of the site plan are as follows:

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

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

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

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

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

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

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

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

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

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

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

9.4.5 Waiver of Technical Compliance

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

9.4.6 Minor Site Plan

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

9.4.7 Approval

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

1. Maximize pedestrian and vehicular safety both on the site and egressing from it;
2. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
3. Minimize obstruction of scenic views from publicly accessible locations;

4. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
5. Minimize glare from headlights and lighting intrusion and light overspill into the night sky;
6. Provide adequate access to each structure for fire and other emergency service equipment;
7. Provide adequate stormwater management consistent with the functional design standards in the Planning Board's Subdivision Rules and Regulations;
8. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
9. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
10. Ensure compliance with the provisions of this Zoning By-Law and other laws, including parking, loading, sign, and landscaping requirements.

9.4.8 Conditions

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

9.4.9 Lapse

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

9.4.10 Regulations

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

9.4.11 Fees

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

9.4.12 Appeal

Any decision of the Board of Appeals pursuant to this Section shall be appealed in accordance with G.L. c. 40A, s. 17 to a court of competent jurisdiction.

9.5 REPETITIVE PETITIONS

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

SECTION 10.0 FLOODPLAIN DISTRICT

10.1 STATEMENT OF PURPOSE

The purposes of the Floodplain District are to:

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

10.2 Floodplain District Boundaries and Base Flood Elevation and Floodway Data

10.2.1 Floodplain District Boundaries

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Douglas Massachusetts Worcester County Flood Insurance Rate Map (FIRM) Issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated June 1, 1982 as Zone A, AE, AH, AO, A1-30, A99, V, V1-30, VE and the FEMA Flood Boundary & Floodway Map dated June 1, 1982, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated December 1, 1981. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Community Development Department.

10.2.2 Base Flood Elevation and Floodway Data

1. **Floodway Data.** In Zone A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

10.3 Notification of Watercourse Alteration

- Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:
- Adjacent Communities
- NFIP State Coordinator:

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

- NFIP Program Specialist:

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

10.4 Use Regulations

10.4.1 Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit; must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107.0, "Flood Resistant Construction");
- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage; DEP (currently 310 CMR 15, Title 5);

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

10.5 Other Use Regulations

- 1) In Zones AI-3D and AE, along watercourses that have a regulatory floodway designated on the Town of Douglas Massachusetts Worcester County Flood Boundary & Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) Review all subdivision proposals to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.
- 3) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- 4) There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, Building Commissioner and Town Planner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

10.6 Permitted Uses

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

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

10.7 Definitions

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

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

any given year.

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

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

DISTRICT means floodplain district.

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

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

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

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

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

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

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

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

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

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

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

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

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

ONE-HUNDRED-YEAR FLOOD - see BASE FLOOD

REGULATORY FLOODWAY - see FLOODWAY

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

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a

site, such as the pouring of slab or footings; the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

ZONE A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1 - A30 and ZONE AE (for new and revised maps) means the 100-year floodplain-where the base flood elevation has been determined.

ZONE AH and ZONE AO means the 100-year floodplain with flood depths of 1 to 3 feet.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

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

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

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

action). Base flood elevations have been determined.

SECTION 11.0 DEFINITIONS

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

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

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

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

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

Adult motion picture theater: An enclosure or building, or any portion thereof, used for presenting visual media material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31.

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

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

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

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

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

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

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

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

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

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains on open air or natural character.

Child Care Facility: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9.

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

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

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

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

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

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

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

Essential services: Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities.

Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Lot line: A line dividing one lot from another, or from a street or any public place.

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

Manufacturing: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products; provided that no such use shall be permitted which would be detrimental or

offensive or reduce property values by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive siltation or danger or explosion or fire.

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

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

Motel or hotel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor vehicle body repair: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

Motor vehicle general repairs: Premises for the servicing and repair of autos, but not to include fuel sales.

Motor vehicle light service: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Municipal facilities: Facilities owned or operated by the Town of Douglas. Such facilities are exempt from all use and dimensional regulations of this by-law.

Nursing or convalescent home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Parking garage: A structure which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

Personal service establishment: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Residential Compound: A subdivision of land approved as a definitive plan by the Planning Board pursuant to its Residential Compound rules and regulations as adopted pursuant to G.L. c.

41, s. 81Q.

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term "restaurant" shall not include "fast food establishments."

Restaurant, fast-food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Retail: A facility selling goods but not specifically listed in the Table of Use Regulations.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located.

Street: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law and built to specification, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like.

Temporary structure: A structure without any foundation or footings to be removed within a twelve-month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the building inspector.

Transfer Lot: A parcel of land with not less than 80,000 square feet in the RA District or 20,000 square feet in the VR District used to establish a density bonus in a Flexible Development, as set forth in Section 7.2. Such Transfer Lot shall be (1) determined by the Planning Board to be of special importance because of its visual prominence or potential vista blockage, ecological significance or fragility, value as agricultural or recreational land, critical relation or proximity to the Town's drinking water supply, or because it is identified in the Town's open space plan; (2) not wetlands, as defined in G.L. c. 131, s. 40, or not land used to satisfy dimensional requirements in any other development of land; (3) subject to a permanent conservation or agricultural restriction pursuant to G.L. 184, ss. 31-33, or conveyed to the Town, or conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or other appropriate purpose.

Transport terminal: Terminal facilities for handling freight with or without maintenance

facilities.

Warehouse: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

Yard: A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

Yard, front: A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

Yard, rear: A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the side line of the lot.

Yard, side: A yard situated between the nearest point of the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	R-A	RC-1	RC-2	VR	CB	Comm	Ind	SFOS
A. Agriculture								
1. Use of land for the primary purpose of agriculture, horiculture, floriculture or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y	N
2. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	Y	Y	N
3. Nonexempt farm on less than five acres	BA	BA	BA	BA	BA	BA	BA	N
4. Nonexempt farm stand	BA	BA	BA	BA	BA	BA	BA	N
B. Residential								
1. Single family detached dwelling	Y	Y	Y	Y	Y	N	N	N
2. Two-family dwelling	N	N	PB*	PB	PB	N	N	N
3. Temporary use of a trailer or mobile home because of loss of dwelling by fire or some other catastrophe for not more than one year	Y	Y	Y	Y	Y	Y	Y	N
4. Conversion of a structure existing at the enactment of these Bylaws into a two-family or multi-family dwelling, subject to Section 7.1	N	N	N	PB	PB	PB	N	N
5. Flexible Development	PB	PB	PB	PB	N	N	N	N
6. Residential Compound	PB	PB	PB	PB	N	N	N	N
7. Group residence or home	BA	BA	BA	BA	BA	BA	BA	N
8. Assisted Living Facility	PB	PB	PB	PB	PB	N	N	N
9. Nursing home	PB	PB	PB	PB	PB	N	N	N
C. Commercial								

Y - Allowed Use

BA - Allowed by Special Permit from the Zoning Board of Appeals

PB - Allowed by Special Permit from the Planning Board

N - Not Allowed

APPENDIX A
Town of Douglas
Schedule of Use Regulations

USE	DISTRICTS							SFOS
	R-A	RC-1	RC-2	VR	CB	Comm	Ind	
1. Retail establishment for the sale of merchandise to the general public, not otherwise set forth herein	N	BA	BA	BA	Y	Y	BA	N
2. Sales and service of motor vehicles, marine, farm or recreational vehicles or equipment	N	BA	BA	N	Y	Y	BA	N
3. Craft, consumer, professional or commercial service establishment	N	BA	BA	BA	Y	Y	BA	N
4. Funeral home	N	BA	BA	BA	Y	Y	N	N
5. Veterinary hospital	N	BA	BA	N	N	N	N	N
6. Boarding or breeding kennel for small domestic animals	N	BA	BA	N	N	N	N	N
7. Motor vehicle light service or repair establishment	N	BA	BA	N	Y	Y	BA	N
8. Restaurant	N	BA	BA	N	Y	Y	Y	N
9. Restaurant, fast food	N	BA	BA	N	BA	BA	Y	N
10. Business or professional office	N	BA	BA	BA	Y	Y	Y	N
11. Medical or dental office or clinic	N	BA	BA	BA	Y	Y	Y	N
12. Bank or other financial institution	N	BA	BA	BA	Y	Y	Y	N
13. Insurance, real estate office	BA	BA	BA	BA	Y	Y	Y	N
14. Commercial indoor amusement or recreational facility	N	BA	BA	N	BA	BA	BA	N
15. Commercial outdoor amusement or recreational facility, not including drive-in movie theater	N	BA	BA	N	BA	BA	BA	N
16. Contracting business and equipment storage yard	N	BA	BA	N	N	Y	Y	N
17. Recycling of glass and metal materials	N	N	N	N	N	N	BA	N
18. Bed and Breakfast	BA	BA	BA	BA	BA	BA	N	N
19. Private, non-profit club or fraternal organizational use	N	BA	BA	N	Y	Y	N	N
20. Public or private outdoor recreation use	BA	BA	BA	N	N	N	N	Y
C. Commercial								
21. Family campground	BA	BA	BA	N	N	N	N	N

Y - Allowed Use

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PB - Allowed by Special Permit from the Planning Board

N - Not Allowed

APPENDIX A
Town of Douglas
Schedule of Use Regulations

	DISTRICTS							
USE	R-A	RC-1	RC-2	VR	CB	Comm	Ind	SFOS
22. Hotel, motel	N	BA	BA	N	Y	BA	N	N
23. Golf course	BA	N	N	BA	N	N	N	N
D. Industrial								
1. Any manufacturing use, including processing, fabrication and assembly conducted inside a building	N	BA	BA	N	N	BA	Y	N
2. Wholesale, warehouse, distribution or storage facility, including mini-storage warehouse	N	BA	BA	N	N	BA	Y	N
3. Saw mill or lumber producing facility, including incidental sales of wood products produced at the site	BA	BA	BA	N	N	N	BA	N
4. Commercial timber harvest with temporary sawmill for not more than 60 days	BA	BA	BA	N	N	N	Y	N
5. Junkyard or salvage yard	N	N	N	N	N	N	N	N
6. Storgage, disposal, or transport of medicial or biological waste	N	N	N	N	N	N	N	N
E. Exempt/Public/Institutional								
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y

Y - Allowed Use

BA - Allowed by Special Permit from the Zoning Board of Appeals

PB - Allowed by Special Permit from the Planning Board

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APPENDIX A
Town of Douglas
Schedule of Use Regulations

USE	DISTRICTS							SFOS
	R-A	RC-1	RC-2	VR	CB	Comm	Ind	
3. Family day care home, small	Y	Y	Y	Y	Y	Y	Y	N
4. Family day care home, large	BA	BA	BA	BA	BA	BA	BA	N
5. Adult day care facility, small	Y	Y	Y	Y	Y	Y	Y	N
6. Adult day care facility, large	BA	BA	BA	BA	BA	BA	BA	N
7. Child care facility in existing building	Y	Y	Y	Y	Y	Y	Y	Y
8. Child care facility in new building	BA	BA	BA	BA	BA	BA	BA	N
9. Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y
10. Municipal waste disposal area operated by the town or under contract to the town handling waste produced within the town	BA	BA	BA	BA	BA	BA	BA	N
11. Cemetery	BA	BA	BA	BA	BA	BA	BA	N
12. Forestry and conservation	Y	Y	Y	Y	Y	Y	Y	Y
F. Other Uses								
1. Drive-through or drive-up window or facility at otherwise authorized use or as free-standing structure or kiosk	BA	BA	BA	BA	BA	BA	BA	N

Y - Allowed Use

BA - Allowed by Special Permit from the Zoning Board of Appeals

PB - Allowed by Special Permit from the Planning Board

N - Not Allowed

Town of Douglas
Dimensional Regulations
APPENDIX B

ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
R-A	Single-family dwelling	90,000	200	50	25	25	35	2 1/2
	Exempt religious or educational use	4 acres	300	100	25	25	35	2 1/2
	Any municipal use	4 acres	300	75	25	25	35	2 1/2
	Private, non-profit club or fraternal organization	4 acres	300	75	25	25	35	2 1/2
	Public or private outdoor recreation use	3 acres	300	75	25	25	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
VR	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Exempt religious or educational use	90,000	100	50	15	20	35	2 1/2
	Any municipal use	90,000	100	50	15	20	35	2 1/2
	Multi-family dwelling	5,000 sq. ft. per bedroom	150	50	15	20	35	2 1/2
	Duplex dwelling	20,000	100	50	15	20	35	2 1/2
RC-1	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Exempt religious or educational use	90,000	100	50	15	20	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
	Retail establishment for public sale, funeral home, veterinary hospital, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, private club, fraternal organization	130,000	300	50	25	25	35	2 1/2
	Sawmill	2 acres	150	150	50	50	35	2 1/2
	Single-family dwelling	90,000	200	50	25	25	35	2 1/2
	Exempt religious or educational use	4 acres	300	100	25	25	35	2 1/2
	Any municipal use	4 acres	300	75	25	25	35	2 1/2

**Town of Douglas
Dimensional Regulations
APPENDIX B**

ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
RC-2	Retail establishment for public sale, funeral home, veterinary hospital, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, private club, fraternal organization	130,000	300	50	25	25	35	2 1/2
	Sawmill	2 acres	150	150	50	50	35	2 1/2
	Campground	15 acres	250	SPR	SPR	SPR	35	2 1/2
CB	Single-family dwelling	20,000	100	50	15	20	35	2 1/2
	Multi-family dwelling	No Min.	No Min.	No Min.			35	2 1/2
	Two-family dwelling	20,000	100	50	15	20	35	2 1/2
	Retail establishment for public sale	No Min.	No Min.	No Min.	No Min.	15	35	2 1/2
	Funeral home	20,000	100	15	15	25	35	2 1/2
	Motor vehicle repair shop	20,000	100	25	15	15	25	2 1/2
	Restaurant, office building, commercial indoor amusement or recreational facility, commercial outdoor amusement or recreational facility	20,000	100	No Min.	15	25	35	2 1/2
Comm	Retail establishment for public sale, funeral home, veterinary hospital and kennels, motor vehicle repair shop, restaurant, office building, commercial indoor amusement or recreational facility	30,000	100	50	15	15	35 but up to 60 by special permit	2 1/2 or as authorized by special permit
	Commercial outdoor amusement or recreational facility, contracting business, warehouse or wholesale facility, exempt religious or educational use	35,000	150	50	15	15	35 but up to 60 by special permit	2 1/2 or as authorized by special permit
Ind	Retail establishment for public sale, motor vehicle repair shop, contracting business, recycling business, manufacturing plant, warehouse or wholesale facility, exempt religious or educational use, municipal use, sawmill	35,000	150	50	15	15	60	n/a

Town of Douglas
Dimensional Regulations
APPENDIX B

ZONING DISTRICT	USE	MIN. LOT AREA SQ. FT. OR AS NOTED	MIN. LOT FRONTAGE ON PUBLIC STREET	MIN. YARD SIZES IN FEET			MAXIMUM HEIGHT	
				FRONT	SIDE	REAR	FEET	STORIES
SFOS	Public recreation, conservation land, forestry	4 acres	300	75	25	25	35	2



ARTICLE 8: WETLAND BYLAW

SECTION 1: PURPOSE

The purpose of this Bylaw is to protect the floodplains and wetlands of the Town of Douglas by controlling activities deemed to have a significant effect upon wetland values, including but not limited to the following: Public or Private water supply, groundwater, flood control, erosion control, storm damage prevention, water pollution control, wildlife, recreation, aesthetics and fisheries (collectively, the "interests protected by this Bylaw").

SECTION 2

No person shall remove, fill, dredge, alter or build upon or within one hundred feet of any bank, fresh water wetland, flat, marsh, meadow, bog, swamp or upon or within one hundred feet of any estuary, creek, river, stream, pond or lake, or upon or within one hundred feet of any land under said waters or upon or within one hundred feet of any land subject to flooding or inundation, or within one hundred feet of the 100-year storm line, other in the course of maintaining, repairing or replacing but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph, and other telecommunication services, without filing written application for a permit so to remove, fill, dredge, alter or build upon, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and receiving and complying with a permit issued pursuant to this Bylaw.

Such application may be identical in form to a Notice of Intention filed pursuant to Mass. General Laws Chapter 131, Section 40, shall be sent by Certified Mail to the Douglas Conservation Commission, and must be filed concurrently with or after applications for all other variances and approvals required by the Zoning Bylaw, the Subdivision Control Law or any other bylaw or regulation have been obtained. The Conservation Commission shall set a filing fee by regulation, but no filing fee is required when the Town of Douglas files an application for a permit. Copies of the application shall be sent at the same time, by Certified Mail, to the Board of Selectmen, the Planning Board and the Board of Health. Upon written request of any person, the Conservation Commission shall, within twenty-one days, make a written determination as to whether this Bylaw is applicable to any work or land thereon. When the person requesting a determination is other than the owner, notice of the determination shall be sent to the owner as well as to the requesting person.



SECTION 3

The Conservation Commission shall hold a Public Hearing on the application within twenty-one days of its receipt. Notice of the time and place of the Hearing shall be given by the Conservation Commission at the expense of the applicant, not less than five days prior to the Hearing, by publication in a newspaper of general circulation in Douglas and by mailing a Notice to the applicant, the Board of Health, Board of Selectmen, Planning Board and to such other persons as the Conservation Commission may by regulation determine. The Conservation Commission, its agents, officers, and employees may enter upon privately owned land for the purpose of performing their duties under this Bylaw.

SECTION 4

If, after the Public Hearing, the Conservation Commission determines that the area which is the subject of the application is significant to the interests protected by this Bylaw, the Conservation Commission shall, within twenty-one (21) days of such hearing, issue or deny a permit for the work requested. If it issues a permit after making such determination, the Conservation Commission shall impose such conditions as it determines are necessary or desirable for the protection of those interests, and all work shall be done in accordance with those conditions. If the Conservation Commission determines that the area which is the subject of the application is not significant to the interests protected by this Bylaw, or that the proposed activity does not require the imposition of conditions, it shall issue a permit without conditions within twenty-one (21) days of the public hearing. Permits shall expire one year from the date of issuance, unless renewed prior to the expiration, and all work shall be completed prior to expiration.

SECTION 5

The Conservation Commission shall not impose additional or more stringent conditions pursuant to Chapter 131, Section 40 of the General Laws than it imposes pursuant to this Bylaw, nor shall it require a notice of intention pursuant to Section 40 to provide materials or data in addition to those required pursuant to this Bylaw.

SECTION 6

After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Conservation Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.



SECTION 7

The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the interests protected by this Bylaw. Failure to provide adequate evidence to the Conservation Commission supporting a determination that the proposed work will not harm the interests protected by this Bylaw shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions, or, in the Commission's discretion, to continue the hearing to another date to enable the applicant or others to present additional evidence.

SECTION 8

The following definitions shall apply in the interpretation and implementation of this Bylaw:

The term "**person**" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agencies, public or quasi-public corporations or bodies, the Town of Douglas, and any other legal entity, its legal representatives, agents or assigns. The term "**alter**" shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- (a) Removal, excavation or dredging of soil, sand, gravel or aggregate material of any kind;
- (b) Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns and flood retention characteristics;
- (c) Drainage or other disturbance of water level or water table;
- (d) Dumping, discharging or filling with any material which may degrade water quality;
- (e) Driving of piles, erection of buildings or structures of any kind;
- (f) Placing of obstructions whether or not they interfere with the flow of water;
- (g) Destruction of plant life;
- (h) Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.

The term "**banks**" shall mean that part of land adjoining any body of water which confines the water.

The term "**normal maintenance or improvement**" of land in agricultural use shall mean only:



1. Tilling practices customarily employed in the raising of crops;
2. Pasturing of animals, including such fences and protective structures as may be required;
3. Use of fertilizers, pesticides, herbicides, and similar materials subject to state and federal regulations covering their use;
4. Constructing, grading or restoring of field ditches, sub surface drains, grass waterways, culverts, access roads and similar practices to improve drainage, prevent erosion, provide more effective use of rainfall, improve equipment operation and efficiency, in order to improve conditions for the growing of crops.

"Improvement" of land in agricultural use may also include more extensive practices such as the building of ponds, dams, structures for water control, water and sediment basins, and related activities but only where a plan for such activity approved by the Conservation District of the Soil Conservation Service is furnished to the Conservation Commission prior to the commencement of work. All such activity shall subsequently be carried out in accord with said plan. In the event that the work is not carried out in accordance with the required plan, the Conservation Commission may place a stop order on said work and have recourse to such measures as if the plan were an order of conditions.

SECTION 9

The Conservation Commission may adopt additional definitions not inconsistent with this Section 8 in its regulations promulgated pursuant to Section 6 of this Bylaw.

SECTION 10

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any permit issued pursuant to this Bylaw shall forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.



SECTION 11

The Conservation Commission may require, as a permit condition, that the performance and observance of other conditions be secured by one or both of the following methods:

(a) By a bond or deposit of money or other negotiable securities in an amount determined by the Commission to be sufficient to secure faithful and satisfactory performance of work required by the conditions set forth, and payable to the Town of Douglas. Other evidence of financial responsibility which is satisfactory to the Conservation Commission may be accepted in lieu of bonding. Notwithstanding the above, the amount of such bond shall not exceed the estimated cost of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Such bond or other security shall be released upon issuance of a Certificate of Compliance.

(b) By a conservation restriction, easement or other covenant running with the land, executed and properly recorded (or registered, in the case of registered land).

SECTION 12

The application required by the third paragraph of this Bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the citizens of Douglas and to be performed by an administrative agency of the Commonwealth or by the Town. Emergency projects shall mean any projects certified to be an emergency by the Commissioner of the Department of Environmental Quality Engineering and the Conservation Commission if this Bylaw and Massachusetts General Laws Chapter 131, Section 40, as amended, are both applicable, or by the Conservation Commission if only this Bylaw is applicable. In no case shall any removal, filling, dredging or altering authorized by such certification extend beyond the time necessary to abate the emergency.

The provisions of this Bylaw shall not apply to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this Bylaw.

SECTION 13

Any person who violates any provision of this Bylaw or of any condition or a permit issued pursuant to it shall be punished by a fine of not more than \$200.00. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This Bylaw may be enforced pursuant to Massachusetts



Unofficial Version of the
Douglas Wetland Bylaw

Article 8 of the
Town of Douglas
General Bylaws

General Laws Chapter 40, Section 21D, By a Town police officer or other officer having police powers.

Upon request of the Commission, the Board of Selectmen and Town Counsel shall take such legal action as may be necessary to enforce this Bylaw and permits issued pursuant to it.

SECTION 14

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof. (*The Wetland Bylaw was adopted under Article 6, Section 3, at a Special Town Meeting held on January 5, 1983. Amended under Article 17 at the Annual Town Meeting held on May 20, 2002, and approved by the Attorney General on August 5, 2002.)